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WP-15821-2020

IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE VIVEK RUSIA

&

HON'BLE SHRI JUSTICE PRADEEP MITTAL

WRIT PETITION No. 15821 of 2020

M/S GOLDEN STONES

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

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Appearance:

Shri Anshuman Singh - Advocate for the petitioner.

*Shri Abhijeet Awasthi - Dy. Advocate General for the
respondents/State.*

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RESERVED ON: 19.02.2026

PRONOUNCED ON: 06.03.2026
.....

ORDER

Per. Justice Vivek Rusia

The present writ petition has been filed under Article 226 of the Constitution of India challenging the orders dated 24.01.2020 passed by the respondent No.1/the State of Madhya Pradesh, 31.07.2018 passed by the respondent No.2/The Director, Directorate of Geology & Mining; and 24.02.2018 passed by the respondent No.3/Collector, District Chhatarpur, whereby quarry lease granted has been cancelled and the appeals preferred



by the petitioner have been dismissed.

Facts of the case, in short, are as follows:-

2. The petitioner, M/s Golden Stones, is a registered Partnership Firm engaged in quarry operations. The petitioner was granted a quarry lease over land admeasuring 4.00 Hectares situated at Khasra No.1348, Gram Prakash Bamhauri, Tehsil Gaurihar, District Chhatarpur, M.P., for the extraction of “Stone for making Gitti by Mechanical Crushing” by order dated 09.03.2011. Pursuant thereto, a lease agreement was executed on 23.03.2011 for a period of ten years.

3. It is the case of the petitioner that despite execution of the lease agreement, possession of the leased area was never handed over to it by the respondent No.3. The petitioner made representations seeking delivery of possession, but no action was taken by the authorities. After execution of the aforesaid agreement, environmental clearance from the State Environmental Impact Assessment Authority (SEIAA) became mandatory pursuant to directions issued by the Hon’ble Supreme Court in *Deepak Kumar vs. State of Haryana & Ors.*, (2012) 4 SCC 629 .

4. The petitioner applied for environmental clearance on 14.12.2012 and informed the respondent authorities accordingly. While the petitioner was waiting for possession and environmental clearance, the respondent No.3 issued a show-cause notice dated 12.03.2014 alleging non-payment of dead rent, royalty and surface rent, non-submission of statutory returns, non-



erection of boundary marks, and other alleged violations of the M.P. Minor Mineral Rules, 1996. The petitioner submitted a detailed reply on 22.04.2014 stating that since no mining activity had commenced as possession of the leased land had not been delivered, and therefore the alleged violations were not attracted. Thereafter, no immediate action was taken by the respondents.

5. After a lapse of nearly four years, the respondent No.3 passed an order dated 24.02.2018 cancelling the lease under Rule 30(26) of the M.P. Minor Mineral Rules, 1996. The petitioner contends that the cancellation order refers to a show-cause notice dated 29.11.2012, which was never issued, and that the grounds mentioned in the impugned order are different from those contained in the show-cause notice dated 12.03.2014. Aggrieved by the order dated 24.02.2018, the petitioner preferred an appeal under Rule 57(2) of the Rules, 1996 before the respondent No.2. The said appeal was dismissed by order dated 31.07.2018. Thereafter, a second appeal under Rule 57(3) was preferred before the respondent No.1, which was also dismissed by order dated 24.01.2020.

6. The petitioner submits that the impugned orders are arbitrary, violative of principles of natural justice and contrary to the provisions of the M.P. Minor Mineral Rules, 1996. It is further contended that possession of the leased area was never delivered and therefore, statutory obligations could not have arisen in the absence thereof. The petitioner had earlier approached this Hon'ble Court by filing W.P. No.8957 of 2020. The said petition was dismissed on 30.09.2020 with liberty to file a fresh petition. Hence, the



present writ petition.

SUBMISSIONS ON BEHALF OF THE PETITIONER:

7. Learned counsel for the petitioner argued that the impugned order dated 24.02.2018 passed by the respondent No.3, cancelling the lease, is wholly arbitrary, illegal and in gross violation of the provisions of the M.P. Minor Mineral Rules, 1996. It is submitted that though the lease agreement was executed on 23.03.2011, possession of the leased area was never handed over to the petitioner. In the absence of delivery of possession, no mining activity could commence, and consequently, no statutory obligations arising under Rule 30 of the Rules, 1996 could be fastened upon the petitioner.

