

RAJASTHAN HIGH COURT

State of Rajasthan

Vs.

Union of India

Civil Writ Petn. No. 3662 of 1992

(Shiv Kumar Sharma, J.)

23.08.2006

ORDER

Shiv Kumar Sharma, J.

1. Heard rival submissions.
2. The State of Rajasthan, petitioner herein, seeks to quash the order dated April 11, 1990 of the Central Government passed in Revision Application No. 2/20/25/87-MV whereby the petitioner was directed to grant prospecting licence to respondent-company for the area reserved by the petitioner for exploration and exploitation of SMS limestone. Operative part of the impugned order reads as under:

"Considering all facts and evidence on record and submissions made, we are inclined to hold that rejection of the P.L. application of the petitioner Company on the ground that the impugned area has been reserved for exploration and exploitation of SMS limestone by the State Government is bad and cannot be sustained. We, therefore, set aside the impugned order and remand the matter to the State Government with the direction to grant prospecting license to petitioner-Company for the impugned area. In case the total area held by the Company under P. L. becomes more than 25 sq. kms. State Government may seek appropriate relaxation as many be required from the Central Government."

3. Since the State Government is the owner of mines and minerals and not an authority subordinate to the Central Government, if it is directed to issue mining lease in favour of respondent-Company, it has *locus standi* to challenge that order under Article 226 of the Constitution of India. (Vide *State of Orissa v. Union of India* ¹)

4. I find substance in the contention of learned Additional Advocate General that it would be travesty of justice if the State Government, being the owner of mineral wealth, is asked that instead of the owner some other person will get priority. If the State Government decides to excavate a particular area itself, cannot be held that the same is illegal. The second contention of learned Additional Advocate General that notification dated February 9, 1987 issued by the State Government could not have been struck down by implication by the Central Government, also has merit. In exercise of revisional powers the Central Government has no jurisdiction to quash the notification promulgated by the State of Rajasthan. If some fault in the order of the State Government was noticed, at the most the matter could be remanded for reconsideration. In my opinion, the order of issuing mandate to State of Rajasthan to grant license to the respondent company is without jurisdiction and it deserves to be set aside.

5. I, therefore, allow the writ petition and set aside the impugned order dated April 11, 1990. I, however, grant liberty to respondent- Company to approach the State Government to reconsider its prayer in regard to grant of license for the impugned area. If such application is filed the State Government shall decide the same in accordance with law expeditiously. There shall be no order as to costs.

Petition allowed.

Cases Referred.

1. 1995 (1) UJ (SC) 701