

(2011) 12 JH CK 0074

In the Jharkhand High Court

Case No : Writ Petition (C) No. 3585 of 2006

M/s Vikas Stone Works

APPELLANT

Vs

The State of Jharkhand and Others

RESPONDENT

Date of Decision : 07-12-2011

Acts Referred:

Citation : AIR 2012 Jhar 56 : (2012) 2 JCR 113

Hon'ble Judges : Narendra Nath Tiwari, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Narendra Nath Tiwari

1. The petitioner is aggrieved by and prayed for quashing of the order of the Deputy Commissioner, Sahebganj whereby the Deputy Commissioner has rejected the petitioner's application for renewal of licence and also by the order dated 27.02.2003 passed by the Mines Commissioner, Jharkhand, Ranchi whereby the Mines Commissioner has remitted the matter to the Deputy Commissioner for fresh consideration. The petitioner has also prayed for quashing the order dated 24.04.2010 whereby the mining lease of the land in question has been granted in favour of respondent nos. 5 and 6.

2. According to the petitioner, revision was preferred against the order dated 14.07.2005 whereby prayer for renewal of lease was rejected by the Deputy Commissioner being Revision Case No. 60 of 2005. The said revision was disposed at by order dated 27.02.2008 by remitting the matter to the Deputy Commissioner, Sahebganj for fresh consideration in view of the new facts raised by the intervenor -respondent nos. 5 & 6 When the Deputy Commissioner did not pass any order, the said intervenor-respondent nos. 5 & 6 filed writ petition, before this Court being W. P. (C) No. 5521 of 2006 with a prayer for directing the Deputy Commissioner to dispose of the matter By the impugned order dated 24.04.2010, the Deputy Commissioner has passed order rejecting the

petitioner's application for renewal of lease as well as granting lease of the land in favour of the respondent nos. 5.

3. Mr. Kalayan Roy, learned counsel appearing on behalf of the petitioner submitted that the impugned order is wholly arbitrary and illegal. The decision was taken in haste under the pressure of the Court without giving any opportunity of hearing and placing materials to the petition. The said order is thus liable to be quashed.

4. Learned counsel appearing on behalf of the respondents opposed the writ petition. It has been submitted that impugned order has been passed after considering all relevant facts and documents on record. There is no provision for giving personal hearing before passing the order. The order is valid and legal and does not require any interference by this Court.

5. I have heard learned counsel for the parties and considered the facts and materials on record. On perusal of the order dated 27.02.2008, passed by the Mines Commissioner, I find that the matter was remitted to the Deputy Commissioner for fresh consideration in view of the new facts raised by the intervenor. But the Deputy Commissioner did not take into consideration the said fact and other relevant fact and passed the impugned order. It is an admitted fact that the petitioner is the previous lease holder But he was not given proper opportunity of representation/hearing before passing the impugned order dated 24.04.2010. The petitioner has stated on affidavit that no notice or opportunity of hearing was given to the petitioner before passing the impugned order dated 24.04.2010. The said fact has not " been disputed by the respondent.

6. In view of the said admitted position, the impugned order of the Deputy Commissioner does not conform the direction of the Mines Commissioner as well as the principle of natural justice. The impugned order is accordingly non-est and is not sustainable. This writ petition is accordingly allowed and the impugned order is quashed. The matter is remitted to the Deputy Commissioner, Sahebganj for fresh consideration and decision. It is made clear that the Deputy Commissioner shall fix a date for hearing and inform the same in writing to all the concerned parties. After hearing the parties, in appearance pursuant to the notice, he shall consider the facts and materials on records and pass an appropriate reasoned order in accordance with law.

7. Since, the matter is pretty old, the Deputy Commissioner shall dispose of the same within a period of three months from the date of receipt /production of the copy of this order.