

Court No. - 3

Case :- WRIT - C No. - 40261 of 2023

Petitioner :- Brijesh Kumar Garg

Respondent :- State Of U.P. And 2 Others

Counsel for Petitioner :- Devbrat Mukherjee

Counsel for Respondent :- CSC

Hon'ble Siddhartha Varma,J.

Hon'ble Shekhar B. Saraf,J.

1. Instructions filed today, is taken on record.
2. Heard learned counsel for the petitioner and Sri Ankur Tandon, learned Standing Counsel for the State.
3. Learned counsel for the petitioner may correct the prayer in the writ petition during course of the day.
4. The petitioner has made a prayer that a certificate showing that he was previous lease holder for the mining of plot no. 15 Gata No. 1078-ga of Village Gonda Tehsil Karvi District Chitrakoot be provided to him as there was a fresh proceedings being advertised for the issuance of lease of same area.
5. Learned counsel for the petitioner states that the requirement of Rule 23 (2)(b) of U.P. Minor Minerals (Concession) Rules, 2021, hereinafter referred as 'the Rules', was that when a person, who had mined earlier in the same mining area, which was being auctioned for the leased out, then a certificate that he had earlier mined in that area was to be issued to the petitioner and therefore, he has made a prayer as has been made in the writ petition. Learned counsel for the petitioner has since relied upon Rule 23 (2)(b) of the Rules, the same is being reproduced herein below:

"23. Declaration of area for e-tender/e-auction/e-tender-cum-e-auction lease- (1) -

(2) Subject to direction issued by the State Government from time to time in this behalf -

(a) -

(b) - New area of natural rocks of building stones and earlier leased area/areas, which has/have been treated as redeemed after expiration of period of lease and will not be renewed, may be leased for maximum period of twenty years only through the process of e-tender/e-auction/e-tender cum e-auction:

Provided that the earlier lease-holder of the concerned lease area, whose lease had been determined recently, has to be accommodated an opportunity to offer bid of higher amount than the highest bid shorted out for the concerned lease, within one working day after the finalization of the entire process of e-tender/e-auction/e-tender cum e-auction and before issuance of Letter of Intent, before the District Magistrate having territorial jurisdiction over the concerned lease area, however with the conditions that-

(I) the character of the earlier lease-holder bears good conduct;

(ii) he has abided fairly all the norms during the course of the entire lease period;

(III) he has no any due amount concerning mineral/mining;

(IV) his name is not mentioned inter alia black list;

(V) has been a lease- holder of the concerned area or more than that area and has produced certified document/s concerning the same;

(VI) he has participated for bid as per the prescribed process/procedure through e-tender/e-auction/e-tender cum e-auction:

Provided that the lease holder of more than 02 hectare area will have to install stone crusher within two years from execution of lease deed."

6. Learned Standing Counsel, relying upon the instructions, which he has received, states that the earlier plot, in which the petitioner was mining, was plot no. 1078 area 6.00 acres of Village Gonda Tehsil Karvi District Chitrakoot but the present advertisement was with regard to plot no. 1078 -ga. He further states that the auction

was with regard to plot no. 1078-ga Block No. 15 area 2.428 hectare, therefore, if the plot number, advertised vide advertisement dated 19.10.2023, was compared with the plot of petitioner, which the petitioner had for mining purposes then the plot no. 1078-ga was not the plot on which the petitioner had earlier mined and his case is not covered by Rule 23 (2)(b) (v) of the Rules. Learned counsel, on the basis of instructions, states that there is no provision for providing any certificate under the Rules to certify that the petitioner had worked on any particular mining area. He further states that as per Rules 23(2)(b)(v) of the Rules, the petitioner, if he considers himself as a miner, who had worked on the land, which was now auctioned for mining purposes, then he could show his certified documents to prove the fact that he was miner on the land, which was being auctioned. He, therefore, submits that even the certified copy of lease, which the petitioner had for previous mining period would suffice.

7. In view of the aforesaid, we are refraining from interfering in the writ petition. The petitioner, if he so desires, may produce the certified copy of lease deed, on the basis of which he had mined the plot no. 1078-ga Block No. 15 Village Gonda Tehsil Karvi District Chitrakoot and if the authorities consider that the petitioner had, in fact, mined on the plot, which was being auctioned, then it would be open for them to give benefit of Rules 23(2)(b) of the Rules to the petitioner.

8. Under such circumstances, as and when the petitioner applies along with certified copy of earlier lease deed, then the District Magistrate, Chitrakoot shall look into the case of the petitioner and see whether plot no. 1078-ga (at serial no. 3), which is being auctioned, contains any particular portion of the area, which was earlier leased out to the petitioner. If the petitioner approaches the

District Magistrate, Chitrakoot, before the auction takes place, the District Magistrate, Chitrakoot shall pass a reasoned order on the application of the petitioner. The petitioner may be permitted to participate in the auction, which is to take place tomorrow, i.e., 29.11.2023 and auction would, however, be finalized only after the District Magistrate passes an order on the application of the petitioner.

9. Accordingly, the writ petition is disposed of.

Order Date :- 28.11.2023

Ashish

(Shekhar B. Saraf,J) (Siddhartha Varma,J)