
(1995) 08 MP CK 0024

In the Madhya Pradesh High Court

Case No : Writ Petition No. 2026 of 1995

Pratap Singh Chouhan

APPELLANT

Vs

State of Madhya Pradesh and Another

RESPONDENT

Date of Decision : 08-08-1995

Acts Referred:

Mineral Concession Rules, 1960 — Rule 24A(6)

Mines and Minerals (Development and Regulation) Act, 1957 — Section 15

Citation : AIR 1996 MP 172 : (1996) 41 MPLJ 233 : (1996) MPLJ 233

Hon'ble Judges : Ramesh Surajmal Garg, J

Bench : Single Bench

Advocate : P.K. Jaiswal, for the Appellant; R.K. Gupta, General, for the Respondent

Final Decision : Allowed

Judgement

R.S. Garg, J.

The grievance of the petitioner in this petition is that though he has filed an application for renewal of the lease well within time, the State authorities are not considering the application. According to him, his application once suffered deemed refusal and on revision, the Central Government has remanded the matter back. According to him, so long as the application for renewal is pending, the lease would be deemed to be subsisting and if the lease is in subsistence, then the respondents, its officers and employees have no authority to cause any interference in the petitioner's operation of the mine. Counsel for the petitioner submits that after introduction of Rule 24-A(6) in the Mineral Concession Rules, 1960, the petitioner is entitled to operate the mine during the pendency of the application for renewal. The petitioner further submits that the respondents or any other authority has no powers to restrain the petitioner from operating the mine.

Shri Gupta on the other hand submitted that no proper allegations are there against the respondents that the petitioner, was ever restrained. He also

submitted that the lease in favour of the petitioner came to an end on 17-3-1993 and in view of the existing provisions Rule 24-A(6), the petitioner would be entitled to work on the mine for a period of one year only. His further submission was that immediately after the said period of one year expires, the petitioner cannot take assistance of the provision which was introduced after the period of one year had already expired. According to him, the petitioner's extended period had already come to an end and the newly introduced Rule 24-A(6) does not mandate that it would be applicable with retrospective effect. Rule 24-A of Mineral Concession Rules, 1960, was introduced by G.S.R. 86(E) dated 10th February, 1987. Sub-rule (6) was amended and inserted by G.S.R. 129(E) dated 20th February, 1991. The scheme of Rule 24-A appears to be that an application for renewal of a mining lease has to be made at least 12 months before the date on which the lease is due to expire. Such an application for renewal of mining lease shall be disposed of within a period of six months from the date of its receipt and if the application is not disposed of within the period specified under Sub-rule (4) of Rule 24-A, it shall be deemed to have been refused. Various applications which were filed within time for renewal of the lease could not be decided within the period mentioned in Sub-rule (4) and suffered deemed refusal. Almost in every case, the matter was taken to the Central Government and the Central Government exercising its revisional powers, after setting aside the deemed refusal, remanded the matter back to the State Government. During the period of pendency of the application for renewal some times the officers of the State Government did not permit the lessee to operate the mine, therefore, sub-rule (6) was amended in the year 1991. The amended Sub-rule (6) clearly states that if an application for renewal of a mining lease within the time referred to in Sub-rule (1) is not disposed of by the State Government before the date of expiry of the lease, the period of that lease shall be deemed to have been extended by a further period of one year and with the date of receipt of the orders of the State Government thereon, whichever is shorter. While introducing the amendment, it was thought that the State Government would be in a position to decide the matter within the further period of one year, therefore, the lease was deemed to be extended for a period of one year.

Sub-rule (6) was introduced for the benefit of the lessee who had already invested lacs of rupees and was not required to suffer unnecessarily in the operation of his mine, while his application for renewal was pending. In fact, the amendment of Sub-rule (6) was a "counter-action" to the "inaction" on the part of the State Government. If the law states that non-consideration of the application within the period so provided would amount to deemed rejection of the application, then the law is to be appreciated in its true spirit and perspective. It was expected of the State Government that it would be in a position to decide the application within the extended period and for this reason only it was provided in Sub-rule (6) that extension of the lease would end on completion of one year or end with the date of receipt of the orders of the State Government whichever is shorter. The State Government cannot on one side

state that the application stands automatically rejected because of the deeming provision and, at the same time, would not permit the lessee to operate the mine. It is common knowledge that the lessee has to suffer expenses of lacs of rupees in operating the mine. If because of non-action on the part of the State Government, the lessee is called upon to stop work, the same is not going to help any body. On one side the lessee would suffer closure and stoppage of work and, at the same time, the State Government would suffer loss of the revenue. During the pendency of the application, the area cannot be allotted or leased out to a third party.

In spite of the amendment of sub-rule (6) of Rule 24-A, applications for renewal were not decided within the extended period, therefore, by G.S.R. 724(E) dated 27th September, 1994, the Central Government amended Sub-rule (6) further by introducing a new Sub-rule. According to Sub-rule (6) now, as it stands, in the statute book, "the period of lease shall be deemed to have been extended, by a further period till the State Government passes order thereon." Sub-rule(6), as it stands, clearly speaks that the lease would be deemed to have been extended by a further period till the State Government passes orders on the application for renewal. If the lease is deemed to be extended or is in its continuity, then the petitioner is entitled to operate the mine. It cannot be gainsaid that the petitioner whose application has been filed well in time would not be entitled to the benefit of Sub-rule (6). The contention of the "learned counsel for the respondents that the amendment of Sub-rule (6) effected by G.S.R. 724(E) dated 27th September, 1994 would not enure to the benefit of the present lessee because the extended period of one year under the old Sub-rule (6) had already come to an end cannot be accepted. It is undisputed that the application for renewal is still pending. The State Government is duty bound to decide the application for renewal. As observed above, it cannot sit tight over the application. The Central Government has already remanded back the matter for consideration of the renewal application on its own merits. Sub-rule (6) has been introduced for the benefit of the lessee and if during the currency of the lease or during the pendency of the application for renewal of the lease, if rules are amended, then obviously those provisions would go to the benefit of the lessee. It cannot be disputed that at present the application for renewal of the mining lease is pending. If the application is pending and during the pendency of the application further benefits have been given to the petitioner under the amended rules, the same cannot be withdrawn by saying that those are not retrospective in operation. In the instant case, the question of the rule being retrospective even would not arise because the rule has come into force during the pendency of the application for renewal. It would enure to the benefit of the lessee.

Accordingly, it is held that the application filed by the petitioner was well within time and the period of his lease shall be deemed to have been extended for a further period till the State Government passes an order on his application for renewal.

At this stage, learned counsel for the State now submits that the State would decide the case of the petitioner at its earliest. In view of the anxiety shown by the learned Dy. A.G., it is directed that the Additional Collector, Mining Section, Katni, shall submit his comments to the State Government within a period of six weeks from the date of production of this order. On receipt of his comments, the State shall decide the matter within a period of three months. If the respondent No. 2/Additional Collector, Katni, does not submit his comments within the aforesaid period, then the State would take suitable action against him for his non-action.

In view of the above findings, it is directed that the State and its agency have no authority to interfere with the mining operation of the petitioner over the leased area till final order on the renewal application are passed by the State Government. In view of the above, the petition is allowed, but, however, there shall be no orders as to costs.