

RAJASTHAN HIGH COURT

Ram Prasad Vijayvargiya

Vs.

State of Rajasthan

Civil Writ Petn. No. 2565 of 1998
(Dr. Ar. Lakshmanan, C.J. and Rajesh Balia, J.)

22.11.2000

JUDGEMENT

Dr. AR. Lakshmanan, C. J.

1. Heard Sri Govind Mathur for the petitioner, Sri R. L. Jangid for respondents Nos. 1 and 2 and Sri A. K. Sharma for respondent No. 3.
2. Power on behalf of respondent No. 3 was earlier filed by Sri D. D. Thanvi. He wanted to withdraw his power for certain personal reasons. His request was allowed and Sri A. K. Sharma was heard for respondent No. 3.
3. This writ petition was filed by one Sri Ram Prasad Vijayvarigiya as a Public Interest Litigation. The writ petition has been filed with the following prayer :

"It is, therefore humbly prayed that this writ petition may kindly be allowed. The respondent No. 1 - State of Rajasthan may kindly be directed to place the reasons for relaxing the provisions of the Rules of 1986 while issuing the order dated 6-3-98 (Annexure 1) in favor of M/s. R. K. Marbles (P.) Limited. In the event, this Hon'ble Court feels that the reasons for relaxation are not just and valid, the order dated 6-3-98 (Annexure 1) and all actions as a consequence of the order dated 6-3-98 may kindly be declared illegal and the same may be quashed and set aside.

2. The State Government may kindly be directed to place its Policy and Norms for exercising the powers under Rule 65 of the Rules of 1986 in each and every case at least in the year 1998 and thereafter."

4. According to the petitioner, the State Govt. under an order dated 6-3- 1998 granted mining lease to M/s. R. K. Marbles Private Limited for excavating marble while relaxing the provisions of the Minor Mineral Concession Rules, 1986, the State Govt. has also relaxed the provisions of Marble Policy 1994. Annexure 1 is the order impugned in this case. According to the petitioner, from a bare perusal of the said order it is apparent that no reasons have been recorded by the State Govt. for relaxing the Rules of 1986 by exercising powers under Rule 65 of the Rules of 1986, the only reason mentioned in the order dated 6-3-98 (Annexure 1) is that looking to the earlier work and with a view to develop mechanism and scientific mining, the Rules are relaxed. According to Sri Govind Mathur, the power under Rule 65 of the Rules of 1986 cannot be exercised in such a casual manner and that the provisions of the rules can be exercised only in exceptional circumstances where it is impossible to achieve the object without relaxing the rules, there was no such circumstances while issuing the order dated 6-3-98. It is also the case of the petitioner that the Govt. has exercised this power of relaxation in many other cases for no valid reasons.

5. Reply to the writ petition has been filed on behalf of the respondents Nos. 1 and 2 and also by the contesting third respondent.

6. A preliminary objection has been raised by the respondents Nos. 1 and 2 that the writ petition has been filed by way of Public Interest Litigation. While on the one hand the petitioner has challenged the powers of the State Govt. envisaged under Rule 65 of the Rules of 1986 in general, on the other hand the petitioner has challenged the order of the State Govt. dated 6-3-98 (Annexure 1) in particular whereby a mining lease was granted to M/s. R. K. Marbles Pvt. Ltd. for excavation of marble while relaxing the said provisions under 65 as well as the provisions contained in Marble Policy, 1994. On merit, it is submitted that the State Govt. has exercised the powers properly in the interest of the mineral development in the area. It is also submitted that Rule 65 of the Rules of 1986 has also been held to be valid, and therefore, it is not open for the petitioner to challenge the said powers of the State Govt. without any basis and, therefore, the writ petition has been filed for extraneous consideration and is motivated. The third respondent filed the reply raising the question of maintainability of the writ petition and also submitted its reply on merits.

7. We have perused the entire pleadings and heard the arguments of the learned counsel appearing on either side. For the sake of convenience, Rule 65 of the Rules of

1986 is reproduced below :-

65. Relaxation of Rules : The Govt. may relax any provision of these Rules for reasons to be recorded in writing.

8. Rule 65 says that the Govt. for the reasons to be recorded in writing may relax any provision of the rules. The impugned order challenged in this writ petition has been filed with the writ petition marked as Annex. 1. A perusal of the order Annex. 1 dated 6-3-98 would show that the Govt. has recorded reasons for relaxing the rule. It is stated in the order that looking to the earlier work and for development of mining operations by advanced, systematic and scientific methods the rules are relaxed. Therefore, in our opinion, the contention raised by the learned counsel that Annex. 1 has been passed by the Govt. without recording its reason has no merit.

