

The High Court of Madhya Pradesh**WP.9398.2020**

**[M/s Mahakaleshwar Stone Crusher Vs. State of M.P. and others]
Gwalior dated 31.07.2020**

Shri Arvind Dudawat, learned counsel for the petitioner.

Shri M.P.S.Raghuvanshi learned Additional Advocate General for respondent/State.

Learned counsel for the rival parties are heard through video conferencing.

1. By way of this petition filed u/Art. 226 of the Constitution direction is sought to the respondents for deciding application for renewal of mining licence in respect of quarry lease for Stone for making *Gitti* by mechanical crushing (i.e. use of crusher).The application was filed on 4/5/2020 and is said to be pending till date.

2. This Court to resolve difference of opinion between two coordinate benches of this court on the issue as to whether lease for extraction of stone for making *Gitti* by mechanical crushing is to be granted by allotment under Rule 6 of M.P. Minor Minerals Rules, 1996 (for short 1996 Rules”) or by way of auction as per Rule 7 of the 1996 Rules, has referred the matter to Hon.the Chief Justice for constitution of larger bench. Larger bench has not been constituted yet.

3. The petitioner, during pendency of this petition, has filed I.A.

3051/20 seeking stay of notice (Annexure-A/1 along with said I.A.) dated 11/5/2020 asking the petitioner to remove all machinery, equipment and material kept on the area comprising 4 hectare bearing survey no. 225/1 at village Dabara Dinara, District Shivpuri in regard to which the last tenure of lease in favour of petitioner expired on 5/5/2020. Pertinently petitioner's application seeking renewal of mining lease is pending since long.

4. It is not disputed that grant/renewal of mining lease under 1996 Rules cannot be sought as of right. It is a privilege extended by the Govt, which regulated by the Statue governing the field. The Apex Court in case of *Monnet Ispat and Energy Limited Vs. Union of India and Others*, (2012) 11 SCC 1, has held :-

“No fundamental right in mining

133. The appellants have applied for mining leases in a land belonging to the Government of Jharkhand (erstwhile Bihar) and it is for iron ore which is a mineral included in Schedule I to the 1957 Act in respect of which no mining lease can be granted without the prior approval of the Central Government. It goes without saying that no person can claim any right in any land belonging to the Government or in any mines in any land belonging to the Government except under the 1957 Act and 1960 Rules. No person has any fundamental right to claim that he should be granted mining lease or prospecting licence or permitted reconnaissance operation in any land belonging to the Government. It is apt to quote the following statement of O. Chinnappa Reddy, J. in State

of T.N. v. Hind Stone, (1981) 2 SCC 205, albeit in the context of minor mineral,

“6 ... The public interest which induced Parliament to make the declaration contained in Section 2... has naturally to be the paramount consideration in all matters concerning the regulation of mines and the development of minerals”.

He went on to say: (Hind Stone case, SCC p.217, para 10)

“10. ... The statute with which we are concerned, the Mines and Minerals (Development and Regulation) Act, is aimed ... at the conservation and the prudent and discriminating exploitation of minerals. Surely, in the case of a scarce mineral, to permit exploitation by the State or its agency and to prohibit exploitation by private agencies is the most effective method of conservation and prudent exploitation. If you want to conserve for the future, you must prohibit in the present.”

4.1 There is no provision in 1996 Rules which enables, in express or implied terms, working of a mine during pendency of application for renewal of mining lease. Thus this court is of the considered view that after 5/5/2020 the petitioner has no right to extract mineral over the area in question.

5. The larger bench as and when constituted would resolve the issue, but awaiting decision of the larger bench petitioner cannot seek any benefit in the attending facts and circumstances.

6. In view of above, this court does not see any reason to interfere in the matter and dismisses I.A. 3051/20 and this petition with liberty

to petitioner to seek early constitution of larger bench by moving the Principal seat of this court on the administrative side.

No cost.

(Sheel Nagu)
Judge

(Rajeev Kumar Shrivastava)
Judge

(Bu)