

(2022) 12 GUJ CK 0010
In the Gujarat High Court

Case No : R/Special Civil Application No. 9290 Of 2022

Rahul Ramnik Patel

APPELLANT

Vs

State Of Gujarat

RESPONDENT

Date of Decision : 19-12-2022

Acts Referred:

Gujarat Minor Mineral Concession Rules, 2017 — Rule 29

Citation : (2022) 12 GUJ CK 0010

Hon'ble Judges : Biren Vaishnav, J

Bench : Single Bench

Advocate : R.K.Mansuri, Rohan Shah, Maulik G Nanavati

Final Decision : Allowed

Judgement

Biren Vaishnav, J

1. Rule returnable forthwith. Mr. Rohan Shah, learned Assistant Government Pleader waives service of notice of rule on behalf of the respondent nos. 1 – 3 and Mr. Maulik Nanavati, learned Advocate, waives notice on behalf of respondent no. 4.

2. The prayer of the petitioner in the present petition is for issuance of a direction to the State Government to pass an order for grant of quarry lease for mining black trap mineral in terms of Letter of Intent dated 6.02.2017 and consequential order for execution of a lease deed before the cut-off date of 23.05.2022 without insisting on compliance by the petitioner of all the conditions mentioned in the Letter of Intent.

3. The petitioner had applied for quarry lease for black trap mineral and was issued Letter of Intent on 6.02.2017. This Letter of Intent enumerated various conditions which were to be fulfilled by the petitioner, like obtaining Environment Clearance, approved mining plan, valuation from stamp duty department, etc. On fulfillment of these conditions, an order granting quarry lease in favour of petitioner would be made by the government and a formal lease deed will be

executed permitting the petitioner to commence mining of the mineral from the leased area.

4. Mr. Mansuri, learned Advocate for the petitioner, has submitted that the petitioner has complied with all conditions of Letter of Intent except obtaining Environment Clearance. The petitioner has made an application for grant of Environment Clearance but for reasons beyond control of the petitioner the State Environment Impact Assessment Authority has not yet granted the Environment Clearance. Learned Advocate has further submitted that Rule 29 of Gujarat Minor Mineral Concession Rules, 2017, which had come into operation at the time of issuance of Letter of Intent, provided that the "government shall issue an order in writing for grant of a quarry lease to the holder of a letter of intent upon satisfaction of the following conditions within a period of two years from the date of commencement of these rules, failing which the right of such an applicant for grant of a quarry lease shall be forfeited automatically". This time period of 02 years was extended by subsequent amendments, and lastly stood extended upon 23.05.2022. Believing that the petitioner will not receive the Environment Clearance on or before 24.05.2022 and apprehending that in absence of a formal order granting quarry lease being passed by the government before the said date the petitioner shall lose right to get the quarry lease in view of expiration of the time period prescribed in Rule 29 of the Gujarat Minor Mineral Concession Rules, 2017, the petitioner approached this Court by filing the present petition.

5. A Co-ordinate Bench of this Court passed the following order on 17.06.2022 while notice on the petition.

"1. Notice returnable on 07.07.2022. Learned advocates appearing for the respective respondents waive service of notice.

2. Learned AGP Mr.Trivedi has submitted that the State Government is under process of taking a policy decision, which will take some time. He has submitted that the issue with regard to extension of time limit is also under consideration.

3. It is noticed by this Court that the various writ petitions are filed on this ground with regard to extension of time limit of execution of the lease deed on or before 24.04.2022.

4. By the next date of hearing, the respondent authority shall file an affidavit specifically stating whether they intend to extend the time, which has already expired on 24.04.2022.

5. Necessary decisions and details with regard to status of the process, which is being undertaken by the respondent authority shall be incorporated in the affidavits, which shall be filed on or before the next date of hearing.

6. Registry to place a copy of this order in each of the connected matters."

6. Learned Assistant Government Pleader has informed that pending the petition, the Government of Gujarat in the Industries and Mines Department has issued a

notification dated 12.10.2022 amending the Gujarat Minor Mineral Concession Rules, 2017, particularly Rule 29 thereof. The time of 02 years mentioned in sub-rule (3) for the government to issue in writing an order granting quarry lease now stands enlarged by notification dated 12.10.2022 to 08 years. The cut-off date which was expiring on 23.05.2022 therefore stands extended by virtue of such amendment to 23.05.2025.

7. Mr. Mansuri, learned Advocate for the petitioner has submitted that pending the petition the petitioner has been granted Environment Clearance certificate by the State Environment Impact Assessment Authority, and now all the conditions mentioned in the Letter of Intent stand fulfilled.

8. In view of the subsequent developments, which have taken place pending the petition, it appears that the apprehension of petitioner about the lapsing of Letter of Intent does not survive. Learned Advocate for the petitioner has invited attention of the Court to order passed in Special Civil Application No. 9596 of 2022 involving similar set of facts and identical developments during the pendency of petition and has fairly submitted that the grievance of the petitioner would stand redressed if directions similar to the ones contained in the cited order are issued in the present petition. He has submitted that the petitioner shall not commence or carry out any activity of mining till the time grant order is made by the Government and a lease deed is executed by the Collector.

9. Having heard the learned Advocates appearing for the parties and considering the orders passed by this Court in other petitions involving identical issue as also the directions issued by this Court in Special Civil Application No. 9596 of 2022, the Court deems it fit to dispose of the petition by issuing the following directions:

1. The State Government shall issue a formal order granting quarry lease to the petitioner within a period of 04 weeks from the date of receipt of copy of the present order;

2. The District Collector, Bhuj shall execute the lease deed in favour of the petitioner on petitioner paying the requisite stamp duty and completing other formalities relating to execution of the lease agreement within a period of 04 weeks from the date of formal order made by the Government.

3. Petitioner shall file an undertaking before the District Collector within a period of 02 weeks from the date of receipt of copy of the present order to the effect that the petitioner shall not commence or carry out any mining activity till the execution of the lease deed and completion of all other formalities necessary for commencing mining activity;

10. The petition is allowed accordingly. Rule is made absolute to the above extent.