

(2002) 03 JH CK 0082
In the Jharkhand High Court
Case No : C.W.J.C. No. 3557 of 2000

Ranjeet Mehta

APPELLANT

Vs

State of Bihar and Others

RESPONDENT

Date of Decision : 08-03-2002

Acts Referred:

Bihar Minor Mineral Concession Rules, 1972 — Rule 9
Forest (Conservation) Act, 1980 — Section 2

Citation : (2002) 03 JH CK 0082

Hon'ble Judges : S.J. Mukhopadhaya, J

Bench : Single Bench

Advocate : Anil Kumar, JC to G.P.I. for S.K. Mitra, for the Appellant; Deepak Kr. Sinha, for the Respondent

Judgement

S.J. Mukhopadhaya, J.—The petitioner has challenged the letter No. 895 dated 19th September. 2000 issued by the Assistant Mining Officer, Kodarma. whereby he has communicated that the Deputy Commissioner. Kodarma has rejected the application of petitioner for grant of mining lease in respect to 23.21 acres of land of Plot No. 6(Part) of Mouza Dom-chance.

2. The counsel for the petitioner mainly confined his argument with respect to the ground shown in the impugned order and the Court heard the case on such short point to determine the issue.

3. According to the petitioner, even if the grounds shown in the impugned order dated 19th December. 2000 are accepted that the land is a forest area, the respondents should not have rejected the claim of the petitioner on such grounds.

4. Sub-rule (4) of Forest (Conservation) Act. 1981 stipulates that the State Government should have forwarded the matter to the Central Government for prior approval u/s 2 of the said Act.

5. The counsel for the State submitted that the land being forest area, the claim of the petitioner was rejected.

6. Mr. Deepak Kumar. Advocate states that he intended to file an Intervention petition on behalf of one Uma Shankar Prasad as the writ petition of petitioner is liable to be rejected his application for grant of mining lease being not in accordance with rules. He relied on Rule 9 of Bihar Mining Mineral Concession Rules, 1972 to suggest that, the application was not filed as per the provisions of the said rule.

7. However, as no such ground has been shown in the order of rejection, for the present, Uma Shankar Prasad has no locus, this Court is not inclined to determine the issue,

8. Admittedly, the State Government or the other authority never decided the issue as to whether it intended to seek prior approval of the Central Government u/s 2 or not and merely on the ground that the land is a forest area the application has been rejected, the order dated 19th September. 2000 is set aside.

9. The case is remitted to the Deputy Commissioner. Kodarma to redetermine the issue as to whether the application on petitioner for grant of mining lease to be allowed or not and for that if the area is a forest area, it intend to seek prior approval of the Central Government or not. If so necessary, it may obtain such prior approval of the Central Government.

10. Uma Shankar Prasad who intends to intervene in this case, may move the Deputy Commissioner. Kodarma by bringing to his notice the infirmities, if any, in the application of the petitioner.

11. The writ petition stands disposed of with the aforesaid observations and directions.