

Karan Singh Vs. State of U.P. and Others

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Court : Allahabad

Decided On : Dec-01-2000

Reported in : 2001(1)AWC224; (2001)1UPLBEC128

Judge : M. Katju and ;O. Bhatt, JJ.

Acts : [Constitution of India](#) - Articles 14 and 23(1)

Appeal No. : C.M.W.P. No. 51206 of 2000

Appellant : Karan Singh

Respondent : State of U.P. and Others

Advocate for Def. : S.C. and ;Mr. Yogesh Agarwal, Adv.

Advocate for Pet/Ap. : Ms. Poonam Srivastava, Adv.

Judgement :

M. Katju, J.

1. Heard Smt. Poonam Srivastava learned counsel for the petitioner, learned standing counsel for respondent Nos. 1 and 2 and Sri Yogesh Agarwal 1 for respondent No. 3.

2. The petitioner has prayed for a mandamus directing the respondents to grant lease for Pheri Khurd, block No. 1 in favour of respondent No. 3 on the basis of his

application moved in 1995.

3. It appears that an application of respondent No. 3 for grant of mining lease for 3 years from 1995 to 1998 was accepted by the authorities vide Annexure-2 to the petition but the lease deed was not executed because of an interim order of the Lucknow Bench of this Court dated 9.2.1996 vide Annexure-CA2 in Writ Petition No. 437 (MB) of 1996. This writ petition was subsequently withdrawn on 9.10.1998 vide Annexure-CA4. The respondent No. 3 deposited a sum of Rs. 6,11,062.50 as first instalment of the lease amount vide Annexure-CA2. However, due to the interim order of the Lucknow Bench the lease deed could not be executed. Thereafter the respondent No. 3 moved an application to the Director who opined that the lease should be executed vide order 20.11.1998. Annexure-CA6. However, no lease was granted in favour of respondent No. 3, and hence he made a representation dated 12.1.2000 to the District Magistrate, Jalaun, praying that he be given similar treatment as Raghunath and Gharai who had obtained orders in their favour from the Lucknow Bench on 23.5.1996 vide Annexure-CA7 and order 11.12.1997 vide Annexure-CA8. The respondent No. 3 also filed Writ Petition No. 4576 of 2000 before Lucknow Bench which was disposed of on 11.9.2000 vide Annexure-CA12. Consequently, the District Magistrate, Jalaun, passed an order dated 26.10.2000 increasing the lease amount and the respondent No. 3 deposited the said amount with the Officer Incharge.

4. Learned counsel for the petitioner has submitted that since the period of the lease in favour of respondent No. 3 was 1995-98, the said period cannot be extended, and only an order of refund of the amount deposited by respondent No. 3 with interest can be passed. We are in agreement with this submission. It has been held by a Division Bench of this Court in Ram Narain Pandey v. State of U.P., W.P. No. 31712 of 1993, decided on 30.9.1993 and by another Division Bench decision in Jata Shanker v. State of U. P., W.P. No. 13638 of 1993, decided on 5.10.1993 that the period of a lease cannot be extended and only compensation or order of refund with interest can be passed. We are in agreement with the aforesaid decision. In our opinion, after 1998, a fresh auction/tender should have been held after wide publication in two well-known news papers so that all eligible persons could have applied. Moreover by order dated 16.3.1999,

the State Government declared the entire area of the State of U. P. under Rule 23 (1) for grant of lease under Chapter IV by auction cum tender system vide Annexure-3 to the petition.

5. In our opinion, unless there is auction/tender after publication in two well-known news papers having wide circulation, Article 14 of the Constitution will be violated. Learned counsel for the petitioner has stated that the petitioner is prepared to offer a bid of at least Rs. 53 lacs which is higher than the bid of respondent No. 3. In the circumstances, the writ petition is allowed. The respondent Nos. 1 and 2 are directed to hold public auction/tender of the lease in question within six weeks of production of order after wide publication in at least two well-known news papers so that Government revenue may not suffer. The lease granted to the respondent No. 3 on the basis of his application moved in 1995 is quashed. However, we direct that amount deposited by respondent No. 3 including stamp duty must be refunded to him within six weeks of production of order before the District Magistrate, Jalaun, along with 12% interest from date of deposit till the date of refund. The fresh auction/tender must be held within six weeks from today.

6. The writ petition is allowed with the aforesaid observations.