

Rasid Ahmed and ors. Vs. State of Rajasthan and anr.

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Court : Rajasthan

Decided On : Apr-23-1999

Reported in : AIR1999Raj314; 1999(1)WLN612

Judge : B.J. Shethna, J.

Acts : [Constitution of India](#) - Article 14

Appeal No. : Civil Writ Petn. Nos. 3659, 3660, 3662, 3664, 3665 and 3667 of 1997

Appellant : Rasid Ahmed and ors.

Respondent : State of Rajasthan and anr.

Advocate for Def. : C.L. Jain, Adv.

Advocate for Pet/Ap. : Rajendra Chaudhary, Adv.

Disposition : Petitions allowed

Judgement :

ORDER

B.J. Shethna, J.

1. All these petitions are disposed of by this common order as the points involved in all these petitions are same.

2. On the information that illegal excavation is going on, the mining officers had spot inspection on 20-2-1997. They recorded the statement of labourers and the witnesses who were present there and prepared the inspection note (Panchanama) showing that illegal excavation activities were going on at the instance of several persons, who are the petitioners before this Court. On 21-3-1997, notice was ordered to be issued under Rule 48 of the Rajasthan Minor Mineral Concession Rules, 1986 against all the petitioners to deposit cost within 15 days and also to show cause as to why criminal proceedings should not be initiated against them before the competent criminal Court (Annexure 3). On receiving the same the petitioners filed separate replies to that notices and pleaded that they have been falsely involved in the matter because of several reasons and they prayed for cross-examination of witnesses, who were present there at the time of spot inspection. However, on 13-5-1997, in all the cases S.D.O. Jodhpur rejected the objections raised in the replies filed by the petitioners on the ground that they were wholly unsustainable. Accordingly, he had ordered to issue notice under Section 229 of the Land Revenue Act, 1956. Aggrieved of that, all the petitioners have filed separate petitions before this Court.

3. Learned counsel Shri Rajendra Chaudhary appearing for the petitioners in all these cases vehemently submitted that the order of imposing cost and issuing notice under Section 229 are wholly illegal because though the petitioners asked for an opportunity of cross examination of the witnesses, who were present at the time of spot inspection, but the said opportunity was denied to them. Hence, the entire proceedings were in clear violation of principles of natural justice. He submitted that the impugned orders of awarding cost and issuing notice under Section 229 of the Act are in the nature of quasi judicial orders, therefore, without affording proper opportunity of hearing the said orders could not have been passed. In support of his submission Mr. Chaudhary has relied upon the judgment of this Court in case of Smt. Saroj Sharma v. State of Rajasthan reported in 1993 (2) WLC 745.

4. As against that, learned counsel Shri C.L. Jain vehemently submitted that enough opportunities were given to the petitioners to produce the material but they did not avail of that which is clear from the order passed on 20-2-1997 (part of

Annexure 2). This submission of Mr. Jain cannot be accepted for the simple reason that by an order dated 13-5-1997 (part of Annexure 2) the S.D.O. Jodhpur overruled the objections raised in the replies filed by the petitioners which include a request of cross-examination of the important witnesses, who were present at the time of spot inspection, who deposed against the petitioners before the authorities at the time of spot inspection.

5. In this case cost of Rs. 50000/- with rent, royalty, and taxes right up to the maximum cost of Rs. 8,90,000 with rent royalty and taxes have been imposed against the petitioners without affording the reasonable opportunity of proving their case. Statement made by the witnesses at the time of spot inspection cannot be straightway relied upon by the respondent authorities. When they had issued notices against the petitioners men they had to offer those witnesses for cross-examination by the petitioners. It was only, there-after, the authority could have passed the order of cost, rent royalty and taxes etc.

6. In view of the above discussion, all these petitions are allowed. The impugned order of imposing cost, rent, royalty and taxes against the petitioners are hereby quashed and set aside. However, it is made clear that the respondent authorities are at liberty to pass fresh orders after examining the witnesses in support of their case and giving an opportunity to the petitioners to cross-examine them. For this, at first instance the petitioners shall present themselves before the S.D.O. Jodhpur on 10-5-1999. On that date, the S.D.O. Jodhpur will give a fix date and keep the relevant witnesses present for cross-examination. The petitioners shall co-operate with the proceedings before the S.D.O. Jodhpur. The S.D.O. Jodhpur will try to see that the matters are over as early as possible preferably on or before 31-10-1999.

7. Accordingly, all these petitions are allowed. The stay granted earlier stands vacated. The stay petitions are also disposed of.