

Mapi Kumari Vs. State and ors

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Court : Rajasthan Jodhpur

Decided On : Mar-06-2014

Appellant : Mapi Kumari

Respondent : State and ors

Judgement :

CWP No.8952/2013 Alongwith one connected matter 1 41 D.B.Civil Writ Petition No.8952/2013 Mapi Kumari versus The State of Rajasthan & ORS.And D.B.Civil Writ Petition No.9712/2013 Bhaga Ram versus The State of Rajasthan & ORS.DATE OF

ORDER

: 6th March 2014.

HON'BLE Mr.JUSTICE DINESH MAHESHWARI HON'BLE Mr.JUSTICE BANWARI LAL SHARMA Mr.S.G.Ojha, for the petitioner.

Mr.S.S.Rathore,Asstt.

to AAG, for the respondents.

<><><> In these writ petitions, essentially the petitioners have 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 CWP No.8952/2013 Alongwith one connected matter 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.....

The position aforesaid and the relevant observations as made in the order dated 31.07.2013 directly apply to the present cases 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 these matters be also disposed of in the same terMs.and there does not appear any necessity to keep these matters pending any further.

It is noticed that in the present cases, the applications made by the petitioners for grant of mining lease were rejected by the Addl.

Mining Engineer, Jodhpur; and the fiRs.appeals preferred by the petitioners were also dismissed by Assistant Director (Mines).Jodhpur Zone, Jodhpur on 16.11.2010.

Aggrieved, the petitioners had preferred the revision petitions under Rule 43/47 of the Rules of 1986, which were pending before the Joint Secretary, Mining

Department, Jaipur.

However, before the said revision petitions could be heard and finally decided, the aforesaid notification dated 03.04.2013 came to be issued and consequent thereto, the learned Revisional Authority found that there was no justification remaining to consider the revision petitions on merits and for this reason alone, CWP No.8952/2013 Alongwith one connected matter 3 proceeded to dismiss the revision petitions by his orders dated 24.04.2013 without dealing with the matter on merits.

As noticed, the said notification dated 03.04.2013 on its 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 petitions too; and the impugned orders dated 24.04.2013, whereby the revision petitions filed by the petitioners were dismissed merely with reference to the notification dated 03.04.2013, cannot be sustained.

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

The said revision petitions filed by the petitioners shall stand restored for consideration afresh by the Joint Secretary, Mining Department, Jaipur, of course, in accordance with law.

It would be required of the Revisional Authority to notify the date of hearing to the parties concerned.

Accordingly, these writ petitions stand 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.

(BANWARI LAL SHARMA),J.

(DINESH MAHESHWARI),J.

cpgoyal/- CWP No.8952/2013 Alongwith one connected matter 4 D.B.Civil Writ
Petition No.9712/2013 Bhaga Ram versus The State of Rajasthan & ORS.DATE
OF

ORDER

: 6th March 2014.

HON'BLE Mr.JUSTICE DINESH MAHESHWARI HON'BLE Mr.JUSTICE
BANWARI LAL SHARMA Mr.S.G.Ojha, for the petitioner.

Mr.S.S.Rathore,Asstt.

to AAG, for the respondents.

<><><> The writ petition is disposed of [Vide common order made in D.B.Civil Writ
Petition No.8952/2013 : Mapi Kumari versus The State of Rajasthan & Ors.].By
order By order [Court Master].[Court Master].

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