Madhya Pradesh Industries Ltd.

Vs

Union of India and Others

Civil Appeal No. 464 of 1965

(K. Subba Rao, R. S. Bachawat, J. R. Mudholkar JJ)

16.08.1965

JUDGMENT

SUBBA RAO. J. –

This appeal by special leave is directed against the order of the Government of India rejecting the revision filed by the appellant against the order of the Government of Maharashtra.

The appellant, the Madhya Pradesh Industries Ltd.; is a public limited company engaged in mining manganese ore. On February 5, 1941, one Rai Bahadur Bansilal Abirchand took a lease of a land of extent 216 acres and 92 cents in the Government Forest, East Pench Range, in the Tahsil of Ramtek in the District of Nagpur from the Governor of Central Provinces and Berar for a term of 15 years commencing from September 10, 1940. Under an indenture dated March 4, 1952, the appellant obtained a transfer of the said leasehold interest from the successors in interest of the said Bansilal Abirchand. After the transfer, the appellant entered into possession of the said extent of land and is alleged to have spent about Rs, 10,00,000 for the purpose of developing the area to carry out the mining operation. The said lease was to expire on September 9, 1955. On the expire of the said lease the appellant applied for the renewal of the lease for a further period of 20 years to the appropriate authority, namely, the secretary t obtaining the consent of the Central Government, had issued a notification dated March 26, 1965, inviting applications from the public for the grant of mineral concessions in the said area. It is also stated therein that the appellant has submitted its application for the grant of mining lease in respect of the said area in response to the said notification. This is not disputed. The appellant filed the present appeal against the order of the Central Government dated October 17, 1964, dismissing its revision petition against the order of the Government of Maharashtra. To that appeal, the Central Government is made the first respondent; the Under Secretary to the Government of India in the Ministry of steel and Mines, who made the said order, the second respondent; and the State of Maharashtra, the third respondent.

Mr. Pathak, learned counsel for the appellant raised before us the following points: [1] The order passed by the Central Government is bad, because, though it is a judicial order, no reasons are given for rejecting the revision of the appellant. [2] The order is bad also because it has not complied with the principles of natural justice, namely, [i] though the appellant requested for a personal hearing, it was not acceded to; and [ii] the Central Government had taken into consideration extraneous matters without giving an opportunity to the appellant to explain them. [3] The order of the Central Government is illegal, because it ignored the final order made by the State Government granting the lease of the mines to the appellant and also because it should have held that the Central Government could not place the mines in the public sector without complying with the provisions of s. 17 of the Mines and Minerals [Regulation and Development] Act, 1957 [Act 67 of 1957], hereinafter called

the Act.

The learned Solicitor General, while controverting the legality of the said contentions, points out that this is not a fit case for the exercise of the discretionary jurisdiction of this court under Art. 136 of the Constitution inasmuch as the Maharashtra Government has now called for fresh applications for the granting of licence in respect of the said mines and the appellant, along with others, has put in its application to the said Government. To appreciate the first point it will be convenient at the outset to read the relevant provision of the Act and the Rules made there under. Under s. 5 of the Act, no mining lease shall be granted by a State Government to any person unless he satisfied the conditions laid down therein. Under S. 8 [2] thereof, no mining lease can be granted in respect of manganese ore, among others, without the previous approval of the Central Government. Section 10 prescribes that an application for a mining lease in respect of any land in which the minerals vest in the Government sh

"Where a petition for revision is made to the Central Government under rule 54, it may call for the record of the case from the State Government, and after considering any comments made on the petition by the State Government or other authority, as the case may be, may confirm, modify or set aside the order or pass such other order in relation thereto as the Central Government may deem just and proper.

Provided that no order shall be passed against, an applicant unless he has been given an opportunity to make his representations against the comments, if any, received from the state Government or other authority.

