

The Raj. State Mines and Minerals Ltd Vs. State and ors

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Court : Rajasthan Jodhpur

Decided On : Jun-30-2014

Appellant : The Raj. State Mines and Minerals Ltd

Respondent : State and ors

Judgement :

-1- IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR.

ORDER

DB Civil Misc.

Review Petition No.120/2013 In DB Civil Writ Petition No.1852/2002 The Rajasthan State Mines & Minerals Ltd.v.State of Rajasthan & Anr.

Date of Order :: 30th June, 2014 P R E S E N T HON'BLE MR.JUSTICE GOVIND MATHUR HON'BLE MR.JUSTICE ATUL KUMAR JAIN Mr.M.R.Singhvi, Senior Advocate, assisted by Mr.Hukam Singh, for the petitioner.

Dr.

Pushpendra Singh, Additional Advocate General, with Mr.Sajjan Singh Rathore, for the respondents...To review the order dated 29.4.2003 passed by a Division Bench of this Court in DB Civil Writ Petition No.1852/2002, this application is preferred.

The review petitioner, a Government company incorporated under the Companies Act, 1956, is engaged with the business of mining/excavation of various minerals.

An ambitious project under joint venture for supply of lignite to a power plant from Kapurdi and Jalipa Lignite Mines is in the hands of the company.

The competent authorities of the Government of India and the Government of Rajasthan after having thorough studies found the project in public interest and also economically viable.

The Ministry of Coal, Government of India, thus, allocated parcels of land having rich lignite -2- reserves to the review petitioner.

The allocation of land was made after obtaining necessary clearance from the Ministry of Environment and Forest.

The parcel of land allocated for lignite mining is also having gair mumkin Oran, gair mumkin Magra, gair mumkin Rasta, Sivay Chak etc. Suffice to mention that a huge chunk of private land has already been acquired to undertake the project.

The exploitation of lignite is to be made from the land allocated for supply of the power plant.

The power plant is supposed to meet energy requirement for development purposes to a great extent.

The predicament of the review petitioner company is that the State Government has denied to allot several parts in the parcels of land being the area prohibited in view of the directions given by this Court by order under review.

The order sought to be reviewed reads as under:- It is not disputed that the school building in question in village Aswari has been constructed on the 'angore' land.

It is unfortunate that 'angore' lands in the State are being encroached upon or being allotted for raising housing colonies, schools, shops, commercial complexes and for various other purposes.

If this trend continues catchment areas in villages and towns will not be available for collection of water in the baories, nadis, tanks and lakes with the result that the State which is already suffering from drought for the last five years will wuffer more because of non-availability of water.

It is the duty of the State and village Panchayats to preserve and conserve the catchment areas for water harvesting during the rainy season.

-3- Keeping in view the interest of the public at large and having regard to the imperative need to protect, create and conserve water resources, we direct the State, Panchayats and concerned public bodies that henceforth 'angore' lands shall not be utilised for raising construction and they shall be left open without being tinkered with unless they are required for augmenting the water resources.

In the instant case, since substantial sum of public money has been spent on the construction of the school, we allow the respondent Gram Panchayat as one time exception to complete the construction of the school.

At the same time, we issue direction to the Panchayats and the State not to utilise the 'angore' lands for the purpose of raising construction.

With the aforesaid observations/directions, the writ petition is disposed of.

A copy of this order be sent to the Chief Secretary for implementation thereof.

In view of the direction given, the Panchayats and the State is not converting the 'Angore' (catchment area for water source) land for the purpose of mining activities.

The submission of learned counsel for the review petitioner is that no blanket restraint could have been imposed by the Division Bench in relation to change of the nature of 'Angore' land.

It is asserted that Rule 7 of the Rajasthan Tenancy (Government) Rules, 1955 (hereinafter referred to as 'the Rules of 1955') permits change of the nature of

'Angore' land by adhering a definite procedure in exceptional circumstances.

The Court, thus, by making an -4- order for complete restraintment has made the law non- operational.

A reply to the application has been filed on behalf of respondent State of Rajasthan with assertion that the review petitioner is discharging its functions in public interest and in the interest of State.

Khasras of the land which are subject matter of the present review petition fall within the area that is not at all used for any habitation.

The area is also not having any flora and fauna of such nature that is required to be protected by ignoring a very ambitious project relating to electrical energy.

It is emphasised that the petitioner company is regularly depositing a huge amount in Escrow Account with a nationalised bank and the area concerned, which as a matter of fact is part of Arid Zone, shall be converted into environment friendly region by flux of time.

According to the respondents, the allotment of the mining area is in the State interest so that the mineral which is national property will not be wasted and the lignite which is available in the area can be excavated so that the electricity facility can be provided to the public at large. It is further stated that the Collector, Barmer, within whose territorial authority the land in question is situated, has also made an inquiry and arrived at the conclusion that the mining in the area shall not at all adversely effect the environment and there shall be no injury to the ecological equilibrium.

We have considered the facts brought into our knowledge.

-5- It is not in dispute that the area in question is a part of Arid Zone which is having huge lignite reserves.

On an inquiry the Ministry of Environment and Forest also found that a permission for excavation of lignite in the area concerned can be given and that has been given.

The Collector, Barmer too considered the issue and arrived at the conclusion that the 'Angore' land or even other land not open for khatedari rights is not being used for habitation and further to survive the habitats including the wild life.

It is further relevant to mention that Rule 7 of the Rules of 1955 permits for change of the nature of even a pasture land in exceptional circumstances and by following a definite procedure.

Having considered all these facts and the legal position noticed above, we are of the view that instead of reviewing the order dated 29.4.2003 a permission can be granted for utilising the land in question by the review petitioner for mining purposes.

Accordingly, this application is disposed of by permitting the respondents to convert the use of the land in question for excavating lignite by the review petitioner company to have required mineral to supply the same to the power plant operated by the Rajasthan West Power LTD. Necessary order in relation to conversion of the land is required to be passed within a period of one month from today.

(ATUL KUMAR JAIN),J.

(GOVIND MATHUR),J.

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