

Court No. - 3

Case :- WRIT - C No. - 37631 of 2023

Petitioner :- Shiv Vijay Singh

Respondent :- State Of U.P. And 3 Others

Counsel for Petitioner :- Abhay Singh Tomar, Abhishek Bhushan, Adarsh Bhushan

Counsel for Respondent :- C.S.C.

Hon'ble Siddhartha Varma, J.

Hon'ble Manoj Bajaj, J.

Instructions filed today be kept on record.

From the record we find that petitioner in pursuance of an advertisement applied for a mining lease and the letter of intent was given to him on 01.09.2021. Thereafter, he applied for environmental clearance on 11.12.2021. While the petitioner was waiting for the environmental clearance, the District Magistrate on 16.08.2023 cancelled the letter of intent and also forfeited the security money along with the first instalment to the petitioner had deposited.

From the order dated 16.08.2023, we gather that the letter of intent was cancelled and the punishment was imposed upon the petitioner of forfeiture etc. simply on account of the fact that the environmental clearance was not given. On 01.11.2023, we had passed the following order:-

"1. Contention of learned counsel for the petitioner is that when an advertisement for e-tendering was made with regard to plot no.989 situated at Khand-2, village Makarbai, Tehsil Sadar, District Mahoba then the petitioner applied for the same and on 1.9.2021 he obtained the Letter of Intent. Thereafter on 11.12.2021

the petitioner applied for the environmental clearance before the respondent no.4 i.e. the State Level Environmental Impact Assessment Authority. While the petitioner was waiting for the environmental clearance, the District Magistrate by his order dated 16.8.2023 cancelled the Letter of Intent and also forfeited the security money along with the first installment which the petitioner had deposited. The petitioner filed an appeal against this order of the District Magistrate dated 16.8.2023 on 18.10.2023. The Commissioner, which was the Appellate Court, even though admitted the appeal on 12.10.2023, did not pass any interim order. However, in the meantime, the District Magistrate has advertised on 5.10.2023 the petitioner's plot for re-tendering. The grievance of the petitioner is that while the State Level Environmental Impact Assessment Authority was sleeping over the issue of the grant of environmental clearance, the District Magistrate had advertised for a fresh tender with regard to the plot of the petitioner.

2. This is a serious matter. The respondent no.4 had itself not done its duty and the petitioner was being made to suffer for the tardy approach of respondent no.4.

3. We, therefore, direct the learned Additional Chief Standing Counsel Sri Sandeep Kumar Singh to get instructions from respondent no.4 as to why the respondent no.4 had slept over the application of the petitioner with regard to the environmental clearance. Also, we consider it appropriate to direct the Commissioner to expeditiously decide the appeal.

4. Place this case on 7.11.2023 as fresh at 10.00 AM. "

Today we have been informed that the environmental clearance,

vis a vis, the petitioner has been granted on 6.11.2023.

Learned counsel for the petitioner prays that while the appeal is pending, the reauction as has been announced as per the advertisement dated 05.10.2023, vis a vis, the petitioner be stayed, till the disposal of the appeal.

We do find substance in the submission made by learned counsel for the petitioner. We, therefore, direct that the appeal itself be decided within a period of one month and for a period of one month or till the appeal is decided, whichever is earlier, the reauction as per the advertisement dated 05.10.2023, vis a vis, Plot No.989 situated at Khand-02 area .809 Hectare of village- Makarbai, Tehsil- Sadar, district Mahoba shall be kept in abeyance.

In view of above, the writ petition is disposed of.

Order Date :- 7.11.2023

Raj