A perusal of the said provisions makes it abundantly clear that the State Government exercising its powers under the Act and the Rules made thereunder deals with matters involving great stakes; presumably for the said reason, the Central Government is constituted as an authority to revise the order of the State Government. Rules 54 and 55 lay down the procedure for filing a revision against the order of the State Government and the manner of its disposal. Under r. 54, a revision application has to be filed with the prescribed court fee and under r. 55, the Central Government, after calling for the records from the State Government and after considering any comments made on the petition by the State Government or other authority, as the case may be, may make an appropriate order therein. The proviso expressly says that no order shall be made unless the petitioner has been given an opportunity to make his representations against the said comments. The entire scheme of the rules posits a judicial procedure and

The learned Solicitor General argues that, if the Central Government is to give reasons when it functions as a tribunal, it will obstruct the work of the Government and lead to unnecessary delays. I do not see any justification for this contention. The Central Government and lead to unnecessary delays. I do not see any justification for this contention. The Central Government functions only through different officers and in this case if functioned through an Under Secretary. The condition of giving reasons is only attached to an order made by the Government when it functions judicially as a tribunal in a comparatively small number of matters and not in regard to other administrative orders it passes. The delay in disposal of cases can be attributed to many reasons and certainly not to the giving of reasons by tribunals.

The question cannot be disposed of on purely technical considerations. Our constitution posits a welfare State it is not defined, but its incidents are found in Chapter III and IV thereof i.e. the parts embodying fundamental rights and directive principles of State Police respectively. Welfare state as

conceived by our constitution is a State where there is prosperity, equality, freedom and social justice. In the context of a welfare State, administrative tribunals have come to stay. Indeed, they are the necessary concomitants of a welfare State. But arbitrariness in their functioning destroys the concept of a welfare State itself. Self discipline and supervision exclude or at any rate minimize arbitrariness. The least a tribunal can do is to disclose its mind. The compulsion of disclosure guarantees consideration. The condition to give reasons introduces clarity and excludes or at any rate minimizes arbitrariness; it gives satisfaction to the party against whom the order is made and it also enables an appel

The conception of exercise of revisional jurisdiction and the manner of disposal provided in r. 55 of the Rules are indicative of the scope and nature of the Government jurisdiction. If tribunals can make orders without giving reasons, the said power in the hands of unscrupulous or dishonest officers may turn out to be a potent weapon for abuse of power. But if reasons for an order are give, it will be an effective restraint on such abuse, as the order, if it discloses extraneous or irrelevant consideration, will be subject to judicial scrutiny and correction. A speaking order will at its best be a reasonable and at its worst be at least a plausible one. The public should not be deprived of this only safeguard.

It is said that this principle is not uniformly followed by appellate courts, for appeals and revisions are dismissed by appellate and revisional courts in limine without giving any reasons. There is an essential distinction between a court and an administrative tribunal. A Judge is trained to look at things objectively, uninfluenced by considerations at things from the stand point of policy and expediency. The habit of mind of an executive officer so formed cannot be expected to change from function to function or from act to act. So it is essential that some restrictions shall be imposed on tribunals in the matter of passing order affecting the rights of parties, and the least they should do is to give reasons for their orders. Even in the case of appellate courts invariably reasons are given, except when they dismiss an appeal or revision in limine and that is because the appellate or revisional court agrees with the reasoned judgment of the subordinate court or there are no legally permissible grounds to

As regards the second contention, I do not think that the appellant is entitled as of right to a personal hearing. It is no doubt a principle of natural justice that a quasi judicial tribunal cannot make any decision adverse to a party without giving him an effective opportunity of meeting any relevant allegations against him. Indeed r. 55 of the Rules, quoted supra, recognizes the said principle and states that no order shall be passed against any applicant unless he has been given an opportunity to make his representations against the comments, if any, received from the State Government or other authority. The said opportunity need not necessarily be by personal hearing. It can be by written representation. Whether the said opportunity should be by written representation or by personal hearing depends upon the facts of each case and ordinarily it is in the discretion of the tribunal. The facts of the present case disclose that a written representation would effectively meet the requirements of the principl

There are no merits in the contention that the Government of Bombay by its order dated July, 14, 1959, granted the entire area of the said mines to the appellant; for under the Act the State Government has no power to make such a grant of Manganese. Ore except with the previous approval of the Central Government. Admittedly, no such approval was obtained. The said order can, therefore, only be construed at best to be a recommendation to the Central Government.

Nor can I agree with the contention of the learned counsel based upon s. 17 of the act. The

contention is that if the State Government intended to entrust the exploitation of the said mines to the public sector it could have done so only in strict compliance with the provisions of s. 17 of the Act. Section 17 of the Act has nothing to do with public or private sector; it applies only to a specific case where the Central Government proposes to under take prospecting or mining operations in any area not already held under any prospecting licence or mining lease. In that event it shall follow a particular procedure before undertaking the mining operations. In the present case there was no proposal on the part of the Central Government to undertake the mining operation in the area in question. That section has, therefore, no bearing on the question raised.

