

HIGH COURT OF CHHATTISGARH, BILASPUR**WA No. 416 of 2019**

{Arising out of Order dated 23/07/2019 passed in Writ Petition(C) No.882 of 2018 by the learned Single Judge}

- K. B. Lal Shrivastava and Sons (H.U.F.) Through Kartala K.B. Lal Shrivastava, Son of late Shri Brijmohan Lal Shrivastava, Aged About 37 Years, R/o G-4, Adarsh Nagar, Durg District Durg Chhattisgarh.

----Appellant/respondent No. 5**VERSUS**

1. State Of Chhattisgarh through Secretary, Department Of Ministry Of Mining, Mahanadi Bhawan, Mantralaya New Raipur, District Raipur Chhattisgarh.
2. The Collector (Mines Branch), Durg, District Durg Chhattisgarh.
3. The Mining Officer, District Durg Chhattisgarh.
4. General Manager ACC Jamul Cement Works Jamul District Durg Chhattisgarh.
5. Jitendra Chandrakar S/o Late N.S. Chandrakar Aged About 52 Years R/o Nandini Khundni, Tahsil Dhamdha, District Durg Chhattisgarh.

-----Respondents

For Appellant	:	Mr. Ajay Shrivastava, Advocate
For Respondents	:	Mr. B.P. Sharma, Advocate, Mr. Hari Agrawal, Advocate & Mr. Siddharth Dubey, Deputy Government Advocate.

Hon'ble Shri P.R. Ramachandra Menon, Chief Justice**Hon'ble Shri Parth Prateem Sahu, Judge****Order on Board****Per Parth Prateem Sahu, J.****19/09/2019**

1. The appellant as well as the respondent No.5 have approached this Court by filing writ petition against the direction given by the Collector for construction of approach road to the mining area given on lease to the respective parties.
2. Objection of appellant was that, the road could not be constructed within the distance of 7.5 meter of the boundary wall of the mining area which has been awarded to the appellant.

3. The case of the respondent No. 5 was that as the State government awarded lease for mining purposes but there was no approach road and it was the duty of the State government to provide approach road, free of obstructions, for operating the mining area which has been awarded to him on lease.
4. Learned Single Judge after considering the law with respect to the operation of the mining area and also considering the letters issued by the competent authority i.e. the Directorate General of Mines Safety to Collector pointing out the relevant clause of the mining regulations; on that basis, the Collector restrained the respondent No. 5 from construction of the approach road to the mining area. Learned Single Judge considering the fact that when once the mining lease has been awarded to the respondent No. 5 then it is the duty of the State government to provide the approach road so that the mining operation can be done by the respondent No. 5 on the lease land, remitted back the matter to the Collector with a direction to decide the lis/application of the respondent No. 5 for construction of approach road to mining area after hearing the parties including all the affected parties.
5. Learned counsel for the appellant submits that the Collector who is the competent authority could decide the issue with respect to the approach road to the mining area but he is only seeking a direction from this Court that the Collector may be directed to decide the issue after hearing all the affected parties, keeping in mind the relevant provisions of law.
6. To this, learned counsel for the respondent No. 5 has no objection but he only submits that the competent authority may revisit the issue and decide the case so that he can have an appropriate road to operate the mining lease granted to him.
7. Looking to the prayers made by the learned counsel for the appellant which was not opposed by the respondent No. 5, we direct the Collector to decide the pending application of the respondent No. 5/petitioner-Jitendra

Chandrakar, in accordance with law after providing opportunity of hearing to all the affected parties. The said application may be decided within a period of 4 weeks from the date of receipt of the copy of this order, strictly on its own merits in accordance with law, without being influenced by the order passed by the High Court. The Collector may also consider that whether there is subsisting lease in favor of appellant as well as the respondent No. 5.

8. With the aforesaid direction, writ appeal stands disposed of.

Sd/-
(P.R. Ramachandra Menon)
Chief Justice

Sd/-
(Parth Prateem Sahu)
Judge