

**(2016) 07 JH CK 0006**

**In the Jharkhand High Court**

**Case No : Writ Petition (Civil) No. 2614 of 2015**

Shree Ram Metalik

APPELLANT

Vs

State of Jharkhand

RESPONDENT

**Date of Decision : 20-07-2016**

**Acts Referred:**

Constitution of India, 1950 — Article 226

**Citation :** (2017) 170 AIC 326 : (2016) 4 JCR 480

**Hon'ble Judges :** Mr. Aparesh Kumar Singh, J.

**Bench :** Single Bench

**Advocate :** Mr. Kalyan Roy, Advocate, for the Petitioner; Mr. Kumar Sundaram, J.C to A.A.G, for the Respondents

**Final Decision :** Allowed

## Judgement

Mr. Aparesh Kumar Singh, J.— Heard learned counsel for the petitioner.

2. Petitioner has approached this Court earlier in W.P.C. No. 4071 of 2014 being aggrieved by the order dated 5.8.2014 passed by the District Mining Officer, Chaibasa where by the License No.5/SBM/2012-13 under Jharkhand Mineral Dealers Rules, 2007 has been cancelled. By the order dated 24.3.2015, learned Single Judge of this Court has quashed the impugned order and directed the Assistant Mining Officer, Chaibasa to issue show cause to the petitioner indicating the discrepancy found during the inspection and upon consideration of his reply take a final decision within a period of 2 weeks thereafter. Petitioner was restrained from carrying out business during that period of 6 weeks.

3. The conspectus of facts leading to the issuance of the order of cancellation have been incorporated in the previous judgment dated 24.3.2015, which is quoted herein below to avoid repetition :-

"Aggrieved by order dated 05.08.2014 whereby, the Licence No. 5/SBM/201213 has been cancelled, the present writ petition has been filed.

2. The petitioner is a registered dealer under the Jharkhand Mineral Dealers Rules, 2007. It has been granted licence for processing/storing and trading of iron ore. The licence under the Jharkhand Mineral Dealers Rules, 2007 was issued to the petitioner on 14.06.2012 for a period of five years. The petitioner has obtained requisite clearance from the Jharkhand Pollution Control Board. On 02.08.2014 an inspection was carried by a team of officers comprising the Assistant Mining Officer and Mines Inspectors. The representative of the petitioner namely, one Somnath Kumar Ram was also present at the time of inspection. Measurement of Iron Ore was taken and 985.074 MT. Lumps/Rom, 1259.336 MT size Ore and 1762.108 MT fines Ore, total about 4006.513 MT was found there. The representative of the petitioner however, did not produce the stock register and he gave in writing the stock of Rom, size Ore and fines Ore, total weighing 2965.860 MT. It is stated that in this manner, huge quantity of Iron Ore, size Ore and fines Ore was found in excess, in the premises of the petitioner which were obtained and brought by the illegal means. A First Information Report bearing Gua (Bara Jamda) P .S. Case No. 45 of 2014 was lodged on 02.08.2014 under Section 379/411 I.P.C. and under Section 4 & 21 of M.M.D.R. Act, 1957 read with Rule 6 of the Jharkhand Mineral Dealers Rules, 2007 and under Rule 3/9 of Jharkhand Mineral Transit Pass Regulation, 2005. Vide order dated 05.08.2014, the licence of the petitioner was cancelled and it was directed not to carry on business from its premises. Aggrieved, the petitioner has approached this Court by filing the present writ petition.

3. A counteraffidavit has been filed on behalf of the respondent-State of Jharkhand stating that in view of the input received from the Superintendent of Police, Special Branch, Ranchi, a team of Mining Officers visited the crusher premises of the petitioner. On 02.08.2014, when huge quantity of Iron Ore, size Ore, fines Ore was found in excess to the quantity disclosed by the representative of the petitioner. It is further stated that a criminal case being Gua ( Bara Jamda) P .S. Case No. 45 of 2014 has been registered and the criminal case is under investigation against the petitioner. Since the illegal huge quantity of Iron Ore, size Ore and fines Ore was found inside the premises of the petitioner, vide order dated 05.08.2014 licence has been cancelled.

