

(1984) 10 MP CK 0010

In the Madhya Pradesh High Court

Case No : Miscellaneous Petition No. 1002 of 1983

Suvalal

APPELLANT

Vs

Addl. Commissioner, Indore Dn. Indore and Another

RESPONDENT

Date of Decision : 13-10-1984

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : AIR 1985 MP 183

Hon'ble Judges : V.D. Gyani, J;P.D. Mulye, J

Bench : Division Bench

Advocate : K.K. Sethi, for the Appellant; A.H. Khan, Government Advocate, for the Respondent

Final Decision : Dismissed

Judgement

P.D. Mulye, J.—The petitioner has filed this petition under Articles 226 and 227 of the Constitution in the matter of M. P. Minor Mineral Rules, 1960 and Mines and Minerals (Regulation and Development) Act, 1957, whereby he has challenged the order dt. 14-9-1983 passed by respondent No. 1 in appeal No. 296/81-82 thereby confirming the order dt. 3-5-1982 passed by respondent 2, who had cancelled and revoked the mining lease granted on 11-2-1982 to the petitioner for sand mines situated in village Mordhadi.

2. According to the petitioner respondent 2 had issued a notification dt. 5-1-1982 for auction of the mines situated in Khandwa district, the conditions of which are mentioned therein. The period for the mining lease was up to 31st Mar. 1985. In the said notification the name of the disputed mine was mentioned at serial No. 22 (Annexures-1 and 2). Accordingly the petitioner put up a bid in the auction for the sand mine, which is situated in village Mordhadi of which Kh. number is 13, which has an area of 1.94 acres, and was accepted at the rate of Rs. 650/- per year for a period of three years. Accordingly, a lease agreement was executed on 11-2-1982, jamanatnama was also submitted and amount of security as also the costs for preparing the map were also deposited. That on 23-2-1982 the

petitioner deposited Rs. 650/- for the year 1982-83 but no royalty pass book nor any requisite papers or permission to excavate the quarry was issued to the petitioner.

3. However, surprisingly on 12-4-1982 respondent 2 issued a show cause notice to the petitioner on the basis of certain complaints made by the villagers of that village. The petitioner gave reply to the show cause notice. But the respondent 2 cancelled and revoked the said mining license and an appeal filed by him also resulted in its dismissal and it is in these circumstances that the petitioner has filed this petition.

4. The respondents in their returns, while contesting the case of the petitioner have supported the impugned orders. They have further pleaded that according to the terms of the agreement they have every right to cancel or revoke the license for which there were sufficient, proper and justifiable grounds in the present case.

5. The learned counsel for the petitioner submitted that the complaints made by the neighbouring agriculturists were not against the petitioner, but against his predecessor, and that without inspection of the actual spot, i.e. the sand mine in the presence of the petitioner, by the patwari, Revenue Inspector, Naib Tehsildar or Assistant Mining Officer, the license has been cancelled or revoked without any sufficient reason. Further according to the petitioner he had himself satisfied about the sufficiency of the sand in the mine and, therefore, it could not be said that the disputed mine has no sand in it. He, therefore, submitted that no opportunity of hearing was given to the petitioner before the revocation or cancellation of the mining lease on 3-5-82. However, it is not in dispute that the petitioner had taken up this matter even before the Appellate Authority, where also he failed. However, after going through the annexures filed by the petitioner and after considering the arguments of the learned counsel we are of opinion that there is no merit in this petition because according to the terms of the notification dated 5-1-1982 (Annexure 1), the respondent State had every right to cancel the lease.

6. That apart, it is apparent that the respondents found that if the petitioner is permitted to excavate the sand from the mine, it would cause harm to the neighbouring agricultural fields and consequently we see no valid ground to allow this petition as the petitioner in our opinion, has got an alternative remedy of filing a suit in case there is a breach of the terms of the contract on account of which he might have sustained certain damages as was argued on behalf of the petitioner who had after understanding the terms and conditions of the notification (Annexure 1) had participated in the auction which specified the terms and conditions thereon.

7. In the result, this petition fails and is dismissed with no order as to costs. The amount of security deposit, if any, on verification be returned to the petitioner in person.