

ITEM NO.102

COURT NO.3

SECTION XV

S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGS  
CIVIL APPEAL NO(s). 770 OF 2004

KANTA JAIN

Appellant (s)

VERSUS

STATE OF RAJASTHAN & ORS.

Respondent(s)

(With office report )

WITH Civil Appeal NO. 829 of 2004  
(With office report)

Date: 14/09/2011 These Appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE R.V. RAVEENDRAN  
HON'BLE MR. JUSTICE A.K. PATNAIK  
HON'BLE MRS. JUSTICE RANJANA PRAKASH DESAI

For Appellant(s)

Mr. Surya Kant,Adv.  
Mr. Dushyant Parashar,Adv.  
Ms. Purnima Joharim,Adv.

For Respondent(s)

Dr. Manish Singhvi,AAG,Rajasthan  
Mr. R. Gopalakrishnan,Adv.

UPON hearing counsel the Court made the following  
O R D E R

The appeals are dismissed in terms of  
the signed order.

(O.P. Sharma)  
Court Master

( M.S. Negi )  
Court Master

(Signed order is placed on the file)

C.A.NOS.770/2004 & 829/2004

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IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.770 OF 2004

KANTA JAIN

..Appellant

VERSUS

STATE OF RAJASTHAN & ORS.

..Respondents

WITH  
Civil Appeal NO. 829 of 2004

GURDEEP KAUR SETHI

..Appellant

VERSUS

STATE OF RAJASTHAN & ORS.

..Respondents

O R D E R

The respective appellant in these appeals made an application for grant of mining lease for marble on 27.3.2002. As the applications were neither rejected nor accepted, the respective appellant approached the High Court for relief. A learned Single Judge of the High Court dismissed the writ petitions by common order dated 6.5.2003. The Special Appeals filed by them were dismissed by the impugned orders dated 2.7.2003 and 29.7.2003 holding that according to the policy of the State Government, leases for mining/quarrying in the tribal area could be given only to persons belonging to C.A.NOS.770/2004 & 829/2004

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Scheduled Tribes. The said orders are challenged in these appeals.

2. It is not in dispute that the appellants applications were for grant of mining leases in a schedule area, that is, District Banswara. By circular dated 18.11.2000, the State Government, referring to the decision of this Court in Samatha vs. State of A.P. 1997 (8) SCC 191, imposed a prohibition/stay on grant of new mining leases for major and minor minerals in the said tribal area except for grant of new mining leases and short term licences to local schedule tribes for mining minerals like cheja stone. In view of the said policy, the appellants were not entitled to any relief and there is no infirmity in the order of the learned Single Judge and the Division Bench.

3. Learned counsel for the appellant submitted that subsequent to the said circular dated 18.11.2000, the State government had published a notification dated 1.3.2002 notifying the the procedure for grant of prospecting licences for mining lease/quarrying licences for marble; and that clause 24 of the said circular provided that it superseded all earlier circulars or directions whatsoever in the matter of grant of mining leases /quarrying licences for marble. It is therefore

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contended that the circular dated 18.2.2000 ceased to be in force, after 1.3.2002 and therefore there was no impediment for consideration and disposal of their applications. We find no merit in the contention. The notification dated 1.3.2002 merely notified the procedure for grant of prospecting licences, mining licences and quarrying licences for marble, and did not have any bearing on a circular prohibiting or staying the grant of mining leases/quarrying licences in schedule areas.

4. Therefore, we find no reason to interference with the order of the High Court. The appeals are dismissed.

.....J.  
[ R.V. RAVEENDRAN ]

.....J.  
[ A.K. PATNAIK ]

.....J.  
[RANJANA PRAKASH DESAI]

NEW DELHI  
SEPTEMBER 14, 2011