4. Heard the learned counsel for the parties and perused the documents on record.

5. Mr. Anil Kumar Sinha, the learned Senior counsel appearing for the petitioner submits that without issuing any showcause notice to the petitioner, licence granted for five years, was arbitrarily cancelled vide impugned order dated 05.08.2014. It is further submitted that only on the statement of the alleged representative of the company namely, one Somnath Kumar Ram, the respondent Assistant Mining Officer has concluded that the alleged excess quantity of Iron Ores found inside the premises of the petitioner was illegally procured by the petitioner. It is submitted that further proceeding in the criminal case has been stayed by this Court vide order dated 18.09.2014 in Cr. M.P . No.

1914 of 2014.

6. As against the above, Mr. Anil Kumar, the learned counsel appearing for the respondents raises a preliminary objection as to the maintainability of the writ petition on the ground that the petitioner has an efficacious remedy of appeal before the Deputy Commissioner. It is further stated that on the statement made by the representative of the petitioner-company, 1040.6536 MT of Iron Ore, size Ore and fines Ore was found in excess to the quantity disclosed by the representative of the petitioner and thus, a criminal case has been lodged for bringing such huge quantity of Iron Ores by illegal means.

7. Having heard the learned counsel for the parties and after perusing the materials on record, I am of the opinion that the present writ petition deserves to be allowed. The cancellation of licence which was issued on 14.06.2012 for five years, vide impugned order dated 05.08.2014 entails serious consequences to the petitioner however, no notice was issued to the petitioner before the licence was cancelled. The objection against the petitioner is that it has kept 1040.6536 MT of Iron Ore, size Ore and fines Ore without any valid transport chalan and other papers and it has received such huge quantity of Iron Ores by illegal means. From the materials brought on record, I find that the respondents have concluded that the petitioner has procured huge quantity of Iron Ores through illegal means only for the reason that the stock register was not produced by the representative of the petitioner. From the counter-affidavit filed on behalf of the respondent-State of Jharkhand, it is apparent that the representative of the petitioner has stated before the inspecting team that stock register has been sent to Chaibasa. It further appears that neither any show-cause notice was issued to the petitioner nor the petitioner was afforded any opportunity to produce the transport chalan and other relevant evidences indicating the lawful purchase of stock kept within its premises. Since, the respondents have filed counter-affidavit and the petitioner has filed rejoinder affidavit as well as supplementary affidavit, at this stage, relegating the petitioner to approach the appellate authority would not be proper. Considering the above facts, the impugned order dated 05.08.2014 is hereby quashed and a direction is issued to the Assistant Mining Officer, Chaibasa to issue a showcause notice to the petitioner indicating the discrepancy found during the inspection. Let such a notice be issued to the petitioner within two weeks. The petitioner would be provided further two weeks" time for responding to the showcause notice. After considering the showcause notice of the petitioner, a final decision would be taken by the Assistant Mining Officer, Chaibasa within two weeks. However, it is made clear that during this period of six weeks, the petitioner shall not carry its business as directed by the Assistant Mining Officer".

4. Thereafter on issuance of show cause notice dated 4.4.2015 (Annexure-5) by the respondent- District Mining Officer, Chaibasa and reply submitted by the petitioner, the present impugned order dated 6.5.2015(Annexure-6) has been passed by the District Mining Officer, Chaibasa.

5. On the face of the order, it is apparent that it is sans any reason and is cryptic. As a matter of fact, it maintains that the previous order of cancellation dated 5.8.2014 was proper.

6. Reasons are the soul and heartbeat of any such quasi judicial order where under adverse consequence flow against a person. The impugned order is like the inscrutable face of the Sphinx and no reason can be discerned out of that. Such an order cannot be upheld in the eye of law. Reference may be made to the judgment rendered by the Apex Court in the case of Kranti Associates Private Limited & another v. Masood Ahmed Khan & others reported in (2010) 9 SCC 496 and in the case of Ravi Yashwant Bhoir v. District Collector, Raigad & others reported in (2012) 4 SCC 407.

7. Learned counsel for the respondent- State has however sought to justify the order on the ground that no further materials were produced by the petitioner to take a different view with that from the previous order dated 5.8.2014. However, such submission is also misconceived as whether the facts pleaded by the petitioner through his reply necessitated a different view or not can only be tested by due application of mind and showing the reasons thereof. As is evident in the order impugned, there is absence of any such reason. It is accordingly quashed.

8. The respondent- District Mining Officer, Chaibasa is obliged to pass a fresh order in accordance with law within a period of 2 weeks from the date of receipt of the copy of this order. Petitioner shall also bring the copy of the order to the notice of the Respondent District Mining Officer, Chaibasa within 2 weeks. The petitioner shall however not carry out its business during this period. The writ petition is allowed in the manner and to the extend indicated herein above.