

(2009) 06 KAR CK 0062
In the Karnataka High Court
Case No : Writ Petition No. 31490 of 2008

Sri Govind B. Ron

APPELLANT

Vs

State of Karnataka

RESPONDENT

Date of Decision : 10-06-2009

Acts Referred:

Mineral Concession Rules, 1960 — Rule 24A, 24A (6)
Mines and Mineral (Development and Regulation) Act, 1957 — Section 18, 4

Citation : (2009) ILR (Kar) 3805 : (2010) 1 KarLJ 319 : (2011) 1 RCR(Civil) 83 : (2011) 1 RCR(Civil) 83

Hon'ble Judges : P.D. Dinakaran, C.J.;V.G. Sabhahit, J

Bench : Division Bench

Advocate : K.N. Phanindra, for the Appellant; Basavaraj Kareddy, G.A., for the Respondent

Judgement

P.D. Dinakaran, C.J.—The petitioner was granted mining lease on 26.10.1983 in respect of major mineral "Moulding sand" over an area of 25 acres (10.11 Hectares) in Sy. No. 232/16 of Kuravatti village, Hoovina Hadagali Taluk, Bellary District bearing M.L. No. 1914 for a period of twenty years which concededly expired on 25.10.2003.

2. It is not in dispute that the impugned mining area is located in Tungabhadra river bed and the same is a revenue land and not a forest land. As the period of mining lease was due to expire on 25.10.2003, the petitioner filed an application on 22.10.2002 for renewal under Rule 24-A of Mineral Concession Rules, 1960 (hereinafter for short referred as MC Rules), of course within the stipulated time as per the provisions of MC Rules.

3. According to the petitioner since the petitioner had applied for renewal within the time stipulated under the provisions of MC Rules, 1960, even if such application for renewal was not renewed, the period of lease shall be deemed to have been extended for a further period till the State Government passed an order thereon as per Rule 24-A(6) of MC Rules, which reads as hereunder:

24-A. Renewal of Mining Lease:

(6) If an application for renewal of a mining lease made within the time referred to in Sub-rule (1) is not disposed of by the State Government before the date of expiry of the lease, the period of that lease shall be deemed to have been extended by a further period till the State Government passes order thereon.

4. The petitioner in the above writ is seeking the following reliefs:

(i) declare that the petitioner has the Statutory Right under Rule 24-A(6) of the Mineral Concession Rules, 1960 to carry on the mining operations and transport the extracted mineral from the mining lease area covered under the Mining Lease Deed bearing M.L. No. 1914 until the disposal of the renewal application filed by the petitioner.

(ii) issue a writ of mandamus directing the respondents to issue the Mineral Dispatch Permits in favour of the petitioner, until the disposal of the renewal application filed by the petitioner for transporting the mineral extracted from the area covered under Mining lease bearing M.L. No. 1914 over an extent of 25 acres (10.11 Hectares) in Sy. No. 232/16 of Kuravatii village, Hoovina Hadagali Taluk, Bellary District.

(iii) Issue a writ of mandamus directing the 1st and 2nd respondents to consider the renewal application filed on 22.10.2002 vide Annexure-B and renew the mining lease bearing M.L. No. 1914 over an extent of 25 acres (10.11 Hectares) in Sy. No. 232/16 of Kuravatii village, Hoovina Hadagali Taluk, Bellary District

5. It is not in dispute that the petitioner's application was found to be defective and the Commissioner for Mines & Geological Resources Development & Director of Mines & Geology by letter dated nil informed the petitioner that the application is not complete in all respect and directed the petitioner to comply with the defects mentioned in the letter dated nil within 30 days from the date of receipt of notice which reads as hereunder:

GOVERNMENT OF KARNATAKA

No. DMG/135 AML 02/2005-2006/ Office of the Director, RML No. 1914 Department of Mines & Geology, No. 49, Khanija Bhavan, Race Course Road, P.B. No. 5166, Bangalore-560 001 Dated: To:

M/s. Sri Govind B.Ron, 5th cross Mallamadi Opp. Rly. Post office, Dharwad-580 007.

Sir,

Sub: Renewal of your Mining lease-Issue of working permission for M.L. No. 1914 granted w.e.f. 26.10.1986 for 20 years for Moulding Sand mineral over an area of 25 in Kuravatii Vg. Hadagali Taluk. Bellary District.

On verification of your above referred renewal application for M.L., it is noticed that your application Is not complete in all respect; Complete in all respects

means:

i) No objection certificate

(a) from Revenue authorities, if the land is Government land;

(b) from Forest authorities, if the land is Forest land;

(c) Consent from pattadars, If the land is private/patta land

ii) No due certificate from the Department of Mines & Geology.

iii) Approved mining plan from IBM;

iv) Clearance from MOEF, Government of India

v) Clearance from FEE, Government of Karnataka

vi) Clearance from Karnataka State Pollution Control Board

You are hereby directed to furnish above documents/clearances WITHIN 30 DAYS from the date of receipt of this notice. If your reply is not received within 30 days, then appropriate action (revocation/determination/cancellation of M.L.) will be taken under the Mines & Minerals (Development & Regulation) Act, 1957, and Mineral Concession Rules, 1960.