9. In this case, the order passed by the Govt. dated 6-3-98 in favor of third respondent alone has been challenged. In our view, this order has been challenged by the petitioner as a test case. The petitioner has not disclosed as to how he has obtained the copy of the order dated 6-3-98 and whether he made similar attempts to obtain copies of orders in other cases of relaxation. As rightly pointed out by Sri Sharma that the petition has been made on extraneous consideration, and in our opinion, it is pure and simple a private interest litigation instituted by the petitioner. It is also stated in the reply filed by the third respondent that the wife of the petitioner is holding a quarry license for sandstone in respect of Plot No. 4 in Bijolia and thus the petitioner is directly or indirectly involved/engaged in mining activity. It is further stated that the petitioner has also been involved in the intimidation of Mining Engineer, Bijolia and FIR No. 42/99 dated 18-2-1999 was registered against the petitioner at Police Station Bijolia under Sections 332 and 353, Indian Penal Code. We are of the view that it is not for this Court to go into these aspects of the matter in this writ petition. If any case is filed against the petitioner or his wife, it is for the concerned authority to prosecute the same and it is also for the petitioner or his wife to contest the same in accordance with law.

10. A perusal of the petition would also show that no specific allegation of *mala fide* has been leveled against any named person nor such persons have been impleaded as party to the writ petition and no foundation has been led for invoking the jurisdiction under Article 226 of the Constitution of India. It is also pertinent to notice that no

other instance of relaxing the rules except in the case of R. K. Marbles Pvt. Ltd. has been mentioned in the writ petition which is found to be baseless in view of order Annex. 1.

11. We have already extracted Rule 65 of the Rules of 1986. Under the said rule, the State Govt. has the power to relax any provision of the rules for the reasons to be recorded in writing. In this context, it is submitted by the learned counsel that before granting relaxation of the rule in favor of the respondent No. 3, the matter was examined in great detail by the concerned authority/authorities and a decision was taken to do so for the reasons recorded in writing. The reasons have also been mentioned in the order dated 6-3-98 and those reasons in our opinion are germane for the exercise of the powers by the State Govt. under Rule 65 of the Rules of 1986. It is seen from the order that the rules have been relaxed in favor of the third respondent for good and valid reasons namely mineral development and excavation keeping in view of the development work of the answering respondent in the mining lease area already held by the respondent No. 3 as well as in order to encourage systematic, scientific and mechanized mining.

12. It is argued by Sri Jangid that the Govt. is empowered under Rule 65 of the Rules to relax any provision of the rules including the powers contained in the Marble Policy which has already been declared valid by this Court. In the reply filed by the respondents Nos. 1 and 2 all the required details about third respondent have been furnished and also the details about the cases filed and pending against the petitioner and his wife have been given to show that the petitioner is interested in mining activities of his firm in that area. We are, therefore, unable to accept the statement made by Sri Mathur that the State Govt. has relaxed the rule without any reason in the case of third respondent and also in number of other cases. Along with the reply, the third respondent has also filed certain annexures. We, in this context, can usefully refer to Annex. R/3/5, which reads thus :

"GUINNESS WORLD RECORDS
CERTIFICATE
THE LARGEST MARBLE MINING COMPANY, BASED
ON WEIGHT EXTRACTED IS
R. K. MARBLES LIMITED OF RAJASTHAN, INDIA
WHO PRODUCED A WORLD RECORD 504, 366 TONNES

OF MARBLE BLOCKS IN 1998.
DURING THE SAME PERIOD THEY CUT 540, 250
SQUARE METRES OF MARBLE SLABS AT THEIR
FACTORY AT KISHANGARH
Keeper of the Records
GUINNESS WORLD RECORDS
SD/-"

13. Our attention was also drawn to the reports Annex. R/3/1, R/3/2, R/3/3 and R/3/4. A perusal of the above referred reports will show that there has been considerable increase in revenue earnings of the State Govt. by way of royalty and sales tax after allotment of additional mining area to the answering respondent. A sum of Rs. 923.80 lakhs and Rs. 204 lakhs has been paid by the third respondent as royalty and sales tax respectively for the period from 1-3-1998 to 30-9-1999. There has been considerable growth in sales and production has also increased by about 55% as detailed in letter dated 13-10-1999. The total investment in fixed assets for the additional area has reached a sum of Rs. 1284.10 lakhs and additional employment to more than 900 persons has been generated in the tribal area of Rajasmand district since March, 1998. It is also seen that the third respondent has deployed machineries worth Rs. 34,03,47,374 at the mines which is inclusive of the value of the machineries/equipments purchased in the development of additional mining area. A list of machineries deployed in the mining area has also been filed as Schedule R/3/A.

14. As already noticed, the third respondent has also been held to be world's largest Marble Mining Company, as could be seen from Annex. R/3/5. Thus, looking to the huge investment in the leased area, expenditure incurred in machinery and equipment deployed on the mines and the substantial progress made in the area by the respondent, there does not appear to be any reasonable ground or justification for quashing the order dated 6-3-98 at the instance of the petitioner/social worker. The writ petition, in our opinion, is misconceived and it is not a fit case for this Court to exercise its extraordinary jurisdiction under Article 226 of the Constitution of India.

15. For the foregoing reasons, we are of the opinion that the Govt. decision to grant relaxation in favor of the third respondent stands fully justified on all counts.

16. The writ petition fails and is disposed of accordingly.

Petition dismissed.