
(2011) 09 UK CK 0172

In the Uttarakhand High Court

Case No : Writ Petition No. 2083 of 2011 (M/S)

Smt. Pushpa Bhandari.

APPELLANT

Vs

State of Uttarakhand and others.

RESPONDENT

Date of Decision : 29-09-2011

Acts Referred:

Citation : (2011) 09 UK CK 0172

Hon'ble Judges : V.K. Bist, J

Bench : Single Bench

Judgement

Hon'ble V.K. Bist, J.—With the consent of the parties, writ petition is being disposed of finally today itself.

2. Present writ petition has been filed by the Petitioner seeking a writ in the nature of certiorari quashing the order dated 02.09.2011 passed by Respondent No. 1. The Petitioner has further prayed to issued a writ of mandamus directing the Respondents to grant the mining lease for collection of bajari etc. from the lot No. 4 & 5 in Song River, Thano Range Forest Division, District Dehradun to the Petitioner and to none other.

3. On 24.09.1991 a public auction was held in the Collectorate compound, Dehradun and in the said auction, the Petitioner's husband was the highest bidder of Rs. 6 lacs. He deposited 25% of the bid amount to the tune of Rs. 1.50 lacs, but lot was not given to the husband of the Petitioner and after 10 months i.e. on 17.07.1992 by way of another auction, the same was given to some other person for a sum of Rs. 1.37 lacs, whereas the amount deposited by the husband of the Petitioner in respect of bid is still lying with the Government, which has not been retuned back. Although, the matter was under consideration of the Central Government and permission of the said lot was upto the year 1999 and after creation of State of Uttarakhand a new Policy was enunciated on 30th April, 2001 and no permission was given to the Uttarakhand Forest Development Corporation. Since the money deposited by the husband of the Petitioner was lying with the Govt. and since husband of the Petitioner died, on humanitarian

ground request was made for considering the Petitioner for grant of mining lease in her favour. In the meantime on 19th August, 2002, the District Magistrate, Dehradun wrote to the Chief Minister informing that lot Nos. 4 & 5, in Song River, fall in Dehradun Forest Range for which the permission granted by the Central Govt. had already expired in the month of February, 1999 and permission for the said lot has yet not been received. The State Government recommended for grant of lease in favour of Petitioner in respect of lot Nos. 4 & 5, in Song River for a period of three years. Mr. Virendra Kaparwan, learned Counsel for Uttarakhand Forest Development Corporation made statement that Uttarakhand Forest Development Corporation has not been granted any permission so far lot Nos. 4 & 5 are concerned.

4. The State Govt. vide order dated 2nd September, 2011 has rejected the claim of the Petitioner for grant of lease in respect of lot Nos. 4 & 5 solely on the ground that the same is given to the Uttarakhand Forest Development Corporation only, and there is no provision for grant of lease in favour of private person. Learned Senior Advocate for the Petitioner drew my attention to the mining Policy issued by the State Govt. as amended on 17th October, 2002. In paragraph-2.2 of 2002 Policy, it is mentioned that as far as possible, lease for grant of extraction of mining and minerals should be given to the State Govt. Owned Corporation. Learned Counsel for the Petitioner has further submitted that in the said mining Policy, nowhere it is written that there is absolute bar in granting mining activities in private capacity. I am convinced with the argument advanced by the learned Senior Advocate for the Petitioner.

5. Mr. Gahtori, the learned Standing Counsel for the State submitted that Respondents/State have no objection, incase, some direction is issued to the Respondents to decide the representation afresh in accordance with law.

6. Having considered the submissions of the learned Counsel for the parties and after going through the relevant Govt. Orders, the writ petition is disposed of with the direction to Respondent No. 1 to reconsider the representation of the Petitioner for grant of lease for mining and minerals, in accordance with law, within a period of two months from the date of production of a certified copy of this order. It is expected that till the disposal of the representation, the State Govt. shall not grant lease in favour of any other person or Govt. Owned Corporation.

7. Interim relief application (CLMA No. 10368 of 2011) also stands disposed of.