
(1971) 10 MP CK 0015

In the Madhya Pradesh High Court

Case No : Miscellaneous Petition No. 570 of 1970

Ramnaresh Swamy

APPELLANT

Vs

State Government of Madhya Pradesh and Others

RESPONDENT

Date of Decision : 27-10-1971

Acts Referred:

Madhya Pradesh Minor Minerals Rules, 1961 — Rule 6

Citation : AIR 1972 MP 86 : (1972) JLJ 154 : (1972) 17 MPLJ 272

Hon'ble Judges : Bishambhar Dayal, C.J;R.J. Bhawe, J

Bench : Division Bench

Advocate : V.S. Dabir, P.V. Lele and A.P. Tare, for the Appellant; Y.S. Dharmadhikari, General for (Nos. 1 and 2) and A.K. Garg, for No. 3, for the Respondent

Final Decision : Allowed

Judgement

Bishambhar Dayal, C.J.

This is a writ petition by Ramnaresh Swamy who had applied for a quarry lease in respect of minor mineral viz., "limestone used in kilns for manufacture of lime used as building material". This was in respect of khasra No. 346, area 1.31 acres. Respondent No. 3 H.P. Pathak had applied for a larger area, in all 33,63 acres, including this particular plot No. 346 measuring 1.31 acres. In the application of respondent No. 3 the description of the material to be quarried was mentioned as "limestone for burning." Since the application made by respondent No. 3 was in respect of a larger area, it could not be considered by the Director of Geology and Mining and was to be considered by the State Government while the application of the petitioner being for a smaller area was to be considered by the Director of Geology and Mining. Both these applications remained pending for more than the specified period and were, therefore, deemed rejected. The petitioner filed an appeal against the deemed rejection of his application to the State Government which was transferred to the Board of Revenue as the powers had been delegated to the Board of Revenue. The Board of Revenue ultimately

remanded the case for reconsideration on merits. In the meanwhile, respondent No. 3 applied for review to the State Government against the deemed rejection of his application and the State Government on 16th June 1969 revised the order of deemed rejection and granted a lease only with respect to plot No. 346, area 1.31 acres, for quarrying purposes. In the original lease the description of the material to be quarried was the same as mentioned in the application viz., "limestone for burning". The petitioner then filed the present application for quashing the order of grant in favour of respondent No. 3 and contended that the application as well as the grant in favour of respondent No. 3 were illegal as the application did not mention any minor mineral for which a quarry lease was required and similarly the quarry lease granted in favour of respondent No. 3 did not mention any minor mineral.

The petitioner had also made an application to the State Government under Rule 30 of the M.P. Minor Mineral Rules, 1961, for exercise of suo motu powers and pointed out that the quarry lease in favour of respondent No. 3 was illegal on account of no minor mineral having been mentioned in the application and in the lease granted in favour of the respondent. That application was dismissed by the State Government by order dated 5th September 1970 (Annexure "G" to the petition) by stating that the application was not according to rules. The petitioner has filed this writ petition challenging the validity of the two orders, namely, the order dated 16th June 1969 granting a lease in favour of respondent No. 3 and the order dated 5th Sept. 1970 rejecting the petitioner's application for exercise of powers under Rule 30 mentioned above.

After the making of this writ petition, the State Government is said to have amended the words in the lease and has described the minor mineral as "limestone used in kilns for manufacture of lime used as building material."

The main contention of learned counsel for the petitioner is that the grant in favour of respondent No. 3 was wholly illegal and the illegality having been clearly pointed out to the State Government the State Government was not right in rejecting the application as being contrary to rules and not giving any reasons why it was not prepared to quash that illegal order.

The contention on behalf of the respondents is that since the application had clearly been made under the M.P. Minor Mineral Rules and the necessary form for grant of a lease in respect of a minor mineral was used for making the application, it was not necessary for the applicant (respondent No. 3) to mention in column (6) the full description or definition of the minor mineral for which the quarry lease was sought. Column (6) of the application form is as follows:--

"Minor Mineral or Minerals which the applicant intends to mine".

The purpose obviously of getting this column filled by an applicant is that he should specify which minor mineral he wants to quarry. Unless he specifies the minor mineral there, it will not be possible to determine whether the application was an application for quarrying a minor mineral. Limestone can be used for

several purposes and it is a minor mineral only when, according to the notification issued by the Central Government, it is "used in kilns for manufacture of lime used as a building material". If limestone is quarried for any other purpose, it will be a major mineral and will not be a minor mineral. If, therefore, in column (6) merely limestone is mentioned and it is not mentioned that it will be used in kilns for manufacture of lime used as a building material, it would automatically mean that the application is for mining limestone as a major mineral. There is thus incongruity in the application. Although the form used by an applicant is for a minor mineral but the mineral he wants to extract is a major mineral, in such case the application would clearly be untenable. The State Government was not justified in taking into consideration such an application as a valid application for quarrying a minor mineral. The same view has been taken by this Court in *Gorelal Dube v. State of M.P.* Misc. Petn. No. 3 of 1968. D/-2-9-1970 (Madh Pra). The attempt of the State Government in correcting, after this writ petition has been filed, the quarry lease which was originally granted only for the purpose of quarrying limestone for burning was wholly unjustifiable. Even assuming that the State Government intended to grant a quarry lease for limestone used in kilns for manufacture of lime as a building material, that could not be granted unless there was a valid application for it. Since there was no application for quarrying that minor mineral, such an application could not be granted. Consequently, the grant made on 16th June 1969 in favour of respondent No. 3, even though it is taken in the correct form, was wholly illegal and without jurisdiction. We accordingly quash the order of the State Government dated 16th June 1969 granting the lease in favour of respondent No. 3.

Since the lease in favour of respondent No. 3 is being quashed by this order, it is not necessary to say anything about the petitioner's application under Rule 30 which was for the same purpose and which was rejected by the State Government on the mere ground that it was not in conformity with rules. That prayer has become infructuous and we need not pass any order in respect of that order of the State Government.

The result, therefore, is that this petition is allowed as stated above. In all the circumstances of the case, we direct the parties to bear their own costs of this petition. The outstanding amount of the security deposit shall be refunded to the petitioner.