

02. 16.01.2017

Connect with W.P.(C) Nos.281 and 283 of 2017.

The submission of Mr. Ashok Parija, learned Senior Counsel for the petitioners is that the petitioners had applied for grant of mining lease, which was duly approved by the Central Government under Section 5(1) of the Mines and Minerals (Development and Regulation) Act, 1957 on 29.09.2008. The application however kept pending and in the meantime, the Act was amended and certain provisions have been inserted by Act 10 of 2015 with effect from 12.1.2015. Under the new provision of Section 10A, lease deed is to be granted within a period of two years from the date of the amendment of the Act i.e. with effect from 12.1.2015. Besides, several prayers which have been made, the grievance of the petitioners at this stage is with regard to the provision of Rule 8(4) of Mineral (Other than Atomic and Hydro Carbons Energy Minerals) Concession Rules, 2016, which provides that in case the mining lease is not executed on or before 11.1.2017, the rights of the applicant shall be forfeited.

2. The submission of the learned counsel for the petitioners is that because of the lapses on the part of the opposite parties, the mining lease has not been granted for which the petitioners cannot be made to suffer. The petitioners further contends that the provision of sub-rule (4) of Rule 8 is contrary to the provisions of Section 10-A (2)(c) of MMDR Act, 1957 and as such, the same cannot be sustained in the eye of law.

3. In our view, the matter requires consideration.

4. Mr. A.K.Bose, learned Asst. Solicitor General accepts notice on behalf of opposite parties no. 1 and 2 and Mr. B.P.Pradhan, learned Addl. Government Advocate accepts notice on behalf of opposite party no.3. They pray for and are granted four weeks time to file counter affidavit and the petitioners shall have two weeks thereafter to file rejoinder affidavit.

5. List this matter immediately after six weeks.

6. Considering the facts and circumstances of the case and keeping in view the submissions made by the learned counsel for the parties, as an interim measure, it is directed that the provisions of Rule 8(4) of Mineral (Other than Atomic and Hydro Carbons Energy Minerals) Concession Rules, 2016, shall not be made applicable in the case of the petitioners till the next date of listing.