
(2013) 03 CHH CK 0003
In the Chhattisgarh High Court
Case No : Writ Petition (C) No. 606 of 2012

M/s. Vasundhara Steel and Power Ltd. APPELLANT
Vs
State of Chhattisgarh and Another RESPONDENT

Date of Decision : 08-03-2013

Acts Referred:

Citation : AIR 2013 Chh 93 : (2013) 3 MPJR 27

Hon'ble Judges : Yatindra Singh, C.J;Pritinker Diwaker, J

Bench : Division Bench

Judgement

1. In these writ petitions, the challenge is to the validity of the notification dated 23.10.2010 published by the State Government in the official gazette dated 12.11.2010; and the main point involved is,

Whether the State Government can reserve any area for itself for prospecting under Sub-rule 1 of Rule 74 {74(1)} of the Mineral Concession Rules, 1960 (the Rules) without taking prior approval of the Central Government under sub-section (2) of Section 17A {section 17A(2)} of the Mines and Minerals (Development and Regulation) Act, 1957 (the Act).

THE FACTS

In the first case, the Petitioner applied for prospecting license over 315.2 hectares of land in compartment-320, 322, 323, 333, 335 and 337 in village Tumapal and Toroki area, district Kanker; whereas, in the second case, the Petitioner applied for prospecting license for 345 hectares of land in compartment-689, 690, 691, 692 and 704 in village Padbera, district Kanker.

2. The State Government gave them show-cause notice dated 06.01.2011 informing them that they have already reserved the area for survey/prospecting iron ore and other mining minerals by the Directorate of Geology of Mining, Raipur, Chhattisgarh and if they wish to say anything in this regard, they could file their objections.

3. The Petitioners filed their objections. However, when no orders were passed on the same, they filed revisions before the Central Government u/s 30 of the Act.

4. The revisions filed by the Petitioners were dismissed on 30.12.2011 on the ground that the land was already reserved by the State Government for prospecting the same for itself and no opportunity was required to be given to any other person. Hence, the present writ petitions.

PETITIONERS' SUBMISSIONS

5. We have heard counsel for the parties. The counsel for the Petitioners submits that:

? u/s 17A of the Act, the State Government could not reserve the area without approval of the Central Government;

? In the present case, no approval was taken; and

? The notification dated 30.11.2011 is illegal.

THE DECISION

6. The Directorate of Geology of Mining, Raipur, Chhattisgarh (the DOGM) is neither a Government Company nor its corporation. In fact, it is a wing/ department of the State Government itself. The area has been reserved for prospecting by the DOGM. It shows that the State Government has reserved the area for prospecting the same by itself.

7. The State Government is the owner of the minerals lying within its territorial jurisdiction. It can always do so unless there is some prohibition.

8. Section 17A of the Act is titled as "Reservation of area for purposes of conservation". Sub-section (1) of Section 17A {17A(1)} provides for reserving any area by the Central Government with a view to conserve any mineral. This can only be done in consultation with the State Government.

9. Sub-section (1A) of Section 17A {17A(1A)} of the Act provides that the Central Government can reserve any area for prospecting or mining operations through a Government Company or Corporation owned by the Central Government by publication in the official notification. However, the necessary conditions are that:

? It should not already be under any prospecting license or mining lease; and

? This can only be done in consultation with the State Government.

10. Similarly, sub-section (2) of Section 17A {17A(2)} of the Act provides that the State Government may reserve any area for undertaking prospecting or mining operation by the Government Company or the corporation owned by the State Government. However, here also necessary conditions are that:

? It should not be under any prospecting license or mining lease; and

? This can only be done in consultation with the Central Government.

11. Rule 74 (see below for the relevant part)¹ of the Rules is titled as "Issue of notification where prospecting operations are to be undertaken by the Geological Survey of India, etc". Rule 74(1) provides that if the prospecting licences are to be taken by certain agencies (that are departments of Central or State Government including the Directorate of Mining and Geology of any State) then the State Government shall issue the notification.

12. The relevant point to note in Rule 74(1) of the Rules is that it talks about prospecting operation by the Central or State Government or by any one of its department in contradiction to Section 17A(1A) and 17A(2), where the prospecting or mining is to be done by any company or corporation controlled and owned by them.

13. In the present case, the area has been reserved for prospecting or mining by the DOGM (Directorate of Geology of Mining, Raipur, Chhattisgarh) and as such, no prior approval of the Central Government was necessary. Even if it is held that Section 17A(2) of the Act applies to the present situation. No benefit can be derived by the Petitioners.

14. Section 17A(2) of the Act is for the benefit of the Central Government. In the present case, the Central Government has no objection. It was for this reason that the revisions of the Petitioners were dismissed.

15. The Petitioners are not entitled to invoke writ jurisdiction for benefit of the Central Government. The Central Government is competent to do it for itself.

CONCLUSION

Our conclusions are as follows:

(a) Section 17A(2) of the Act does not apply when area is reserved by the State Government for prospecting by its Directorate of Geology of Mining;

(b) The notification dated 23.10.2010 is valid.

In view of our conclusions, the writ petitions have no merit. They are dismissed.

1 The relevant part of rule 74 is as follows:

74(1)--where a prospecting operation is to be undertaken by the Geological Survey of India, the Indian Bureau of Mines, the Atomic Minerals Division of the Department of Atomic Energy of the Central Government, the Directorate of Mining and Geology of any State Government (by whatever name called) or the Mineral Exploration Corporation Limited, the State Government shall issue a notification in the Official Gazette giving details of the area, and the period for which prospecting operations are to be undertaken.