8. Learned counsel further submitted that the show-cause notice dated 12.03.2014 was issued on grounds, such as non-payment of dead rent, royalty, non-submission of returns and non-erection of boundary marks. It is contended that these obligations arise only after the lessee enters into possession and commences quarry operations. Since possession was never granted, the very basis of issuance of the show-cause notice was misconceived.

9. It is further submitted that the petitioner submitted a detailed reply on 22.04.2014 explaining that no breach had occurred in view of the non-delivery of possession. Thereafter, the authorities remained silent for nearly four years and even proceeded with correspondence in 2017 for obtaining environmental clearance in favour of the petitioner. This conduct, according



to learned counsel, clearly demonstrates that the reply of the petitioner stood accepted.

10. Learned counsel submitted that the impugned order dated 24.02.2018 is liable to be set aside on the ground of violation of principles of natural justice. The order refers to a show-cause notice dated 29.11.2012, which was never issued to the petitioner. Even otherwise, the grounds mentioned in the impugned order are different from those contained in the show-cause notice dated 12.03.2014.

11. It is contended that an order travelling beyond the scope of the show-cause notice is unsustainable in law. It is also argued that the impugned order does not assign any reasons for rejecting the petitioner's reply dated 22.04.2014. Learned counsel submits that the recording of reasons is an essential facet of natural justice, and the absence thereof renders the order arbitrary and makes it liable to be quashed.

12. Learned counsel further submitted that under Rule 27 of the M.P. Minor Mineral Rules, 1996, it is the responsibility of the Mining Officer/Assistant Mining Officer to make arrangements for the preparation of the mining plan. However, the respondents failed to discharge their statutory duty and, on the contrary, attributed the non-submission of the mining plan as a ground for cancellation of the lease. It is submitted that environmental clearance became mandatory only after the judgment of the Hon'ble Supreme Court in *Deepak Kumar (Supra)*.



13. The petitioner had duly applied for environmental clearance and continuously pursued the matter. The delay in the grant of clearance cannot be attributed to the petitioner. Learned counsel contends that the impugned order dated 24.02.2018 was not duly communicated to the petitioner and came to its knowledge subsequently. On this ground alone, the order deserves to be set aside.

14. It is further submitted that the appellate order dated 31.07.2018, passed by the respondent No.2 and the second appellate order dated 24.01.2020, passed by the respondent No.1, are cryptic and non-speaking orders. The Appellate Authority failed to consider the grounds raised by the petitioner and dismissed the appeals without assigning cogent reasons. Learned counsel submits that the action of the respondents amounts to an arbitrary exercise of power and is violative of Article 19(1)(g) of the Constitution of India.

15. The petitioner has been deprived of its valuable contractual and statutory rights without due process of law. It is lastly submitted by learned counsel that the respondents are now contemplating the grant of the same leased area in favour of the respondent No.5. If such action is permitted, the petitioner would suffer irreparable loss and injury. On the aforesaid grounds, learned counsel prays that the impugned orders dated 24.02.2018, 31.07.2018 and 24.01.2020 be set aside and appropriate directions be issued for the grant of possession of the leased area to the petitioner.



SUBMISSIONS ON BEHALF OF THE RESPONDENTS:

16. Per contra, learned Government Advocate appearing for the respondents submits that the writ petition is devoid of merit and deserves to be dismissed.

17. It is submitted by the learned Government Advocate that the petitioner was granted a quarry lease pursuant to an agreement dated 23.03.2011 and therefore, it was under a statutory obligation to comply with the conditions stipulated under the M.P. Minor Mineral Rules, 1996, including payment of dead rent, submission of returns, preparation of mining plan and commencement of operations within the prescribed time. Learned counsel submits that the petitioner failed to comply with the mandatory conditions of the lease and did not commence quarry operations within a year from the date of execution of the agreement. The petitioner also failed to submit the approved mining plan and establish necessary infrastructure, including the installation of a crusher, despite sufficient opportunity.

18. It is contended that a show-cause notice dated 12.03.2014 was issued to the petitioner detailing the breaches committed. The petitioner submitted a reply; however, the same was found unsatisfactory. After granting the opportunity of hearing, the respondent No.3 passed the order dated 24.02.2018 in accordance with Rule 30(26) of the 1996 Rules.

