
(2010) 07 RAJ CK 0076
In the Rajasthan High Court

Sarvan Kumar

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

Date of Decision : 13-07-2010

Acts Referred:

Citation : (2010) 07 RAJ CK 0076

Hon'ble Judges : Govind Mathur, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Govind Mathur, J.—This petition for writ is preferred to quash quarry licence dated 14.2.2008 issued in favour of respondent No. 3.

2. The factual matrix necessary to be noticed is that under a Notification dated 14.7.1987 applications were invited for allotment of mining plot No. 50, Jaleri No. 3 and the same was allotted to one Shri Hari Shankar. The allotment made in favour of Shri Hari Shankar stood cancelled on 29.1.1988, because of certain deficiencies in compliance of the conditions for the grant of mining quarry licence. After cancellation of the allotment made in favour of Shri Hari Shankar, the petitioner preferred an application on 6.9.1989 for allotment of the disputed mining area. The application so preferred came to be rejected on 9.3.1990, being pre-mature, as till then. No notification declaring the area vacant and available for allotment was made. On rejection of the application for allotment, the petitioner preferred an appeal before the Additional Director (Mines), Udaipur that too came to be rejected on 13.9.1990.

3. It is pertinent to note here that the original allottee Shri Hari Shankar also preferred an appeal challenging the decision of cancellation of allotment made in his favour and that came to be rejected on 25.2.1994. After rejection of the appeal preferred by Shri Hari Shankar, the disputed mining plot was notified for allotment on 28.3.1994. The respondent No. 3 then submitted an application for allotment of the disputed mining plot to her and by accepting her application, the

mining area was granted to her on 14.2.2008. Prior to it, on 7.12.1994 the second appeal preferred by the petitioner giving challenge to the order dated 13.9.1990 passed by the Addl. Director (Mines) came to be rejected and the matter was remanded for re-consideration. The Executive Mining Engineer in pursuant to the order dated 7.12.1994 considered the case of the petitioner and rejected the application on its merits. Against the order passed by the Executive Mining Engineer, the petitioner preferred a civil suit before the court of learned Civil Judge, Junior Division (West), Bhilwara and that suit came to be rejected on 30.10.2006. A first appeal giving challenge to the judgment and decree dated 13.10.2006 is said to be pending before the learned District Judge, Bhilwara.

4. At the same time on allotment of the disputed mining plot to respondent No. 3 on 14.2.2008, a revision petition was preferred by the petitioner before the State Government and that came to be rejected on 2.7.2009. Being aggrieved by the order passed in revision petition, this petition for writ is preferred.

5. The contention of the learned Counsel for the petitioner is that the respondents should have considered the case of the petitioner, as his matter was remanded for re-consideration by the State Government under order dated 7.12.1994.

6. I have examined the order impugned dated 2.7.2009. The learned revisional authority while rejecting the revision petition preferred by the petitioner, reached at the conclusion that as a matter of fact the re-consideration as ordered by the State Government on 7.12.1994 was made under the order dated 18.2.1995 and that was subject matter of a civil suit (Civil Original Suit No. 60/95 before the Civil Judge, Junior Division, West, Bhilwara), which came to be rejected on 13.10.2006 and, as such, no claim or preference could have been made by the petitioner on the basis of remand made by the State Government on 7.12.1994.

7. The fact regarding re-consideration of the petitioner's application by the Executive Mining Engineer on 18.2.1995 is not in dispute and the factum of filing of a civil suit, its rejection and pendency of the first appeal is also not controverted by the petitioner. In such circumstance, compliance of the order for reconsideration has already been made and no further right is available to the petitioner for re-consideration. If the petitioner was interested to get the mining plot, he should have submitted a fresh application after the notification of the mining area as vacant. No such exercise at all was done by him. In view of it, the petition for writ is having no merit. The same is dismissed. However, this rejection in no way adversely affect rights of the petitioner, pending adjudication before the first appellate court after rejection of the Suit No. 60/95, referred above.