
(2011) 04 AHC CK 0368
In the Allahabad High Court
Case No : C.M.W.P. No. 3079 of 2011

S.K. Construction

APPELLANT

Vs

State of U.P. and others

RESPONDENT

Date of Decision : 19-04-2011

Acts Referred:

Citation : (2011) 4 AWC 4323 : (2011) 8 RCR(Civil) 2990

Hon'ble Judges : Satya Poot Mehrotra, J;Rajesh Chandra, J

Bench : Division Bench

Final Decision : Disposed Of

Judgement

Satya Poot Mehrotra and Rajesh Chandra, JJ.—Rejoinder affidavit on behalf of the petitioner has been filed today.

2. The petitioner has filed the present writ petition making the following prayers:

(a) issue a writ, order or direction in the nature of mandamus directing the respondents not to stop the transportation of SAND/MORAM on the Mining check posts/Barriers of the District Sonbhadra without any valid reason, as the petitioner has completed all the legal formalities and he has every right to transport the abovenoted minor mineral in Uttar Pradesh in accordance with law.

(b) issue any other suitable writ, order or direction as this Hon''ble Court may deem fit and proper under the facts and circumstances of the case.

(c) award the cost of the petition in favour of the petitioner.

3. As per the averments made in the writ petition, the petitioner entered into an Agreement with the Gram Panchayat Trishuli, District Sarguja in the State of Chattisgarh in accordance with the provisions of the Government order dated 2nd March, 2006. Copy of the said Government order dated 2nd March, 2006 has been filed as Annexure-CA-1 to the counter affidavit filed on behalf of the respondent Nos. 1 to 3. Copy of the Agreement has been filed as Annexure-1 to the writ petition.

4. The grievance of the petitioner is that under the said Agreement, the petitioner was transporting the excavated sand in a Truck bearing Truck No. U.P.65/A-2593 from the village Trishuli, District Sarguja in the State of Chattisgarh to the District Varanasi in the State of Uttar Pradesh under Transit Pass (Annexure-3 to the writ petition), and during transportation the Truck of the petitioner was stopped by the employees of the check-post named as Urmaura near District Sonebhadra Headquarter.

It is, inter alia, further averred by the petitioner that the petitioner showed all the relevant papers to the employees and the officers of the check-post Urmaura, District Sonebhadra but they did not permit the Truck of the petitioner to pass through the said check-post.

In the circumstances, the petitioner made a Representation dated 15.11.2010 to the respondent Nos. 1 to 3 by Registered Post. Copy of the Representation has been filed as Annexure-4 to the writ petition.

As nothing has been done by the respondents in the matter, the petitioner has filed the present writ petition seeking the reliefs as mentioned above.

Counter affidavit and rejoinder affidavit have been exchanged between the parties.

5. From a perusal of the averments made in the writ petition, the counter affidavit and the rejoinder affidavit, we find that basically the factual controversy Is involved in the present case.

6. We further notice that the petitioner has already made representation to the respondent No. 1, copy whereof has been filed as Annexure-4 to the writ petition for redressal of its grievances.

In the circumstances, we are of the view that the interest of justice would be subserved in case the writ petition is disposed of with the direction to the respondent No. 1 to take appropriate decision on the representation made by the petitioner within a specified period.

7. We accordingly dispose of the writ petition with the following directions:

(1) Within four weeks from today, the petitioner will move an application before the respondent No. 1 alongwith a copy of the representation dated 15.11.2010 (Annexure-4 to the writ petition) and a certified copy of this order.

(2) On receipt of such application alongwith the documents mentioned above, the respondent No. 1 will proceed to decide the representation, expeditiously, preferably within a period of six weeks of receipt of the said application and the documents by passing a speaking order.

It is made clear that we have not adjudicated the claim of the petitioner on merits.