
(2012) 08 BOM CK 0199
In the Bombay High Court
Case No : Writ Petition No. 196 of 2012

Shri Upendra B. Karpe

APPELLANT

Vs

Revision Authority (Central Government), Government of India, Ministry of Mines, Krishi Bhawan, New Delhi, State of Goa, Office of Secretary (Mines), Secretariat, Porvorim, Bardez, Goa and The Director, Directorate of Mines and Geology

RESPONDENT

Date of Decision : 13-08-2012

Acts Referred:

Mines and Minerals (Development and Regulation) Act, 1957 — Section 30

Citation : (2012) 08 BOM CK 0199

Hon'ble Judges : U.V. Bakre, J;A.P. Lavande, J

Bench : Division Bench

Advocate : Sarvesh Kamat Malyekar, for the Appellant; C.A. Ferreira, Assistant Solicitor General for Respondent No. 1 and Mr. M. Salkar, Government Advocate for respondent nos. 2 and 3, for the Respondent

Judgement

A.P. Lavande, J.—Heard Mr. S. Kamat Malyekar, learned Advocate for the petitioner, Mr. C. A. Ferreira, Assistant Solicitor General for respondent no. 1 and Mr. M. Salkar, learned Government Advocate for respondent nos. 2 and 3. Rule, by consent heard forthwith.

2. By this petition, the petitioner has challenged order dated 31.1.2011 passed by respondent no. 1 as well as communication dated 5.2.2001 addressed by respondent no. 3 to the predecessor in title of the petitioner rejecting renewal application filed by predecessor in title of the petitioner. The petitioner further seeks writ of mandamus directing respondent no. 2 to consider the application dated 20.11.2006 for renewal of mining lease. Respondent no. 1 has rejected the renewal application preferred by the petitioner u/s 30 of the Mines and Minerals Act and Rule 54 of the Rules framed thereunder. The same has been dismissed by respondent no. 1 by the impugned order dated 31.1.2011 primarily on the ground that the application filed by the predecessor in title of the petitioner

dated 21.4.1999 was rejected by the Directorate of Industries and Mines, Government of Goa and the same was not challenged and as such has become final.

3. Revisional authority further held that since the same was not challenged no fault could be found with the action of respondent no. 2 in rejecting the application dated 20.11.2006.

4. Mr. Kamat, learned Counsel appearing for the petitioner submits that in respect of the application dated 21.4.1999 filed by predecessor in title of the petitioner no hearing was given by respondent no. 2 to the predecessor in title of the petitioner nor a decision which was taken without giving an opportunity to the petitioner of being heard, was communicated to the predecessor in title of the petitioner.

5. Mr. Salkar submits that records and proceedings in relation to the application dated 21.4.1999 do not disclose that any hearing was given to the predecessor in title of the petitioner nor that the decision was communicated to the predecessor in title of the petitioner.

6. In view of the above position, we are of the considered opinion that the impugned order passed by respondent no. 1 dated 31.1.2011 is liable to be quashed and set aside since the impugned order is mainly passed on the fact that the application dated 21.4.1999 was rejected by respondent no. 3.

7. In view of the above, the impugned order dated 31.1.2011 is quashed and set aside.

8. Rule is made absolute in terms of prayer clauses A, B and C which read thus:-

A. This Court be pleased to issue a Writ of Certiorari or a Writ in the nature of a Certiorari or any other appropriate Writ, Order or Direction, calling for the records from the respondent no. 1 pertaining to Revision Application no. 08/(12)/2010-RC.II filed by the petitioner and after examining the legality, validity and reasonability thereof, be pleased to quash and set aside the impugned Order dated 31.1.2011 passed by respondent no. 1.

B. That this Court be pleased to issue a Writ of Certiorari or a Writ in the nature of a Certiorari or any other appropriate Writ quashing and setting aside letter dated 5.2.2001 addressed by respondent no. 3 rejecting renewal application and declare the same as null and void.

C. That this Court be please to issue a Writ of Mandamus or a Writ in the nature of Mandamus or any other appropriate Writ directing Respondent no. 2 to consider a fresh petitioner's application dated 20.11.2006 for renewal of mining lease.

9. Respondent no. 2 shall consider the application dated 20.11.2006 filed by the petitioner for renewal of mining lease in accordance with law. Writ Petition stands disposed of with no order as to costs.