

Sahi Ram

Vs

Avtar Singh

Civil Appeal No. 3232 of 1999.

(M. Jagannadha Rao, A. P. Misra JJ)

14.05.1999

JUDGMENT

M. Jagannadha Rao, J.

1. Leave granted.

2. This appeal is directed against the judgment of the Delhi High Court in LPA 73 of 1992 confirming the judgment of the learned Single Judge dated 24.11.1992 in Civil Writ Petition No. 2566 of 1985 allowing the writ petition.

3. The respondent filed the writ petition questioning the revisional order of the Central Government dated 24.11.1984 passed under Section 30 of the Mines & Mineral (Regulation & Development) Act, 1957 (hereinafter called the 'Act'), dismissing the revision petition and confirming the order of the State of Haryana dated 27.4.84 terminating the mining lease granted to the appellant on 8.7.81.

4. The respondent was granted mining lease on 8.7.81 in respect of major minerals. This was underneath while on the surface, minor mineral lease was granted to one Mr. R.L. Sharma. A joint inspection of the leased area by the Director of Mines is said to have revealed various irregularities. A show cause notice was issued to the respondent on 10.3.1983 under rule 27(5) of the Mineral Concession Rules, 1960 (hereinafter called the 'Rules') and the respondent was directed to remedy the breaches in 60 days. The respondent replied on 9.5.1983. The Department filed a complainant which ended in a Conviction on 13.9.1983. In appeal, the respondent is said to have merely sought benefit under the Probation of Offenders Act. The same was granted and appeal dismissed. According to the appellant, this meant that the respondent admitted contravention or breaches alleged against him.

5. By letter dated 20.10.1983, further breaches were pointed out and the respondent asked to submit a scheme with plans to rectify the defects. On 18.1.1984, the respondent was asked to form benches and employ workers to rectify defects pointed out in the prohibitory order dated 10.10.1983. There was inspection on 21.2.1984. A stop work order was passed on 23.2.1984. Then the impugned order of termination of lease was passed on 27.4.1984 by the State of Haryana under rule 27(5). Possession is said to have been taken over by the State on 29.4.1984. Revision to Central Government was dismissed on 24.11.1984.

6. The learned Single Judge, while allowing the respondents' writ petition on 24.11.1992 held that the State of Haryana violated principles of natural justice. But after holding so, the learned Judge instead of directing that the matter should go back to the State of Haryana, which terminated the

lease, straightaway restored the lease for the remaining period, without directing any further inquiry to be made after adequate notice to respondent in conformity with principles of natural justice. This judgment was confirmed in LPA.

7. Now this Civil Appeal is preferred by Sahi Ram who was granted lease of the major mineral on 31.10.1985 in the interregnum and his lease was being renewed. He has filed this appeal contending that the respondent was guilty of severe breaches, that the order of the State Government and the Central Government was right and that the orders of the learned Single Judge and Division Bench are wrong.

8. Elaborate arguments were addressed before us by the learned senior counsel for the appellant Sri P.P. Rao and Sri M.S. Ganesh and for the respondent, by learned senior counsel Dr. L.M. Singhvi and for the State of Haryana by Mr. Prem Malhotra. It may be stated that the State of Haryana filed a special leave petition against the order of the High Court but withdrew the same.

9. In the view we had taken during the course of the arguments, we told learned counsel for the respondent that the learned Single Judge - once he came to the conclusion that certain documents relating to inspection reports were not supplied or that the facts relied upon by the State Government and the Central Government in their orders were not put to the respondents seeking his explanation - the learned Single Judge should have remitted the matter back instead of straightaway setting aside the termination of lease and restoring it back. We, therefore, suggested that the matter should go back, instead of to the State Government, to the Central Government, so that time could be saved. We directed counsel to give us the points which could be referred back to the Central Government. Both sides have filed a long list of points to be referred to the Central Government.

10. We have considered these draft points suggested by both sides. We are of the view that one of the important issues is as to whether the breached discovered or irregularities committed were by the respondent or Shri R.L. Sharma. Initially notice was given for rectification of defects in 60 days. Subsequent inspections showed, according to the department, that the respondent had not rectified the defects or breaches of the lease terms or the rules applicable. Therefore, after the show cause notice, several inspections took place. It is not clear from the record before us whether the respondent or his agent was present at these inspections. It is also necessary to give to the respondent adequate notice of the various facts taken into account in the orders of State Government cancelling the lease and in the order of the Central Government revision.

11. We are of the view that it is necessary that a fresh show cause notice be issued by the revisional authority, the Central Government to the respondent giving the facts which are set out in the order of cancellation of lease dated 27.4.84 and as set out in the order of the Central Government dated 24.11.1984 and which have been relied upon against the respondent. The said show cause notice will therefore be issued to the respondent within six weeks from today by the Central Government.

12. In view of the fact that the appellant is in possession under a lease granted on 31.10.1985 and renewed thereafter till date, it will be necessary for the Central Government to hear the appellant Sahi Ram also after allowing him to file his objections to the reply of the respondent.

13. The Central Government will, therefore, give a show cause notice to the respondent as above stated (with a copy to the appellant) setting out all the factual material relied upon against the respondent by the State of Haryana in his cancellation order dated 27.4.1984 and the material relied upon by the Central Government in its order dated 24.11.1984. The show cause notice will be

accompanied by copies for all such documents as were relief upon against the respondent by the State of Haryana and by the Central Government. After receiving the explanation of the respondent and the objections of the appellant to the said explanation of the respondent and the rejoinder of the respondent, if any thereto, the Central Government will give a hearing to the respondent and to the appellant, and will pass a reasoned order and submit the same to this court within four months from today, after communicating the same to the appellant and the respondent and the State of Haryana. The Central Government shall also decide whether the breaches and irregularities were committed by the respondent or by Sri R.L. Sharma. The aggrieved parties can file objections thereto thereafter in this Court. List this matter on the 27th September, 1999. In the meantime the status quo as of today will continue.