
(2013) 08 RAJ CK 0100
In the Rajasthan High Court
Case No : Civil Writ Petition No. 8906 of 2013

Smt. Gulab

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

Date of Decision : 19-08-2013

Acts Referred:

Citation : (2013) 08 RAJ CK 0100

Hon'ble Judges : Dinesh Maheshwari, J;Arun Bhansali, J

Bench : Division Bench

Final Decision : Disposed Off

Judgement

1. Though nobody is present for either of the parties but, upon perusal of the record, it is noticed that in this writ petition, essentially the petitioner has put to question the notification dated 03.04.2013 as issued by the State Government bringing out amendment in the Rajasthan Minor Mineral Concession Rules, 1986 ("the Rules of 1986") particularly to the extent it was sought to be applied upon the pending applications for grant of mining lease/licence. Consideration of this matter was deferred earlier in view of the fact that the very same notification dated 03.04.2013 was already under challenge in identical matters wherein arguments had been heard by a co-ordinate Bench and order was awaited.

2. It is noticed that the awaited order was ultimately pronounced on 31.07.2013 in a batch of petitions led by DB CWP No. 4241/2013: Federation of Sand Stone Mining Industries Association & Ors. Vs. State of Rajasthan & Ors. wherein, the co-ordinate Bench held the amendment made in sub-rule (10) of Rule 4 and sub-rule (3) of Rule 7 of the Rules of 1986 to be illegal to the extent it provided for rejection of pending applications. The co-ordinate Bench, inter alia, held as under:--

Therefore, impugned amendment dated 03.04.2013 made in sub-rule (10) of Rule 4 and Rule 7(3) of the Rules of 1986 are hereby declared illegal to the extent of rejection of the pending applications and it is directed that all the

pending applications filed upto 27.01.2011 shall be decided in accordance with law prevailing prior to issuance of impugned notification dated 03.04.2013....

3. The matter being concluded so far this Court is concerned by the aforesaid order dated 31.07.2013, it appears appropriate and in the interest of justice that this matter be also disposed of in the same terms; and there does not appear any necessity to keep this matter pending any further.

4. It is noticed that in the present case, the application made by the petitioner for grant of quarry licence was rejected by the Mining Engineer, Jodhpur on 07.10.2011. Aggrieved, the petitioner had preferred an appeal (No. 230/11) under Rule 43 of the Rules of 1986, which was pending before the Additional Director (Mines), Jodhpur. However, before the appeal could be heard and finally decided, the aforesaid notification dated 03.04.2013 came to be issued and consequent thereto, the learned Appellate Authority found that there was no justification remaining to consider the appeal on merits and for this reason alone, proceeded to dismiss the appeal without dealing with the same on merits.

5. As noticed, the said notification dated 03.04.2013 on its material aspects related with the pending applications has been held invalid by this Court. We are clearly of the view that the observations made and the findings recorded in the aforesaid order dated 31.07.2013, for all practical purposes, apply to the present writ petition too; and the impugned order dated 07.05.2013, whereby the appeal filed by the petitioner was dismissed merely with reference to the notification dated 03.04.2013 cannot be sustained. The same is required to be, and is, hereby set aside. The appeal filed by the petitioner bearing No. 230/11 shall stand restored for consideration afresh by the Additional Director (Mines), Jodhpur Zone, Jodhpur, of course, in accordance with law. As the parties are not present before us, we are not fixing a date of hearing of the appeal. It would be required of the Appellate Authority to notify a date of appeal to the parties concerned. Accordingly, this writ petition stands disposed of in terms of the aforesaid order dated 31.07.2013 as passed in DB CWP No. 4241/2013 and with the directions foregoing.