

(1995) 04 RAJ CK 0028
In the Rajasthan High Court
Case No : Civil Writ Petition No. 331 of 1991

Rajasthan Mineral Development Corpn., Udaipur	APPELLANT
Vs	
State of Rajasthan and Others	RESPONDENT

Date of Decision : 05-04-1995

Acts Referred:

Constitution of India, 1950 — Article 226
Mines and Minerals (Development and Regulation) Act, 1957 — Section 30

Citation : AIR 1996 Raj 37 : (1995) 2 WLC 709

Hon'ble Judges : R.R. Yadav, J

Bench : Single Bench

Advocate : S.K.M. Vyas, for the Appellant; R.L. Jangid, for the Respondent

Final Decision : Allowed

Judgement

R.R. Yadav, J.—The petitioner has filed the instant writ petition for issuing a mandamus directing the State Government to comply with the final order Annx. 4 dated 24-5-88 passed by the Central Government in exercise of its revisional power u/s 30 of the Mines and Minerals (Regulation and Development) Act, 1957 read with Rule 55 of the Mineral Concessions Rules, 1960 setting aside the deemed rejection of the petitioner's transfer application dated 1-4-87 move under Minor Mineral Concessions Rules arising out of the State Government failure to pass order within 12 months.

2. By the aforesaid order Annx. 4 to the writ petition, the Central Government in exercise of its statutory powers directed the State Government to pass final order on merits within 200 days of the date of communication of the said order.

3. It is true that the aforesaid order passed by the Central Government was amenable to writ jurisdiction under Article 226 of the Constitution of India but the State Government has not filed any writ petition and submitted to the order passed by the Central Government. Thus undeniably the order aforesaid has attained finality.

4. It is urged before me by the learned counsel for the petitioner that inaction of the State Government in not complying with the statutory decision taken by the Central Government on 24-5-88 Annx. 4 to the writ petition for seven years is demurrable.

5. I ask a pointed question to the learned counsel appearing on behalf of the State as to what is the explanation for inaction on behalf of the State Government not to comply with the order dated 24-5-1988 passed by the Central Government. Learned counsel for the State expressed his inability to give reasons which prevented the State Government to pass a speaking order in pursuance of the order passed by the Central Government on 24-5-88 Annx. 4 to the writ petition which has already been communicated to the State Government.

6. Judicial restraint does not permit me to observe more than necessary. However, it is made clear that although relationship of State Government and Central Government is of a federal, in the character yet both the Governments under the framework of the Constitution of India are required to function with mutual respect for each other. If against a statutory decision or against any inaction on behalf of the State Government a statutory complaint is made to the Central Government by way of appeal, revision or representation by an aggrieved person and the Central Government passed some order on such appeal, revision or representation or issued direction to the State Government, it is required to be religiously followed with promptitude and be carried out to its logical conclusion by the State Government keeping in view, supremacy of rule of law in a welfare democratic State.

7. In abundant caution, it is made clear that if the State Government is aggrieved with such statutory order passed by the Central Government in exercise of its statutory power then of course State Government is at liberty to approach either to the High Court under Art. 226 of the Constitution of India or take any other legal course open to it. But, if the State Government had chosen to submit to the order passed by the Central Government in exercise of its statutory power then it has no option except to follow such orders passed by the Central Government.

8. A writ of mandamus is always issued to do an act in accordance with law. In order to have a course of action for mandamus there has to be some order or statutory duty or pendency of action before a public authority where he may not be disposing it of or where an inaction or omission may be demurrable.

9. In my humble opinion, in the present case, inaction for about 7 years in not deciding the transfer application of the petitioner by the State Government after statutory order was passed by the Central Government on 24-5-1988 (Annx. 4) is demurrable and a case for issuing mandamus is made out.

As a result of the aforementioned discussion, the instant writ petition is allowed with costs assessed to Rs. 1100/- with a direction to the State Government to decide the transfer application of the petitioner dated 1-4-87 for transfer of

mining lease for mineral soap stone near village Piparach, Tehsil Nathdwara, District Udaipur at present in District Rajsamand within two months from the date of receipt of a certified copy of this order by speaking order in accordance with law after affording an opportunity of hearing to the petitioner.