
(1999) 02 RAJ CK 0007
In the Rajasthan High Court
Case No : Civil Writ Petition No. 858 of 1997

Sohan Lal

APPELLANT

Vs

Union of India (UOI) and Another

RESPONDENT

Date of Decision : 17-02-1999

Acts Referred:

Mines and Minerals (Development and Regulation) Act, 1957 — Section 4A

Citation : AIR 1999 Raj 268 : (1999) 2 RLW 1356 : (1999) 1 WLN 292

Hon'ble Judges : B.J. Shethna, J

Bench : Single Bench

Advocate : D.D. Thanvi, for the Appellant; R.L. Jangid, A.A.G., for the Respondent

Judgement

B.J. Shethna, J.—The petitioner has challenged in this petition the letter dated 4-6-93 (Annex. 4) issued by the Union of India to the Secretary to the State of Rajasthan, Department of Mines, Jaipur and also impugned order dated 28-1-1997 (Annex. 3) passed by the State of Rajasthan.

2. Way back on 9-7-86, the Secretary to the State of Rajasthan, Department of Mines, Jaipur was requested to take necessary measures to stop further expansion in the mining of asbestos. In view of that letter dated 9-7-86 issued by the Union of India to the Director, Ministry of Mines, Govt. of Rajasthan, Jaipur issued another letter dated 4-6-93 (Annex. 4) to the Secretary to the State of Rajasthan, Department of Mines, Jaipur directing not to grant any new lease or renewal of mining of asbestos of existing mining lease.

3. The petitioner applied for renewal of his licence for mining of asbestos on 23-2-1995, but his renewal application was rejected by the State Govt. on 28-1-1997 (Annex. 3) on several grounds mentioned in the order. The main ground was that the Union of India has specifically directed the State Govt. not to grant any lease or renew the lease.

4. Learned counsel Shri Jangid for the respondents submitted that the

controversy raised in this petition is squarely covered by the Division Bench Judgment of this Court delivered in D. B. Civil Special Appeal No. 724/94 decided on 25-10-94 (Annex. R/I to the reply affidavit). However, learned counsel Shri Thanvi for the petitioner submits that Division Bench Judgment of this Court in aforesaid case will not be binding to this Court in view of the subsequent Supreme Court judgment in case of Consumer Education and Research center and others Vs. Union of India and others, This submission of Mr. Thanvi cannot be accepted for the reason that Apex Court has not overruled the judgment of Division Bench of this Court in Special Appeal No. 724/94 and that judgment has no application on the facts of this case. In fact the Division Bench Judgment of this Court is clearly binding to this Court. Learned counsel Shri Thanvi then submitted that in a case before the Division Bench there was no challenge to the impugned letter dated 4-6-93 (Annex. 4) addressed by the Union of India to the Secretary to the State of Rajasthan, Department of Mines, Jaipur which he is challenging in this petition. This submission of Mr. Thanvi cannot be accepted as the letter Annex. 4 dated 4-6-93 is based on the earlier letter dated 9-7-86 issued by the Union of India which was very much present before the Division Bench.

5. Last submission of Mr. Thanvi was that the Union of India could not have stopped the grant of licence or renewal of licence by merely addressing such letter. It had to issue notification and only after amending the rules it can stop grant of licence or renewal of licence of asbestos mines. At first look, this submission looks very attractive, but in ultimate analysis it was found without any substance.

6. Even in case of Consumer Education and Research center and others Vs. Union of India and others, , the Supreme Court was very much concerned with the health hazard, therefore, issued certain directions and keeping that in mind we have to see whether the State Govt. had rightly issued such letter or not. If the Govt. is fully satisfied after considering the entire matter that mining of asbestos is hazardous to health then in absence of any prohibition it can certainly stop grant of licence or renewal of old licence. It may be stated that this was the view of the Govt. since 1986 and it was only reiterated in 1993 and the same was challenged for the first time by the petitioner before this Court in 1997. Such belated challenge cannot be accepted by this Court. Once there is a specific direction issued by the Union of India then the State Govt. has to follow the same.

7. In view of the above discussion, I do not find any substance or merit in this case and accordingly, this petition fails and is hereby dismissed.