
(1978) 04 AP CK 0004

In the Andhra Pradesh High Court

Case No : Writ Petition No. 3048 of 1977

S.P. Goenka

APPELLANT

Vs

The District Collector Giddapah and Others

RESPONDENT

Date of Decision : 21-04-1978

Acts Referred:

Mineral Concession Rules, 1960 — Rule 24(3), 54, 55(2)

Citation : AIR 1979 AP 22

Hon'ble Judges : Chennakesav Reddy, J

Bench : Single Bench

Advocate : J. Eswara Prasad, for the Appellant; Govt. Pleader, for C.T. and UpendraIal Waghlay, A.S.C., for the Respondent

Judgement

1. The petitioner filed an application for the grant of a mining lease in barytes on 29-8-1973 before the District Collector, Cuddapah in respect of an area of 200 acres in Mangampet village, Rajampet. Taluq. Cuddapah District. The said application was received by the District Collector on 5th September, 1913. The application was accompanied by the necessary documents as required under the Mineral Concession Rules 1960, herein after referred to as "the Rules" in pursuance of his application, the petitioner was called upon to locate the area in respect of which the licence was applied and survey operations were also conducted by the revenue authorities. However, the application of the petitioner was not disposed of within 12 months of its receipt as required under Rule 24 of the Rules, Under sub-rule (3) of Rule 24 if any application is not disposed of within 12 months it shall be deemed to have been refused. So the petitioner filed a revision application before the Central Government under Rule 54. The Central Government forwarded a copy of the revision application to the State Government for its comments. On receipt of the comments of the State Government and without communicating the comments of the State Government to the petitioner the central Government rejected the revision application on 15-2-1977. Government while rejecting the application informed the petitioner that the State Government in their comments stated that the barytes bearing

areas in Mangampet village were served for exploitation. In public sector in G. O. Ms. No. 27 of Industries and Commerce (Mines III Department. dated 7-1-1974, that the State Government are competent to reserve any area for exploitation in public sector and that the petitioner was therefore, not entitled to the grant of mining lease over the area. Aggrieved against the said order of the Central Government, the petitioner has filed this writ petition under Article 226 of the Constitution.

2. The first and the principal contention of the learned counsel for the petitioner is that the Central Government erred in law in rejecting the revision application filed by the petitioner without communicating the comments of the State Government to the petitioner and calling upon him to make such further and calling upon him to make such further comments as he may like the Rules and that the petitioner was thereby deprived of a reasonable opportunity to present his case.

3. Rule 55 of the rules reads as follows:

"55 . orders on Revision Application: (1) On receipt of an application for revision under Rule 54, copies thereof shall be sent to the State Government and to all the impleaded parties calling upon them to make such comments as they may like to make within three months of the date of issue of the communication, and if no comments are received by the Central Government within that period it shall be presumed that the party which has omitted to make such comments of the State Government as the case may be has no comments to make and the case may be decided by the Central Government ex parte.

(2) On receipt of the comments from any party under sub-rule (1) copies thereof shall be sent to the other parties calling upon such parties to make such further comments, as they may like to make within one month from the date of issue of the communication.

(3) The revision application the communication containing comments and counter-comments referred to in sub rules (1) and (2) shall constitute the records of the case.

(4) After considering the records referred to in sub-rule (3), the Central Government may confirm, modify or set aside the order or pass such other order in relation there to as the Central Government may deem just and proper.

(5) xx xx xx

4. Under sub-rule (1) a duty is cast on the Central Government to send the copies of the revision application to the State Government and to all the unpleaded parties calling upon them to make such comments as they may like to make Under sub-rule (2) receipt of the comments received from any party under sub-r. (1) the copies thereof shall be sent to other parties calling upon such parties to make such further comments as they may like to make. The revision application, the communication containing comments and counter comments

referred to in Sub-rules (1) and (2) shall constitute the "record" or the case under sub-rule (3).

