

Court No. - 3

Case :- WRIT - C No. - 40225 of 2023

Petitioner :- Ram Kishore Singh

Respondent :- State Of U.P. And 5 Others

Counsel for Petitioner :- Gautam Baghel, Adarsh Singh, Sr.
Advocate

Counsel for Respondent :- C.S.C.

Hon'ble Siddhartha Varma, J.

Hon'ble Shekhar B. Saraf, J.

1. Instructions filed today is taken on record.
2. The petitioner in pursuance of the advertisement dated 18.8.2020 applied for getting mining rights over Plot No. 1, Block No. 4, Village Baghava, Tehsil Sadar, District Mahoba.
3. When the petitioner applied in pursuance of the advertisement and his bid was the highest, a Letter of Intent was issued to the petitioner for mining over an area of 25,000 cubic meter on 9.12.2020. In pursuance of the Letter of Intent, the petitioner applied before the State Level Environmental Impact Assessment Authority for no objection certificate with regard to environmental clearance in December, 2022 after completing all the formalities.
4. The case of the petitioner is that ever since then the respondent no. 5 was sitting over the application of the petitioner and the environmental clearance was not being granted to the petitioner. In the absence of environmental clearance when the petitioner could not get the lease executed the District Magistrate on 16.8.2023 cancelled the Letter of Intent of the petitioner and forfeited all the amounts which the petitioner had deposited.
5. Further more, the District Magistrate issued an advertisement on 5.10.2023 for the re-auctioning of the plot after the Letter of Intent was cancelled. On 16.8.2023, the petitioner filed an Appeal after the issuance of the advertisement on 5.10.2023 under Section 79 of the U.P. Minor Minerals (Concession) Rules, 2021. While the appeal was admitted, no order was passed on the application for interim relief. In fact, the instructions which have been filed by learned Standing Counsel show that for want of record of the State, the Commissioner refrained from passing any interim order.

6. Learned Counsel for the petitioner states that if no interim order is passed and in pursuance of the advertisement dated 5.10.2023 any rights are settled on any third party then the petitioner's interest shall be greatly prejudiced. Learned counsel for the petitioner further states that therefore, the appeal be directed to be decided at the earliest shortest possible time and also the District Magistrate be directed not to proceed with the auction in pursuance of the advertisement/auction notice dated 5.10.2023.

7. Learned Standing Counsel, however, in reply has submitted that if there was no interim order passed by the Commissioner in the appeal then the District Magistrate was free to continue with the auction proceedings as had been advertised.

8. Having heard learned counsel for the parties, we are of the view that when an appeal has been filed against the cancellation order and also against the auction notice then as per the judgment of the Supreme Court reported in **1982 (3) SCC 403** an interim order ought to have been passed. The Supreme Court in its judgment is clear on the issue that if appeal itself become infructuous for want of interim order then an interim order should be passed.

9. Under such circumstances, we are of the view that the Appeal No. 1488 of 2023 (Computer Case No. C2023070000014188), under Section 79 of U.P. Minor Mineral (Concession), Rules 2021, be decided within a period of two months and for a period of two months or till the appeal is decided whichever is earlier, the District Magistrate shall not proceed in pursuance of the advertisement/auction notice dated 5.10.2023.

10. In the meantime, it is also directed that the respondent no. 5 shall consider the application of the petitioner and pass orders on it within a period of one month.

11. With these observations, the petition stands disposed of.

Order Date :- 29.11.2023

S.A.