Yours faithfully Sd/- Commissioner for Mines and Geological Resources Development & Director of Mines and Geology.

6. The said opportunity was given by the Director of Mines & Geology in compliance with Rule 26 which reads as hereunder:

26. Refusal of application for grant and renewal of mining lease.:

(1) The State Government may, after giving an opportunity of being heard and for reasons to be recorded in writing and communicated to the applicant, refuse to grant or renew a mining lease over the whole or part of the area applied for.

(2) An application for the grant or renewal of a mining lease made under Rule 22 or Rule 24A, as the case may be, shall not be refused by the State Government only on the ground that Form I or Form J, as the case may be, is not complete in all material particulars, or is not accompanied by the documents referred to in Sub-clauses (d), (e), (f), (g) and (h) of Clause (i) of Sub-rule 22.

(3) Where it appears that the application is not complete in all material particulars or is not accompanied by the required documents, the State Government shall, by notice, require the applicant to supply the omission or, as the case may be, furnish the documents, without delay and in any case not later than thirty days from the date of receipt of the said notice by the applicant.

(emphasis supplied)

7. In this regard, it is also relevant to refer to Section 4 of Mines and Minerals

(Development and Regulation) Act, 1957 (hereinafter for short called as MMDR Act), which reads hereunder:

Section 4: Prospecting or mining operations to be under licence or lease.- (1) No person shall undertake any reconnaissance, prospecting or mining operations in any area, except under and in accordance with the terms and conditions of a reconnaissance permit or of a prospecting licence or, as the case may be, of a mining lease, granted under this Act and the rules made thereunder.

Provided that nothing in this sub-section shall affect any prospecting or mining operations undertaken in any area in accordance with the terms and conditions of a prospecting licence or mining lease granted before the commencement of this Act which is in force at such commencement.

Provided further that nothing in this sub-section shall apply to any prospecting operations undertaken by the Geological Survey of India, the Indian Bureau of Mines, the Atomic Minerals Directorate for Exploration and Research of the Department of Atomic Energy of the Central Government, the Directorates of Mining and Geology of any State Government (by whatever name called), and the Mineral Exploration Corporation Limited, a Government company within the meaning of Section 617 of the Companies Act, 1956:

Provided also that nothing in this sub-section shall apply to any mining lease (whether called mining lease, mining concession or by any other name) in force immediately before the commencement of this Act in the Union Territory of Goa, Daman and Diu.

(1A) No person shall transport or store or cause to be transported or stored any mineral otherwise than in accordance with the provisions of this Act and the rules made thereunder.

(2) no reconnaissance permit, prospecting licence or mining lease shall be granted otherwise than in accordance with the provisions of this Act and the rules framed thereunder.

(3) any State Government may, after prior consultation with the Central Government and in accordance with the rules made u/s 18, undertake reconnaissance, prospecting or mining operations with respect to any mineral specified in the First Schedule in any area within that State which is not already held under any reconnaissance permit, prospecting licence or mining lease.

8.1 Invoking the powers conferred to Central Government u/s 18 of MMDR Act, the Central Government also framed Minerals Conservation and Development Rules, 1988.

8.2 The State Environment Impact Assessment Authority, Karnataka, therefore by proceedings dated 18.11.2008 directed the petitioner to approach the Ministry of Environment and Forest (MOEF), Government of India for environmental clearance of the proposed activity.

9. Therefore unless the application made by the petitioner is complete and the statutory requirements referred to above are complied with, in our considered opinion, it may not be proper to declare that the petitioner has a statutory right under Rule 24-A(6) of M.C. Rules to carry on the mining operations and transport the extracted mineral from the mining lease area holding that pending disposal of renewal application of the petitioner, the period of lease shall be deemed to have been extended by further period till the State Government passes an order thereon, as otherwise Section 4 of the MMDR Act and the proceedings to be initiated u/s 18 of the Act would become redundant In our considered opinion all the provisions of the Statute referred to above has to be read harmoniously.

10. We also make it clear that as and when the statutory requirements are duly complied with and the applications are complete, the right conferred under Rule 24-A(6) has to be given effect to.

11. In the result, except to direct the respondents to consider and process the application of the petitioner and if the same is complete in all material particulars and also accompanied by all necessary documents prescribed under the relevant provisions of the Act and Rules, and thereafter to pass appropriate orders in accordance with law, no further orders are required in this regard.

Writ petition is disposed of accordingly.