5. The Central Government shall dispose of the revision application under Sub-rule (4) on a consideration of the records mentioned in sub-rule (3) and modify or set aside the order or pass such other order as the Central Government may deem just and proper.

6. It is common ground that the revision application of the petitioner was sent to the State Government for comments and the State Government offered its comments. The State Government in the comments stated that all barytes bearing areas in Mangampet village have been reserved for exploitation in public sector vide Notification G.O. Ms No. 27 of Industries and Commerce (Mines III) Department dated 7-1-1974) and that no area was available for grant or mining lease to any private individual. It is well settled that the State Government is competent to reserve any land for exploitation in the public sector and such land would not thereafter be available to any person; Vide *Amritlal Nathubhai Shah and Others Vs. Union Government of India and Another*, . But these comments of the State Government were not communicated to the petitioner. It is the contention of the learned counsel for the petitioner that the comments offered by the State Government are the comments of a party within the scope of the words "any party" in sub-rule (2) and therefore, it was obligatory on the part of the Central Government to communicate comments of the State Government to the petitioner. The meaning of the words "any party" must take their colour from the context in which they are used. A close and combined reading of sub-rules (1) and (2) would make it crystal clear that the words "any party" in sub-rule (2) do not embrace the State Government but only one of the "impleaded parties". Sub-rule (1) clearly makes a distinction between the State Government and the "impleaded parties". It states that on receipt of an application for revision under Rule 54, copies thereof shall be communicated to the State Government and to all the "impleaded parties". But in sub-rule (a) the words used are "on receipt of the comments from any party under sub-rule (1)" and not on receipt of the comments from the State Government or any impleaded party. Therefore from the context in which the words "any party" are used in sub-rule (2), the words can only mean any of the impleaded parties and not the State Government. It is however argued that in case of deemed refusal of an application under sub-rule (3) of Rule 24, the State Government alone is an impleaded party and therefore, the comments of the State Government ought to be communicated to the aggrieved party. I do not think this argument can be accepted in view of the express words employed in sub-rule (2). I am clearly of the opinion that the petitioner is not entitled to be communicated the comments of the State Government on his revision application under sub-rule (2).

7. The learned counsel for the petitioner placed reliance on the decision of the Patna High Court in *Ramnik Lal Kothari Vs. Government of India, Ministry of Steel Mines and Metals (Department of Mines and Metals) and Others*, and submitted

that the order of the Central Government was illegal and opposed to the principles of natural justice as the petitioner was denied an opportunity to offer his counter-comments on the comments of the State Government. In that case, the application for mining lease was rejected by the State Government and the revision application was rejected by the Central Government not based on the comments of the State Government but on material which did not form part of the record under sub-rule (3) of Rule 55. Therefore, that decision is not relevant for the purpose of this case. Yet another case relied upon for the petitioner is the decision in *Vrajlal Manilal and Co. Vs. Union of India (UOI)* and *Another*. In that case, a partnership firm applied for the renewal of the Certificate of Approval to the State Government. The State Government rejected the application for renewal on the ground that the partners composing the firm had changed. Thereupon, the firm filed a revision application to the Union Government. The Union Government also rejected the revision application. The contention of the firm was that there was no change in the identity of the firm notwithstanding the changes in the person composing the firm. The Supreme Court observed while quashing the order of the Central Government (at p.1645):

"If the report of the State Government made any points against the representation made by the appellants and these were being taken into consideration by the Union Government in common fairness, the appellants were entitled to be informed as to what these were and an opportunity to point out how far they militated against the contentions "raised by them."

8. But in this case, the report of the State Government made no points against the representation made by the petitioner on the other hand. They merely stated that the area was not available for the grant of mining lease because the area was reserved for exploitation in the public sector. In these circumstances, I do not think that the Petitioner was deprived of any reasonable opportunity to present his case by the non-communication of the comments of the State Government. The writ petition, therefore, fails and it is accordingly dismissed with costs one set Advocate's fee Rs. 150/-.

9. Petition dismissed.