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S.B. Civil Writ Petition No.1845/2012

Date of Order ::: 30.11.2012

Hon'ble Mr. Justice Mohammad Rafiq, J.

Shri Ajeet Kumar Sharma, Senior Advocate, with
Shri Ashwani Chobisa, counsel for petitioner
Shri Zakir Hussain, Additional Government Counsel for
respondents

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By the Court:-

Learned counsel for petitioner submits that there was no authority with respondents to impose ten times penalty under Rule 18 (21)(22) of the Rajasthan Minor Mineral Concession Rules, 1986. Notice was given for alleged violation of those provisions under clause 4(22) of the agreement. It is contended that no actual inspection was carried out. Petitioner has actually excavated the minerals from the lease area allotted to him.

He submitted that lease was determined and possession was taken on 06.03.2011. It is contended that on the basis of 'ravanna' alone the respondents could not determine that the petitioner has illegally excavated 105219 tonne of minerals based only on monthly returns. The suggestion that excavation was done not only from the allotted mining lease area but from other unauthorized area, is totally incorrect. It is contended that the report of inspection dated 15.07.2010 alone was supplied to the petitioner. Copy of another inspection report conducted by the respondents on 27.07.2010 and now produced with their reply, was never supplied to the petitioner nor any notice was given.

Learned counsel for respondents opposed the writ petition and submitted that inspection was carried out after notice to petitioner and further that after notice under Rule 18 of the Rules, the lease has been determined by order dated 07.02.2011 (Annexure-10) and has been taken possession of. It

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is contended that not only minerals have not been excavated from the allotted lease area but it has excavated from the area other than the mining area allotted to the petitioner. The petitioner has given authority to another concern, namely, M/s O.S.E. Private Limited, Dahina, for excavation, which started excavation only after first inspection was carried out by the department on 15.10.2010, which fact is borne out from the inspection report conducted by the team of the Mining Department, which, on enquiry, was informed by the persons available near the mining area that such excavation has been started only a week ago. This clearly indicates that the 'ravannas' that were misused by the petitioner and indicated in the monthly returns, were actually used against illegally excavated minerals.

Having heard learned counsel for the parties and perused the material on record, I deem it appropriate to direct that in case petitioner deposits 50% of the penalty amount, which shall include the amount already deposited by him, within a period of four weeks from today, there shall be stay on remaining 50% amount.

Admit. Issue fresh notice to respondents.

(Mohammad Rafiq) J.

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All corrections made in the judgment/order have been incorporated in the judgment/order being emailed.

Giriraj Prasad Jaiman
PS-cum-JW