

Court No. - 8

Case :- WRIT - C No. - 9273 of 2023

Petitioner :- M/S Tripathi Contractors Thru. Proprietor Anand Kumar Tripathi

Respondent :- State Of U.P. Thru. Secy. Deptt. Of Geology And Mining/Revisional Authority,Lko. And Another

Counsel for Petitioner :- Shishir Chandra

Counsel for Respondent :- C.S.C.

Hon'ble Pankaj Bhatia,J.

1. Heard Sri Shishir Chandra, the counsel for the petitioner and the learned Standing Counsel.
2. The present petition has been filed by the petitioner challenging the order dated 14.07.2023 passed by the District Magistrate, Banda, whereby certain amounts were directed to be paid after considering the objections given by the petitioner to the various show cause notices issued to the petitioner as well as the order dated 10.12.2023 whereby the revision preferred by the petitioner came to be dismissed.
3. The contention of the counsel for the petitioner, in brief, is that the petitioner was granted the mining lease in respect of an area situated at District Banda, which was to be continued for a period of five yeras w.e.f. 01.03.2021 to 28.02.2026. The petitioner was served with a show cause notice dated 23.03.2021 alleging that on the basis of certain reports obtained, the area in excess of 450 cubic meters was being mined, which was a violation of Section 4 and 21 of the Mines and Minerals (Development and Regulation) Act, 1957, which had caused a loss to the State Government. The petitioner was called upon to give a reply. The petitioner gave a reply on 25.03.2021 denying the allegations and stated that the petitioner was permitting the mining from 04.03.2021 and the alleged illegal mining would not be attributed to the petitioner, which was done by the villagers. Thereafter the petitioner was served with another notice dated 15.04.2021 and notice dated 24.05.2021 imposing two separate penalties for overloading of ten vehicles. In respect of the same, the petitioner submits that no show cause notice was ever received by the petitioner.

Thereafter in terms of the report by the Inspector, the further penalty of Rs.50,000/- were imposed against the petitioner vide order dated 07.12.2021 alleging for overloading of two vehicles, which was deposited by the petitioner.

4. The petitioner was yet served with another show cause notice dated 28.12.2021 alleging irregularities in the mining being conducted by the petitioner and the penalty was proposed to be levied and further it was proposed that why the petitioner may not be blacklisted and a recovery may not be ordered. The petitioner gave a reply to the said show cause notice denying the allegations therein. The petitioner also took a ground that the report of the joint inspection, which was the foundation for issuing the notice has not been supplied to the petitioner. Thereafter on 18.01.2022, an order imposing penalty of Rs.25,000/- for overloading of one vehicle and Rs.75000/- for overloading of three vehicles was passed against the petitioner. The petitioner was served with yet another show cause notice dated 04.03.2022 alleging that the petitioner was engaged in illegal mining causing a loss to the State Government. The petitioner denied the said allegations through the reply dated 06.03.2022. Thereafter the petitioner was saddled with two other penalties vide order dated 23.03.2022 and 02.04.2023 to which the petitioner has put in his defense and denied the allegations. The petitioner was served with yet another show cause notice dated 06.04.2022 based upon some inspection report dated 14.03.2022 to which the petitioner replied on 11.04.2022. The petitioner was issued yet another show cause notice dated 26.05.2022 alleging illegal mining and transportation resulting a loss to the Government which was also denied by the petitioner by filing a representation dated 31.05.2022. The petitioner was served with yet another show cause notice dated 13.06.2022 wherein similar allegations of illegal mining and transportation were levelled, to which the petitioner once again given reply on 07.06.2022.

5. During the course of proceedings, several other orders were also passed with regard to imposing penalty. Thereafter the petitioner was served with another show cause notice dated 11.04.2023 levelling allegations of illegal mining resulting into a loss to the State Government, which was replied on 18.04.2022.

In terms of the submissions made in paragraph 45, the petitioner claimed to have deposited the penalties through various challans, ultimately on the basis of the show cause notices issued to the petitioner, an order came to be passed on 14.07.2023 whereby the mining lease of the petitioner was cancelled and directions were issued for payment of the amounts which were subject matter of the show cause notices issued to the petitioner.

6. The contention of the counsel for the petitioner is that a perusal of the order dated 14.07.2023, it is clear that while dealing with the reply submitted by the petitioner, the only observations by which the same have been rejected are that the replies are without any evidence and basis and thus, not acceptable. He argues that other contentions of the petitioner that the petitioner was not even supplied with the inspection reports, have not been dealt with in the said order.

7. In sum and substance, the counsel for the petitioner argues that the order dated 14.07.2023 is a non-speaking order without dealing with any of the contentions of the various representations filed by the petitioner. The petitioner preferred a revision against the said order, which has been decided on 10.10.2023.

8. On perusal of the revisional order, after recording the submissions, the revision has been disposed off by an order which on the face of it, is non-speaking order and none of the contentions as noted in the revisional order have been dealt with while disposing of the revision.

9. In view of the contentions as recorded above and the orders passed, both the orders suffer from non-application of mind and are bereft of any reasoning whatsoever. Prima-facie, no consideration has been recorded in respect of the specific assertions of the petitioner for non-supply of the reports, based upon which the show cause notices were issued, as such, the orders are, on the face of it, non-speaking and without any application of mind, the same are, prima-facie, violative of Article 14 of the Constitution of India.

10. No useful purpose would be served in getting the matter pending as the

orders, on the face of it, are non-speaking, as such, both the orders dated 14.07.2023 and 10.12.2023 are quashed. The matter is remanded to the District Magistrate Banda to pass a fresh order in accordance with law after providing the documents to the petitioner and giving an opportunity of hearing while passing the fresh orders. The respondent no.2 shall record specific reasons for passing the said order. As the orders are quashed, no recovery shall be initiated and pursued till the time fresh orders, as directed above, shall be passed.

11. The writ petition stands ***disposed off*** in terms of the said order.

Order Date :- 19.10.2023

VNP/-