19. Learned counsel submits that obtaining environmental clearance was the responsibility of the lessee. The respondents cannot be held liable for



the petitioner's failure to secure necessary approvals within the stipulated period. It is further submitted that the Appellate Authority, as well as the Revisional Authority, considered the matter and found no illegality in the order of cancellation. The appellate orders dated 31.07.2018 and 24.01.2020 were passed after due consideration of the record.

20. Learned counsel contends that the petitioner cannot take advantage of its own inaction and seek extension of the lease period without having complied with the statutory requirements. The cancellation has been effected strictly in accordance with the provisions of the M.P. Minor Mineral Rules, 1996. On the aforesaid grounds, it is prayed that the writ petition be dismissed.

APPRECIATIONS AND CONCLUSIONS:-

21. The petitioner was granted a lease for a period of ten years on 09.03.2011 and did not commence the mining activities till passing of the impugned order dated 24.02.2018. The sole justification offered by the petitioner is that the said authorities failed in their duty of preparation of the mining plan under Rule 27 of the Rules, 1996 by the Mining Officer. *Secondly*, the possession of the land after execution of the agreement was not delivered to the petitioner for quarrying. *Thirdly*, the petitioner applied for a grant of environmental clearance, but no action was taken for a long time. Therefore, the petitioner cannot be held responsible for the non-commencement of the mining operation.



22. Rules 6 to 10 of the Rules, 1996 deal with the situation where the mining operation has not been commenced within a period of one year. Rules 6-10 are reproduced below:-

(6) Subject to the other conditions of these rules, where mining operations have not commenced within a period of one year from the date of execution of the lease or discontinued for a cumulative period of six months during any calendar year after commencement of such operation, the Sanctioning Authority may, by an order, declare the quarry lease as lapsed and communicate the declaration to the lessee.

(7) Where the lessee is unable to commence mining operation for a period exceeding one year or unable to continue mining after commencement for the reasons beyond his control, he may submit an application to Sanctioning Authority explaining the reasons at least ninety days before the expiry of such period.

(8) There shall be paid, in respect of every application under sub-rule (7), a fee of Rs. 200/- (Rupees Two Hundred). The amount of fee shall be deposited in the Government treasury under the receipt head prescribed in sub-rule (3) of Rule 10.

(9) The Sanctioning Authority of the lease may, on receipt of an application made under sub-rule (7) and on being satisfied about the adequacy and genuineness of the reason for the non-commencement of mining operations or discontinuance thereof, pass an order before the date on which the lease would have otherwise lapsed; extending or refusing to extend the period of the lease :

Provided that where the Sanctioning Authority on receipt of application under sub-rule (7) does not pass any order before the



expiry of the date on which the lease would have otherwise lapsed, the lease shall be deemed to have been extended until the order is passed by the concerned authority or for a period of one year whichever is earlier.

(10) Where non-commencement of the mining operation within a period of one year from the date of execution of the lease deed is on account of delay in-

i. acquisition of surface rights, or

ii. getting the possession of the leased area, or

iii. supply or installation of machinery, or

iv. getting financial assistance from banks or any financial institution.

and if the lessee is able to furnish documentary evidence supported by a duly sworn-in-affidavit that there are sufficient reasons and/or reasons beyond their control for non-commencement of mining operations, the Sanctioning Authority may revoke the declaration/order through which the lease has lapsed.

23. As per sub rule (7), where the lessee is unable to commence mining operation for a period exceeding one year or unable to continue mining after commencement for reasons beyond his control, he may submit an application to the Sanctioning Authority explaining the reasons at least ninety days before the expiry of such period. Upon receiving such an application, the Sanctioning Authority may pass an order to extend or refuse to extend the period of the lease. There is a provision of revocation of the lease under sub-rule (10). Therefore, in this case, the petitioner did not apply



under these Rules, 1996, to the Sanctioning Authority. Even otherwise, the original period of lease has expired.

24. In view of the aforesaid, no relief can be granted, and accordingly, the writ petition stands **dismissed**.

(VIVEK RUSIA)
JUDGE

(PRADEEP MITTAL)
JUDGE

Shruti