

Court No. - 8

Case :- WRIT - C No. - 1004642 of 2013

Petitioner :- M/S Kumar Cement Agency Thro Its Prop.And Ors.

Respondent :- State Of U.P.Thro.Its Prin.Secy.Deptt.Geology And Mining And Ors

Counsel for Petitioner :- Shishir Chandra

Counsel for Respondent :- C.S.C.

Hon'ble Pankaj Bhatia,J.

1. Heard learned counsel for the parties.
2. Present petition has been filed by the petitioner challenging the order dated 01.01.2013 whereby, an order has been passed directing that 7 shop keepers named in the order are liable to pay royalty, the price of Rs.25,000/- per shop as penalty as well as the order dated 02.04.2013 whereby the appeal preferred by the petitioner was dismissed.
3. Submission of counsel for the petitioner is that the petitioners are small shop keepers dealing and selling construction material including *Morang*, which is a minor mineral. It is argued that on the basis of some inspection carried out on 16.12.2012, the orders impugned came to be passed. It is argued that the petitioners are neither covered under the provisions of U.P. Mines and Minerals (Regulation and Development) Act of 1957 or Uttar Pradesh Minerals (Prevention of Illegal Mining Transportation and Storage) Rules 2002. It is further argued that despite the petitioners not being covered, an order has been passed traceable to Rule 13 of the Storage Rules of 2002. It is argued that no show cause notice was granted prior to the passing of the said order.
4. On perusal of the order impugned, there appears to be no opportunity granted to the petitioners prior to passing of the said orders. Thus, on the said limited ground of an order being passed in violation of principles of natural justice, the order dated 01.01.2013 is hereby ***quashed***. As the order dated 01.01.2013 is quashed, the order dated 02.04.2013 also loses relevance and is ***quashed***. The respondents, may pass fresh order strictly in accordance with Rules, if so advised.
5. With the aforesaid direction, petition is ***disposed of***.

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[Pankaj Bhatia,J.]

Order Date :- 17.10.2023/-Amit K-