

(2008) 11 KAR CK 0068
In the Karnataka High Court
Case No : Writ Petition No. 6089 of 2008

Sri Govindegowda

APPELLANT

Vs

The State of Karnataka

RESPONDENT

Date of Decision : 11-11-2008

Acts Referred:

Karnataka Minor Mineral Concessions (Amendment) Rules — Rule 21 (2)

Citation : AIR 2009 Kar 1644 : (2009) ILR (Kar) 302 : (2009) 9 KarLJ 138 : (2009) 1 KCCR 239

Hon'ble Judges : N.K. Patil, J

Bench : Single Bench

Advocate : B.S. Nagaraj, for the Appellant; M.B. Prabhakar, Additional Government Advocate, for the Respondent

Final Decision : Dismissed

Judgement

N.K. Patil, J.—Petitioner in this petition has sought for quashing the notice issued by second respondent - Senior Geologist Officer dated 19th March 2008, the copy of the said notice is submitted at Annex-C. Further, petitioner has sought for a direction, directing the second respondent - Senior Geologist Officer to consider the petitioner's application made on 16th February 2008 for renewal of his license for period of another one year according to Rule 21(2) (amended rule) of the Karnataka Minor Mineral Concessions Rules, 1994.

2. The grievance of the petitioner in the instant writ petition is that, the second respondent herein has renewed the licence of the quarry lease for one year and the same has expired on 21st March 2007. Thereafter, petitioner has submitted his application on 16th February 2008, seeking grant of another one year period by way of renewal as provided the relevant provisions of the Karnataka Minor Mineral Concessions Rules, 1994 (hereinafter called "KMMC Rules"). In the light of the request made by petitioner through his application dated 21st March 2007, his lease period has been again extended from 21st March 2007 to 20th March 2008. In view of expiry of the said renewal period also, for a period of one year

from 21st March 2007 till 20th March 2008, the second respondent has issued the impugned communication cum notice dated 19s1 March 2008 vide Annexure C, calling upon the petitioner to stop the mining operation of sand and transporting. Being aggrieved by the impugned communication cum notice dated 19th March 2008 vide Annexure C issued by second respondent, petitioner herein felt necessitated to present the instant writ petition, seeking appropriate reliefs, as stated supra.

3. I have heard learned Counsel appearing for petitioner and learned Additional Government Advocate appearing for respondents.

4. Learned Counsel appearing for petitioner, Sri Nagaraj, at the outset submitted that, the respondents have discriminated by not considering the request of petitioner in respect of grant of another one year lease in pursuance of the application filed by petitioner dated 16th February 2008, i.e. from 21st March 2006 for a period of one year, whereas the request of another person, viz. one Sri. Somegowda has been considered and his licence has been renewed for another one year. Therefore, petitioner is also entitled for grant of renewal of licence as provided under Rule 21(2) of the amended KMMC Rules, 1994.

5. Per contra, learned Additional Government Advocate appearing for respondents, at the outset submitted that, there is no provision under the KMMC Rules, 1994 for consideration of the request for renewal of the licence for third time and the same has to be granted by way of auction. Further, he has taken me through the relevant provision, i.e. Rule 21(2-B) of the KMMC Rules, which reads thus:

Rule 21 (2-B): Nothing in this rule shall apply to grant of a quarrying lease to quarry ordinary sand. The grant of ordinary sand shall be by auction in accordance with the provisions of the Chapter IV-A of the Rules.

Therefore, he submitted that, petitioner is not entitled to redress his grievance before this Court nor there is any error as such committed by the competent authority in issuing the impugned notice, holding that, the lease period granted to the petitioner has already expired.

6. Having heard learned Counsel appearing for petitioner, learned Additional Government Advocate appearing for respondents and after careful perusal of the material available on file, it emerges that, petitioner has submitted his application on 16th February 2008 produced as Annexure B to the writ petition, stating that, the quarry licence lease period is going to expire on 21st March 2008 and therefore, his request for renewal for a period of another one year may be considered. In reply to the said request made by petitioner, the competent authority has intimated the petitioner on 19th March 2008 vide Annexure C stating that, the period of one year has been extended from 21st March 2007 to 20th March 2008 in respect of TCA No. 420 and petitioner has to stop quarrying of sand and transportation immediately Admittedly, the said period has already expired.

7. Hence, I do not find any error or illegality as such committed by the competent authority. Petitioner has been intimated stating that, the period of quarry lease granted from 21st March 2007 to 20th March 2008 has expired and therefore, petitioner has to stop the quarry of sand and transporting immediately.

8. As rightly pointed out by learned Additional Government Advocate appearing for respondents at the out set, Rule 21(2-B) of the KMMC Rules clearly stipulates that, the grant of quarry lease for ordinary sand shall be by auction only in accordance with the provisions of the Chapter IV-A of the Rules. Therefore, the question of considering the request of the petitioner for renewal for a further period of one year from 20th March 2008 onwards as per his application dated 16th February 2008 vide Annexure B does not arise and hence, the request of the petitioner was rightly rejected as envisaged under the relevant provision of the KMMC Rules, as referred above. Hence, the writ petition filed by petitioner is liable to be dismissed as misconceived.

9. However, so far as the submission made by learned Counsel for petitioner regarding discrimination that, the request of one Sri. Somegowda has been considered and petitioner's case has been rejected is concerned, it can be seen that, petitioner has produced a copy of the quarry lease granted in respect of the said Somegowda vide Annexure D. In the said order, it is clearly stated that, one year has been extended from 11th May 2007 and that, the same is not the third renewal as claimed by petitioner. Therefore, the said reliance placed by petitioner is not of any assistance to him and the same has no bearing on the relief sought for by petitioner. Hence, the writ petition is liable to be rejected.

10. In the light of the facts and circumstances of the case, as stated above, the writ petition filed by petitioner is dismissed as misconceived.