

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P (C) No. 3624 of 2012

Purusottam Gomango

.....

Petitioner

Mr. T. Mishra, Advocate

Vs.

State of Odisha and another

.....

Opposite Parties

*Mr. P.P. Mohanty, AGA &
Mr. B. Dash, Advocate (O.P.3)*

CORAM:

DR. JUSTICE B.R. SARANGI

MR. JUSTICE G. SATAPATHY

ORDER

25.08.2022

Order No.
08.

This matter is taken up through hybrid mode.

2. Heard Mr. T. Mishra, learned Counsel for the Petitioner, Mr. P.P. Mohanty, learned Additional Government Advocate for the State and Mr. B. Das, learned Counsel for Opposite Party No.3.

3. The Petitioner files this Writ Petition challenging the order dated 05.12.2007 passed by the authority in rejecting the prospecting license application of the Petitioner as well as the Appellate order dated 04.05.2011 passed by the Secretary to Government of Orissa in the Department of Steel & Mines confirming the order of rejection for grant of Prospecting License against the Petitioner.

4. Mr. T. Mishra, learned Counsel for the Petitioner contended that due to non compliance of the provisions of Section 10 (1) of the MMDR Act, 1957, the Prospecting License submitted by the Petitioner has been rejected, but it is incumbent upon the State Authorities to comply the same. Instead of doing so, they have shifted the responsibility to the petitioner. Thus the authorities have committed gross error which required to be interfered with by this Court.

5. Mr. P.P. Mohanty, learned Additional Government Advocate contended that the application submitted by the Petitioner being defective one, that defect could have been cured by the Petitioner. Therefore, the same has been rejected. More so, with the change of law in the meantime, the Petitioner cannot have any benefit of getting Prospecting License in his favour in view of the amendment made to Section 10 (A) of the MMDR Act, 1957, read with Rule 4 (12) of the Minor Mineral Concession Rules, 2016.

6. Mr. B. Das learned Counsel for the Opposite Party No.3 contended that since by operation of law, the claim of the Petitioner have become infructuous and, as such, the same has been settled in favour of the Opposite Party No.3 and, thereby, the right has been created in favour of the Opposite Party No.3. Therefore, he contended that the relief sought by the Petitioner cannot be granted.

7. Having heard learned Counsel for the Parties and after going through the record, it is evident that in view of the amendment made to Section 10 (A) of the MMDR Act, 1957 and Rule 4 (12) of the OMMC Rules, 2016, all applications for prospecting license and mining lease for specified minor minerals received prior to the date of commencement of these rules shall become ineligible. Thus, the Petitioner's application cannot sustain in the eye of law and as such, it has become infructuous because of the operation of law.

8. Accordingly, the Writ Petition merits no consideration and the same stands dismissed.

(DR. B.R. SARANGI)
JUDGE

(G. SATAPATHY)
JUDGE