

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 1734 of 2015**

- Arjun Singh S/o Balwan Singh Aged About 25 Years R/o Village Sarbahra, Pendra Road, Police Station Pendra Road, District Bilaspur, Civil And Revenue District Bilaspur Chhattisgarh

---- Petitioner**Versus**

1. State of Chhattisgarh Through, Secretary, Department Of Minerals, Mantralaya, Mahanadi Bhawan, Naya Raipur, Tehsil, Post And Thana Naya Raipur Chhattisgarh 492002
2. Collector, District Collector Bilaspur Chhattisgarh
3. Sub Divisional Officer (Revenue) Pendra Road, District Bilaspur Chhattisgarh

---- Respondents

For Petitioner : Shri Amit Soni, Advocate

For Respondents/State : Shri Rahul Jha, GA

Hon'ble Shri Justice Goutam Bhaduri**Order On Board****23/09/2019**

1. Heard.
2. The present petition is filed against the order dated 23.08.2014 (Annexure P-1).
It is contended that the petitioner was granted a lease on 14.01.2010 for a stipulated period of 10 years. Subsequently on the basis of frivolous complaint lodged by the Sub-Divisional Officer (Forest), the lease granted to the petitioner was canceled. Initially, the cancellation of lease was subject of challenge before the appellate authorities, wherein the petitioner was permitted to mining and thereafter when the petitioner was not allowed to mining, a writ petition

bearing WPC No.820 of 2014 was preferred, wherein this Court vide order dated 29.04.2014 has directed that survey and demarcation of forest compartment and land under mining lease be carried out by the committee to be constituted by the Collector and it was observed that the petitioner thereafter be allowed to mining under the area of the lease. It is after the inspection, the order dated 23.08.2014 (Annexure P-1) has been passed.

3. Learned counsel for the petitioner would submit that the report of the committee it has not clarified the fact that the petitioner was carrying out his mining operation on the revenue land which was granted to the petitioner. It is further submitted that the order dated 23.08.2014, therefore, is completely illegal.
4. Per contra, learned State counsel opposes the arguments and submits that the report which was submitted along with the opinion of the SDO would show that the land wherein the mining has been sought for is at Karangara Ghati and it was surrounded by the forest land, therefore, mining could not be permitted.
5. I have heard learned counsel for the parties and perused the documents.
6. The earlier allegation against the petitioner was that the petitioner though was granted a mining lease of Khasra No.141, however, the mining was being carried out in between the strips of land of Khasra Nos. 141 & 140, which was a forest land. It was further observed in the Panchnama that the lessee has not mined on his area and the illegal mining was done in the compartment number 1390 of forest. It was under these circumstances earlier a writ petition was filed wherein this Court vide order dated 29.04.2014 has directed that the demarcation of forest compartment and the land of mining lease granted to the petitioner shall be carried out by a committee to be constituted by the Collector

and thereafter observed that depending upon the result of demarcation, the respondent shall pass an order within a period of three months to ensure the petitioner to allow the mining in respect of the area under the lease. The document Annexure R-8 filed with the return would show that thereafter again the demarcation was carried out and the lease hold land of the petitioner bearing Khasra No.141 was demarcated. At the time of demarcation, the officers of the mining department, Forest & Revenue Officers were present. Thereafter, Annexure R-9 dated 07.08.2014 was communicated to the Collector, Bilaspur.

7. In the report it was observed that the land of the petitioner is surrounded by all the government forest lands. Further it was observed by the SDO that the land is situated in the vicinity of the valley (Ghati), which is known as Karangara valley, which is sensitive with respect to the environment. The land on which the mining is sought for is surrounded by the forest land. It further purports that if the mining is allowed, the road which is passing through the valley would be affected and the road itself also shall be damaged. Further it purports that due to the heavy rain fall, landslide, movement of heavy vehicles in the valley, the road was damaged and it is causing damage to the environment. If such fact is evaluated, it would show that the land on which the mining is sought for is surrounded by all the forest land and it is sensitive to the environment and mining would damage the environment. If the forest department has not permitted the access to land for the reason allowing access for mining may damage the forest, then in such case, the judicial protection cannot be given to the petitioner to enter through the forest land for mining and allow damage to forest and environment too. It is obvious that by the mining itself the land which is passing through the forest, it may affect the flora & fauna as also by

blasting, vibration and movement of the heavy vehicles, also disturb the wildlife as it may affect their natural habitat. Therefore, considering the nature and situation of the land of the petitioner, the rejection of the mining, which has been issued by the mining officer on 23.08.2014 cannot be said to be illegal. In a result, I am not inclined to interfere with the same.

8. Accordingly, the petition is dismissed.

Sd/-

Goutam Bhaduri
Judge

Ashu