I have already noticed that after the disposal of the revision by the Central Government again changed its mind and called for applications from the public for grant of mining licence in respect of the said area and the appellant, along with others, has applied for the same. Learned counsel for the appellant, though he admits the said fact, contends that though the appellant has a fresh opportunity to apply for the lease of the mines, it has to meet competition from others who did not enter the filed earlier. But the people who entered the field earlier did not prefer any revision against the order of the State Government and, presumable, if we interfere at this stage, there would be unnecessary complications and public interest might suffer, as it might turn out that the appellant would be the only surviving applicant in the field among the earlier applicants. Though the appellant has to compete with others who were not earlier in the field-on this question we have no precise information it has certainly an

The appeal is dismissed, but in the circumstances of the case, without costs.

BACHAWAT, J. –

We agree that the appeal should be dismissed. We agree that [a] this is not a fit case for interference under Art. 136 of the Constitution [b] the appellant was not entitled to a personal hearing [c] s. 17 of the Mines and minerals [Regulation and Development] Act, 1957 [Act No. 67 of 1957] has no bearing on the question in issue, and [d] the order of the Government of Bombay dated July, 14, 1959 was, in effect a recommendation to the Central Government for the grant of a mining license to the appellant.

But we are unable to agree with the contention of Mr. Pathak that the order of the Central Government dated October 17, 1964 rejecting the revision application under r. 55 of the Mineral Concession Rules, 1960 is bad, because it did not give any reasons. By its order dated December 19, 1961, the State Government of Maharashtra rejected the appellant's application for a mining lease for the reasons mentioned in the order. A reference to the order [annexure R] shows that the State Government gave full reasons. On February 17, 1962, the appellant filed a revision application before the Central Government against the order of the State Government under r. 55 of the Mineral Concession Rules, 1960. By its order dated October 17, 1964, the Central Government rejected the revision application stating:

> "I am directed to refer to your application No. A/32/8163 dated 17-2- 1962 on the above subject, and to say that after careful consideration of the grounds stated therein, the Central Government have come to the conclusion that there is no valid ground for interfering with the decision of the Government of Maharashtra rejecting your application for grant of mining lease for manganese over an area of 216.92 acres in Government Forest East Panch Range, W. C. Junewand, Tahsil Ramtek, District Nagpur. Your application for revision is, therefore, rejected."

The reason for rejecting the revision application appears on the face of the impugned order. The revision application was rejected, because the Central Government agreed with the reasons given by the State Government in its order dated December 19, 1961, and the application did not disclose any valid ground for interference with the order of the State Government. In our opinion, the Central Government, acting under r. 55, was not bound to give in its order, fuller reasons for rejecting the application.

Mr. Pathak contended that the effect of Art. 136 of the Constitution is that every order appealable under that Article must be a speaking order and the omission to give reasons for the decision is of itself a sufficient ground for quashing it. We are unable to accept this broad contention. For the purposes of an appeal under Art. 136 orders of Court and tribunals stand on the same footing. An order of court dismissing a revision application often gives on reasons, but this is not a sufficient ground for quashing it. Likewise, an order of an administrative tribunal rejecting a revision application cannot be pronounced to be invalid on the sole ground that it does not give reason for the rejection.

In support of his contention Mr. Pathak relied upon the following observations of Shah, J. in Harinagar Sugar Mills Ltd. v. Shyam Sunder Jhunjhunwala.

> "If the Central Government acts as a tribunal exercising judicial powers and the exercise of that power is subject to the jurisdiction of this court under Art. 136 of the Constitution, we fail to see how the power of this court can be effectively exercised if reasons are not given by the Central Government in support of its order."

In that case, it appears that the Central Government acting as an appellate tribunal under S. 111 [3] of the Companies Act, 1956, had without giving any reasons for its order, set aside a resolution of the directors of a company refusing to register certain transfers of shares. There was nothing on the record to show that the Central Government was satisfied that the action of the directors in refusing to register the shares was arbitrary and untenable, and, moreover, on the materials on the record it was not possible to decide whether or not the Central Government Transgressed the limits of its restricted power under S. 111 [3]. The Central Government reversed the decision appealed from without giving any reasons; nor did the record disclose any apparent ground for the reversal. In this context, Shah, J. made the observations quoted above, and the omission to give reasons led to the only inference that there was none to give. There is a vital difference between the order of reversal by the appellate authori

Appeal dismissed.

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