

(2010) 12 AHC CK 0025
In the Allahabad High Court
Case No : C.M.W.P. No. 73490 of 2010

Romesh Singh and Another	Vs	APPELLANT
U.P. Sarkar Dwara Sachiv, Bhootatva Evam Khanikarm Ayodyogic Vikas Anubhag-5 and Others		RESPONDENT

Date of Decision : 20-12-2010

Acts Referred:

Uttar Pradesh Minor Minerals Concession Rules, 1963 — Rule 77

Citation : (2011) 112 RD 381

Hon'ble Judges : Satya Poot Mehrotra, J; Pankaj Mithal, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Satya Poot Mehrotra and Pankaj Mithal, JJ.—The present writ petition has been filed, inter alia, praying for quashing the order dated 7.10.2010 (Annexure No. 8 to the writ petition) passed by the District Magistrate, Fatehpur (Respondent No. 2) in respect of the Petitioner No. 2, and the order dated 7.10.2010 (Annexure No. 9 to the writ petition) passed by the District Magistrate, Fatehpur (Respondent No. 2) in respect of the Petitioner. No. 1.

2. It appears that pursuant an advertisement dated 30.11.2009, the Petitioners submitted their respective applications, each dated 30.12.2009, for grant of mining lease in respect of the land in question.

3. As no decision was taken by the concerned Respondents in respect of the said applications for some time, the Petitioners herein filed a writ petition before this Court, being Civil Misc. Writ Petition No. 57686 of 2010. The said writ petition was disposed by this Court by its order dated 20.9.2010. inter alia, directing the District Magistrate, Fatehpur (Respondent No. 2) to take final decision in the matter of the Petitioners for grant of mining lease within a specified period mentioned in the said order dated 20.9.2010.

4. Copy of the said order dated 20.9.2010 has been filed as Annexure No. 6 to

the writ petition.

5. Pursuant to the directions given by this Court in the said order dated 20.9.2010, the application of the Petitioner No. 1 and the application of the Petitioner No. 2 herein were considered by the District Magistrate, Fatehpur (Respondent No. 2), and by the orders, each dated 7.10.2010, the said applications filed by the Petitioner No. 1 and the Petitioner No. 2 were rejected.

6. Rule 77 of the U.P. Minor Mineral (Concession) Rules, 1963, inter alia provides that a person aggrieved by an order passed by the District Officer which includes Collector, may file an appeal before the Commissioner of the Division against such order within sixty days of the communication of order.

7. It is, thus, evident that against the orders, each dated 7.10.2010 (Annexure Nos. 8 and 9 respectively), passed by the District Magistrate, Fatehpur (Respondent No. 2), the Petitioners have alternative remedy of filing appeal before the Commissioner of the Division concerned.

8. Having regard to the nature of controversy involved in the present writ petition, we are of the opinion that it will be appropriate that the Petitioners be relegated to avail the aforesaid alternative remedy available to them.

9. In view of the above, we dismiss the writ petition on the ground of alternative remedy of filing appeal available to the Petitioners.