

Smt. Parma Devi Vs. State and ors

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Court : Rajasthan Jodhpur

Decided On : Oct-17-2013

Appellant : Smt. Parma Devi

Respondent : State and ors

Judgement :

D.B.CIVIL WRIT PETITION No.12565/2013.

Smt.

Parma Devi versus State & ORS.// 1 // 47 D.B.CIVIL WRIT PETITION NO.12565/2013.

Smt.

Parma Devi versus The State of Rajasthan & Ors.Date of Order :: 17th October 2013.

HON'BLE Mr.JUSTICE DINESH MAHESHWARI HON'BLE Mr.JUSTICE P.K.LOHRA Mr.Amit Vyas].Mr.Mohit Vyas], for the petitioner.

Mr.G.R.Punia, Senior .

Advocate & AAG with Mr.Yashpal Khileree, Government Counsel, for the respondents.

<><><> BY THE COURT: With the consent and at the request of the learned counsel for the parties, the matter has been taken up for final disposal at this stage itself.

In this writ petition, essentially the petitioner has put to question the Notification dated 03.04.2013 as issued by the State Government bringing out amendment in the Rajasthan Minor Mineral Concession Rules, 1986 ('the Rules of 1986') particularly to the extent it was sought to be applied on the pending applications for grant of mining lease/licence.

It is also noticed that the very same Notification dated 03.04.2013 was under challenge in a batch of petitions led by DB CWP No.4241/2013: Federation of Sand Stone Mining Industries Association & ORS.versus State of Rajasthan & ORS.wherein, a Co.ordinate Bench in its order dated 31.07.2013 has held the amendment made in sub-rule (10) of Rule 4 and sub-rule (3) of Rule D.B.CIVIL WRIT PETITION No.12565/2013.

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Parma Devi versus State & ORS.// 2 // 7 of the Rules of 1986 to be illegal to the extent it provided for rejection of pending applications.

The co-ordinate Bench has, inter alia, held as under:- Therefore, impugned amendment dated 03.04.2013 made in sub-rule (10) of Rule 4 and Rule 7(3) of the Rules of 1986 are hereby declared illegal to the extent of rejection of the pending applications and it is directed that all the pending applications filed upto 27.01.2011 shall be decided in accordance with law prevailing prior to issuance of impugned notification dated 03.04.2013.....

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The position aforesaid and the relevant observations as made in the order dated 31.07.2013 directly apply to the present case too.

The matter being concluded so far this Court is concerned by the aforesaid order dated 31.07.2013, it appears appropriate and in the interest of justice that this

matter be also disposed of in the same terms and there does not appear any necessity to keep this matter pending any further.

It is noticed that in the present case, the application made by the petitioner for grant of mining lease was rejected by the Mining Engineer, Jodhpur; and an appeal preferred by the petitioner was pending before the Additional Director (Mines). Department of Mines and Geology, Jodhpur Zone, Jodhpur.

In the meantime, the aforesaid notification dated 03.04.2013 came to be issued and consequent thereto, the learned Appellate Authority found that there was no justification remaining to consider the appeal on merits and for this reason alone, proceeded to dismiss the appeal by his order dated 20.05.2013 without dealing with the same on merits.

As noticed, the said notification dated 03.04.2013 on its D.B.CIVIL WRIT PETITION No.12565/2013.

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Parma Devi versus State & ORS.// 3 // material aspects related with the pending applications has been held invalid by this Court.

We are clearly of the view that the observations made and the findings recorded in the aforesaid order dated 31.07.2013, for all practical purposes, apply to the present writ petition too; and the impugned order dated 20.05.2013, whereby the appeal filed by the petitioner was dismissed merely with reference to the notification dated 03.04.2013, cannot be sustained.

The same is required to be, and is, hereby set aside.

The said appeal (No.537/2012) filed by the petitioner shall stand restored for consideration afresh by the Additional Director (Mines). Department of Mines and Geology, Jodhpur Zone, Jodhpur, of course, in accordance with law.

It would be required of the Appellate Authority to notify a date of hearing of appeal to the parties concerned.

Accordingly, this writ petition stands disposed of in terms of the aforesaid order dated 31.07.2013 as passed in DB CWP No.4241/2013 and with the directions foregoing.

(P.K.LOHRA),J.

(DINESH MAHESHWARI),J.

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