
(2010) 01 RAJ CK 0054
In the Rajasthan High Court

Shri Balaji Marble Mines

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

Date of Decision : 08-01-2010

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2010) 1 RLW 715 : (2010) 2 WLN 141

Hon'ble Judges : M.C. Sharma, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Mahesh Chandra Sharma, J.—In the writ petition filed under Article 226 of the Constitution, the petitioner made following prayer:

(i) The impugned order dated 14.6.2007 (Annexure 15) may kindly be quashed and set aside with all its natural consequences as if, it was never passed and issued; and

(ii) The order dated 14.6.2007(Annexure 15) may be declared illegal, unreasonable and arbitrary and the respondents may be restrained from interfering/disturbing the sanction order dated 19.7.2006 in any way.

(iii) During pendency of the writ petition, if any order is passed prejudicial to the rights and interests of the petitioner, the same may also be quashed and set aside.

2. The petitioner is dealing in quarrying of marble stone and sale thereof. Quarry No. 241, range Kola Doongari, Makrana for mineral marble was initially sanctioned in favour of M/s. Makrana Marble and Stone Co. Makrana on October 1, 1965 which was renewed from time to time. By order dated June 12, 2006 the aforesaid quarry covering the area of 1355 x 200 ft. (24961.3343 sq. mtrs.). was transferred in favour of the petitioner. The petitioner moved an application to the Mining Engineer Makrana for extending the area of the existing quarry by

14030.66 sq. mtrs. In reference to this application, the petitioner averred that if the extension of the area is included it would be in consonance with the Marble Conservation and Development Rules and standard size of plot prescribed in the Marble Policy 2002 which is 4 hctrs. The petitioner deposited Rs. 5,000 application fee along with map and description of the extended area. By order dated 20.6.2006 the Mining Engineer directed the Mines Foreman to inspect the site of the extended area applied by the petitioner and submit a report. The Mines Foreman in the pre-demarcation report observed as under:

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3. By order dated 19.7.2006 the Mining Engineer sanctioned an area of four hectares in favour of the petitioner by allowing extension of 15038.66 sq. mtrs. area to be included in the existing quarry No. 241. In accordance with the sanction order, the petitioner deposited banker cheque of Rs. 72500 dated 25.7.2006 and deposited Rs. 1000 as demarcation fee. The petitioner also submitted the requisite security of Rs. 7000 in the form of NSCs. The petitioner also deposited the difference of the revised rent with interest to the tune of Rs. 48708 by challan dated 7.3.2007. Final demarcation was also conducted by the department on 24.8.2006. The Rajasthan State Pollution Control Board also issued an NOC in favour of the petitioner on 11.9.2006. The Directorate of Mines and Geology directed the Mining Engineer vide letter dated 14.6.2007 to declare the sanction order dated 19.7.2006 as null and void under rule 72 of the Rajasthan Minor and Mineral Concession Rules, 1986 and requested for sending compliance report.

4. The respondents filed reply to the writ petition and stated that the original quarry license issued in favour of the petitioner was not cancelled and the Directorate of the Mining Department cancelled the order dated 19.7.2006 of the Mining Engineer as the same was issued without obtaining prior approval from the Directorate. The Directorate of the Mines and Geology in exercise of the powers conferred by rule 72 of the Rajasthan Minor Mineral Concession Rules, 1986 declared the order dated 19.7.2006 as null and void. The respondents averred that after completion of the formalities by the petitioner, the Mining Engineer Makrana sought approval from the Directorate vide his letter dated 14.6.2007 for extension of the existing area of the petitioner. The respondents further averred that prior to issuance of the approval by the Directorate in accordance with the provisions of the Rules, the Mining Engineer Makrana issued the order dated 19.7.2006 allowing the application filed by the petitioner for extension of the area and after making necessary departmental inquiry, when it was found that order dated 19.7.2006 was passed illegally and irregularly, the same was rightly and justifiably declared null and void by the competent authority.

5. Heard learned Counsel for the petitioner and the Government Counsel. I have

also gone through the averments made by the parties in the writ petition and the reply to the writ petition. The order dated 19.7.2006 (Annexure 15) was passed by the Mining Engineer without obtaining prior approval from the directorate and thus committed irregularity. While exercising the powers conferred by Rule 72 of the Rules, the Directorate of the Mining Department rightly declared the order dated 19.7.2006 as null and void. The Directorate of the Mining Department rightly passed the order and this order cannot be said to be unjustified and unreasonable.

6. For these reasons, the writ petition is dismissed. The parties shall bear their own costs.