

RAJASTHAN HIGH COURT

Mohan

Vs.

State of Rajasthan

Civil Writ Petn. No. 6780 of 1992

(Sunil Kumar Garg, J.)

10.07.2002

ORDER

Sunil Kumar Garg, J.

1. This writ petition under Article 226 of the Constitution of India has been filed by the petitioner against the respondents on 16-12- 1992 with a prayer that by an appropriate writ, order or direction, the show cause notice dated 21-7-1992 (Annexure 3) issued by the Regional Forest Officer, Gadi (Partapur) be quashed.

2. It arises in the following circumstances:

i) That the petitioner applied for quarry license in the year 1981 and the same was granted to him on 4-1-1982 and right from that date, every year this quarry license was renewed according to the provisions contained in Rule 26 of the Rajasthan Minor Mineral Concession Rules, 1986. A copy of the license is Annexure 1.

ii) That the petitioner applied for renewal of license on 23-12-1991 for 1-1-1992 to 31-12-1992 and the same was granted to the petitioner and he was directed to deposit an amount of Rs. 275/- for the same which was deposited by him on 23-12-1991.

(iii) The further case of the petitioner is that the petitioner received a show cause notice dated 21-7-1992 (Annexure 3) issued by Regional Forest Officer, Gadi (respondent No. 3) whereby the petitioner was directed to submit the mining patta, the map of the area along with demarcation line and he was further directed to close the operation of removing the limestone from the Pahari. It was further mentioned in the show cause notice dated 21-7-1992

(Annexure 3) that during survey, it was found that this area comes within the area of forest.

(iv) It is further submitted that the show cause notice dated 21-7- 1992 (Annexure 3) was issued by the respondent No. 3 under the powers conferred by Section 72(b) of the Forest Act, 1953 and according to the petitioner, he has apprehension that because of the intervention of the Forest Department, Mines Department might not renew his lease and hence this writ petition with the prayer just stated above.

3. Reply to the writ petition was also filed by the respondent Nos. 1 and 2 on 17-12-1993.

4. It may further be stated here that on stay application, an interim stay was granted in favor of the petitioner vide order dated 18-12-1992 and the same was confirmed vide order dated 8-9-1995. Thus the stay order is in force.

5. In this writ petition, the only prayer made by the learned counsel for the petitioner is that before taking any action in pursuance of show cause notice dated 21-7-1992 (Annexure 3), the petitioner should be heard.

6. In my opinion, this prayer appears to be just and reasonable one and therefore, it should be accepted and for which the learned counsel for the respondent No. 3 has also no objection. For the reasons mentioned above the present writ petition is disposed of in the manner that the petitioner would file reply to the impugned show cause notice dated 21-7-1992 (Annexure 3) passed by respondent No. 3 (Regional Forest Officer, Gadi) within one month from today and after that, within two months from submission of reply by the petitioner, the Regional Forest Officer, Gadi (respondent No. 3) shall pass appropriate order on show cause notice dated 21-7-1992 (Annexure 3) in accordance with law after affording an opportunity of hearing to the petitioner.

The stay order dated 18-12-1992 granted by this Court which was confirmed vide order dated 8-9-1995 shall remain in force only for three months from today.

Order accordingly.