
(2014) 11 KAR CK 0074

In the Karnataka High Court

Case No : Writ Petition No. 30930 of 2014 (GM-RES)

Shwetha Borewells

APPELLANT

Vs

State Government of Karnataka

RESPONDENT

Date of Decision : 18-11-2014

Acts Referred:

Citation : (2014) 11 KAR CK 0074

Hon'ble Judges : S. Abdul Nazeer, J

Bench : Single Bench

Advocate : Zulfikir Kumar Shafi, Advocate for the Appellant; H.T. Narendra Prasad, A.G.A, Advocate for the Respondent

Judgement

S. Abdul Nazeer, J.—The petitioner had made an application under Rule 8 of the Karnataka Ground Water (Regulation and Control of Development and Management) Rules, 2012 (for short "the Rules"), requesting the Karnataka Groundwater Authority - 3rd respondent herein to grant registration certificate for drilling of bore-wells. The said application was dismissed by the third respondent by order at Annexure-B dated 7.8.2013. Therefore, the petitioner has filed this writ petition seeking the following reliefs:-

"a) Issue a writ in the nature of certiorari or any other appropriate writ, order or direction quashing the Order dated 27.03.2013, bearing No. GaBhuE/AJaVi/Ech/P-II/Package-2/2012-13, issued by the Second respondent at Annexure-A; and

b) Issue a writ in the nature of certiorari or any other appropriate writ, order or direction quashing the order dated 07.08.2013 bearing No. GaBhuE/AJaVi/23/KaAamPra/2013-14, issued by the second respondent at Annexure-B;

c) Issue a writ in the nature of mandamus or any other appropriate writ, order or direction directing the respondents to consider the application submitted by the petitioner and issue Form 7A

d) Grant such other reliefs as this Hon'ble Court deems fit in the circumstances

of the case."

2. The contention of the learned counsel for the petitioner is that the application was filed for grant of registration for drilling of bore-well under Rule 8. The said application has been rejected on the ground that the contract which was entered into by the second respondent with the petitioner has been cancelled as per the order at Annexure-A. This cannot be a ground for rejecting the application under Rule 8.

3. Learned counsel further submits that he does not press prayer (a) in this writ petition and that liberty may be reserved to challenge the order at Annexure "A" in a separate proceedings.

4. Submission of the learned counsel for the petitioner is placed on record. Prayer (a) insofar as challenge to the order at Annexure-A is rejected with liberty to the petitioner to challenge the same in a separate proceedings in accordance with law.

5. Learned AGA has sought to justify the impugned order at Annexure-B.

6. I have carefully considered the arguments made at the Bar and perused the materials on record.

7. The Karnataka Ground Water (Regulation and Control of Development and Management) Act, 2011, has been enacted to regulate and control the development and management of ground water and matters connected therewith or incidental thereto. Section 13 of the Act provides for registration of drilling agencies. Rules have been framed to effectuate the purpose of the Act.

8. Rule 8 provides for registration of drilling agencies under Section 13, which is as under:

"(1) Persons who desire to carry on the business of digging well or drilling bore well for extraction of groundwater shall make an application in Form 6 to the Authority, along with fees for registration of drilling agency under section 13(3), shall be Rs. 5,000/- for each drilling rig. Subject to the following conditions, namely:-

(i) He must have the compressor of the drilling rig with the minimum capacity of 900/200 PSI;

(ii) He must possess a machinery to drill a bore well of diameter of minimum of 152 mm;

(iii) He must have appointed driller having minimum qualification of Diploma in Mechanical Engineering with a minimum of three years experience in water well drilling in hard rock terrain to undertake, drilling or digging operation and extraction of the groundwater;

(2) The Authority after satisfying the conditions specified in Sub-rule (1) of Rule 8, may register each drilling rig and issue a Certificate of registration in Form -

7A for a period of two years and in case if he is not satisfied he may issue rejection order in Form - 7B and also indicate the reasons for such rejection.

(3) Every drilling agency shall also comply with the conditions specified in the Certificate of registration."

9. Sub-rule (2) of Rule 8 clearly states that after satisfying the conditions specified in Sub-rule (1) of Rule 8, the authority concerned may register each drilling rig and issue a certificate of registration in Form - 7A for a period of two years and in case, if he is not satisfied, he may issue rejection order in Form - 7B and also indicate the reasons for such rejection.

10. It is clear that a rejection order can be passed if the applicant fails to satisfy the conditions enumerated in Rule 8(1). A dispute in relation to a contract entered into by the second respondent with the petitioner cannot be a ground for rejection of the application. I am of the view that the third respondent has to reconsider the matter.

11. In the result, writ petition succeeds and it is accordingly allowed in part. The order at Annexure-B dated 07.08.2013 passed by the third respondent is hereby quashed. The third respondent is directed to reconsider the application of the petitioner seeking grant of registration certificate within a period of four weeks from the date of receipt of copy of this order in accordance with law and without being influenced by the order at Annexure "A". No costs.