

(2007) 10 JH CK 0027
In the Jharkhand High Court

Raj Refractories (P) Ltd.

APPELLANT

Vs

The State of Jharkhand and Others

RESPONDENT

Date of Decision : 04-10-2007

Acts Referred:

Citation : (2008) 1 JCR 143

Hon'ble Judges : M.Y. Eqbal, J;Dabbiru Ganeshrao Patnaik, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

M.Y. Eqbal, J.—This appeal under Clause 10 of the Letters Patent is directed against the judgment dated 31.7.2007 passed in W.P.(C) No. 565 of 2007 whereby the learned Single Judge dismissed the writ petition filed by the petitioner-appellant on various grounds including suppression of material fact.

2. In the writ petition, the petitioner sought a direction upon the Respondents to pass appropriate order on the application filed by it on 6th September, 2003 under Rule 9(1) of the Mineral Concessions Rules/1960 (hereinafter referred to as "the Rules") for grant of prospecting licence for the purpose of mining iron ore over an area of 690 hectares in village Kodalibad/Saranda Reserve Forest in the district of Singhbhum. Further prayer was made for an order restraining the respondent-State Government as well as the Central Government from processing the application of any other parties for grant of mining lease over the said area until petitioner's application for grant of prospecting licence/mining lease is considered and disposed of.

3. The undisputed facts are that the petitioner-company filed an application before respondent No. 2 - Secretary, Department of Mines and Geology in proper form for grant of prospecting licence over an area of 690 hectares of Kodolibad/Saranda Reserve Forest in the district of Singhbhum. While the said application was allegedly pending for consideration, the petitioner applied for mining lease on 16th February, 2004. The petitioner claimed that he fulfilled all the conditions

for grant of prospecting licence for the area in question but the respondents have not considered the petitioner's application till date.

4. The respondents - Mines Department, Government of Jharkhand filed counter affidavit stating, inter alia, that the area in question was brought on geological map after due investigation and survey of the said minerals by Geological Survey of India and Indian Bureau of Mines. The bulletins of the Geological Survey of India under Economic Geology No. 9 -- iron ore, iron and steel published by the order of the Government of India clearly mention the aforesaid facts. The iron ore deposits in Kodalibad Reserve Forest Area were identified and established with Chemical Analysis Report. Thereafter, the respondents decided to grant mining lease. The appellant-petitioner along with other applied for mining lease. After due consideration and comparison of the financial strength of the petitioner-Companies and their investment proposal, decision was taken to grant lease in favour of Electrosteel Castings Ltd. Respondents' case is that the petitioner-appellant having taking part in the said lease process and being unsuccessful, filed writ petition seeking a direction upon the respondents to decide its application for prospecting licence.

5. The learned Single Judge, after hearing the parties including M/s. Electrosteel Castings Ltd. who subsequently intervened in the writ petition and was made respondent, dismissed the writ petition.

6. We have heard Mr. V. Shivnath, learned Counsel appearing on behalf of the appellant, Mr. Anil Kumar Sinha, learned Counsel appearing for the Intervenor-respondent and, Mr. S.K. Verma, learned Counsel appearing for the State. We have also gone through the impugned judgment passed by the learned Single Judge.

7. While disposing of the writ petition, the learned Single Judge observed:

12. Having heard learned Counsel for the parties and considered their submissions and materials on record as well as provisions of the said Act and Rules, I find that the petitioner has filed this writ petition for a direction on the respondents to dispose of the application filed by him for prospecting licence. According to the petitioner, applications for mining lease of the area can be considered only after prospecting the areas whereas there was no due prospecting of the area, in question. The petitioner though applied for the lease, he had done so on the instructions of the concerned authorities.

13. It is evident from the record that the petitioner could not compete with the said Respondent No. 6, when compared and considered in view of the financial strength, technical soundness and other relevant aspects, as discussed above, and the petitioner could not succeed in presence of the Respondent No. 6.

14. When the petitioner filed this writ petition for the said relief he did not disclose the said material facts, which are relevant for consideration, as also did not implead M/s. Electrosteel Castings Ltd. as party to the writ petition. The said

conduct of the petitioner goes to show its malicious intention to suppress the material facts. The writ petitioner has, thus, not approached this Court with clean hands and the writ petition suffers from the vice of suppressio veri suggestio false.

8. It has not been disputed by the appellant that although it applied for prospecting licence in 2003, but in 2004 it again applied for grant of mining lease without raising any objection. In our view, therefore, the reasons assigned by the learned Single Judge in the impugned judgment needs no interference by this Court. We also do not find any error of law in the impugned judgment.

9. For the reasons aforesaid, this appeal has no merit and the same is, accordingly, dismissed.

D.G.R. Patnaik, J.

10. I agree.