

(1994) 09 SC CK 0119
In the Supreme Court Of India
Case No : Civil Appeal No. 6040 of 1994

State of Goa and Others

APPELLANT

Vs

A.H. Jaffar and Sons

RESPONDENT

Date of Decision : 09-09-1994

Acts Referred:

Constitution of India, 1950 — Article 226
Mineral Concession Rules, 1960 — Rule 54
Mines and Minerals (Development and Regulation) Act, 1957 — Section 10(3), 26

Citation : AIR 1995 SC 333 : (1994) 4 SCALE 146 : (1996) 7 SCC 79 : (1994) 3 SCC 651 Supp : (1994) 3 SCR 259 Supp : (1995) 1 UJ 57

Hon'ble Judges : R. M. Sahai, J;N. P. Singh, J

Bench : Division Bench

Advocate : Siraj Seth, H.O. Pathak and P.D. Sharma, for the Appellant; A.S. Nambiar T.V.S. Ratna and A. Subhashini, for the Respondent

Final Decision : allowed

Judgement

1. Leave granted.

2. This appeal filed by the State of Goa and others, is directed against the judgment and order of the Bombay High Court, (Goa Bench). The respondents made an application for a lease for mining mineral bauxite in Mopa, Chandal, Warkhan, Kasarwarne Villagers of Pernem Taluk in Goa. As this application was not disposed of by the State Government within 12 months as stipulated in Rule 11 of the Mineral Concession Rules, 1960 the application was deemed to have been rejected. Against this order of deemed rejection the respondents filed a revision u/s 30 of the Mines and Minerals Regulation and Development Act, 1957 (hereinafter referred to as 'the Act') to the Central Government in which a direction was issued to the State Government to dispose of the respondents' application on merits. In pursuance of the direction issued by the Central Government the State Government decided the application of the respondent and rejected it on 18th August 1987. This order was set aside by the High Court and

the State Government was directed to decide the application, afresh, after hearing the respondents and deciding the applicability of the amendment to the Act which had come into force with effect from 10th February 1987. The application was heard this time by the Commissioner and Secretary for industries to the Government of Goa who being a delegate of State Government by virtue of notification issued u/s 26 of the Act was empowered to decide the application. The application was rejected in exercise of power under Sub-section (3) of Section 10 the Act. Against this order the respondents approached the State Government. The order was set aside by the Minister for Mines and direction was issued to grant the lease. What happened thereafter is not necessary to be narrated. But the order of the Minister was set aside by the Government. Validity of this order was challenged in the High Court under Article 226 of the Constitution of India. Various issues were raised. They were decided in favour of the respondents. The order of the Government dated 14.1.1993 was quashed and that of the Minister dated 31.10.1991 was restored. It is the correctness of this order that has been challenged by the State.

3. The appeal has been argued at length. Shri Siraj Sail has attempted to support the judgment with industry and precision. But it does not appear necessary to decide whether the finding recorded by the High Court that the order of Commissioner being administrative in nature it could be reviewed by the State Government nor it is necessary to decide whether the Minister could exercise any power where the grant of lease is regulated by the Statute as in our opinion the remedy of revision having been provided by Section 30 of the Act, the proper course for the respondent was to approach the Central Government and not the High Court. Learned Counsel for the respondent expressed apprehension that the period for limitation provided in rule 54 of the Minerals Concession Rules, 1960 having expired, the revision might not be entertained. The proviso to the rule, however, empowers the revising authority to condone delay if it is satisfied that the revision could not be presented for sufficient cause within time. Since the respondent was pursuing its remedy in High Court bona fide, it would be sufficient cause to condone the delay and we trust that the revision if preferred within four weeks from today shall not be dismissed as being barred by time.

4. In the result, this appeal succeeds and is allowed. The order of the High Court is set aside subject to the observations made above that the respondent shall be entitled to approach the revising authority, namely, the Central Government within four weeks from today which shall decide the same in accordance with law.

5. Parties shall bear their own costs.