

(2010) 01 JH CK 0106
In the Jharkhand High Court

Ram Chandra Mehta and Arjun Prasad Mehta	APPELLANT
Vs	
The State of Jharkhand and Others	RESPONDENT

Date of Decision : 12-01-2010

Acts Referred:

Citation : AIR 2010 Jhar 118

Hon'ble Judges : Dabbiru Ganeshrao Patnaik, J

Bench : Single Bench

Judgement

D.G.R. Patnaik, J.—Heard the learned Counsel for the parties.

2. The petitioners have challenged the orders (Annexures-5 and 6), passed by the District Mining Officer and the Mines Commissioner respectively, whereby the mining lease granted to the petitioners for quarrying mines and minerals, was cancelled and such cancellation was confirmed by the Revisional authority.

3. The main ground of challenge is that in both the impugned orders, no reason has been assigned as to why the lease, which was granted to the petitioners for a period of two years, was cancelled prematurely. No prior notice was issued to the petitioners calling upon them to explain as to why the lease should not be cancelled.

4. Learned Counsel for the petitioners submits that prior to taking any action for cancellation of the lease, if the lease was sought to be cancelled on the ground of non-payment of dues, then it was incumbent upon the Respondents-authorities according to Rule 22 of the Mineral Concession Rules to raise a demand notice calling upon the petitioners to pay the amounts mentioned in the notice and only in the event of the petitioners' failing to pay the outstanding dues, could the respondents-authorities proceed to take any action in respect of the lease granted to the petitioners.

Learned Counsel argues further that the impugned orders of the Mining Officer purports to communicate the decision taken, on the petitioners' case but no reasons has been communicated as to why the Deputy Commissioner had

decided to cancel the mining lease. Referring to the impugned order of the Revisional authority, learned Counsel submits that it is a non-speaking and cryptic order, and apparently indicates that it was passed without application of judicial mind.

5. Per contra, learned Counsel for the Respondents submits that a demand notice was, in fact, raised and issued to the petitioners by Registered Post and in spite of the notice, under which the petitioners were informed about the outstanding dues towards its royalty, the petitioners failed to deposit the amount. Consequently, a Certificate proceeding had to be initiated against the petitioners for realization of the outstanding dues. Learned Counsel argues that during this entire period while the Certificate proceeding was pending, no decision was taken for cancelling the lease of the petitioners. It was much later that the order cancelling the lease had to be passed, in view of the fact that even after the Respondents having exhausted all the procedural requirements for recovery of the amounts from the petitioners, the outstanding dues were not paid by them. Furthermore, complaints were received also from the Raiyats on whose lands, the petitioners had started their quarrying operations, to the effect that the petitioners had not paid them the settled compensation.

Learned Counsel further informs that after the cancellation of the petitioners' lease, a fresh notice was published by the concerned authorities of the Mining Department in the District Gazette inviting applications for grant of lease in respect of the lands upon which the petitioners were earlier carrying out mining operations and a fresh lease has already been granted to another person for the said lands and as such, this writ application is not maintainable.

6. As it appears, neither of the two impugned orders can be deemed to be speaking orders. The impugned order (Annexure-5) has been explained to be an order communicating the decision of the Deputy Commissioner, but no reasons have been assigned as to why the lease of the petitioners has been cancelled. Likewise, the impugned order (Annexure-6) of the Revisional authority, as rightly pointed out by the learned Counsel for the petitioners, is, a non-speaking and cryptic order, which apparently indicates that the Revisional authority has not applied his judicial mind while passing the order on the petitioners' Revision application.

7. However, the fact which cannot be ignored, is that during this entire period, after cancellation of the petitioners' lease, a fresh advertisement was issued by way of a Gazette Notification and the land, which was earlier occupied by the petitioners for the quarrying operations, has now been allotted to another person, namely the Respondent No. 5. Such developments were within the knowledge of the petitioners but no steps were taken by them either for stay of the operation of the impugned orders or for stay of any other action pursuant to the Gazette Notification.

8. In the light of the changed situation and the facts and circumstances of the

case, though it is observed that both the impugned orders suffer from infirmity but in the light of the subsequent developments which has precipitated a reconcilable situation and for which the petitioners are also responsible due to their own inaction, the petitioners shall be at liberty to apply for grant of fresh lease in respect of any other land for carrying out mining operations. The Respondents shall consider such prayer without being prejudiced by their earlier decision taken vide the impugned orders and shall take an appropriate decision on the petitioners' prayer for grant of the mining lease in accordance with law and the Rules applicable.

9. With these observations, this writ application stands disposed of.

10. Let a copy of this order be given to the learned Counsel for the Respondents.