

State Of Goa And Ors vs A. H. Jaffar And Sons on 9 September, 1994

Equivalent citations: AIR 1995 SUPREME COURT 333, 1994 AIR SCW 4496, 1994 AIR SCW 4516, (1995) 2 MAHLR 318, (1995) 86 FJR 48, (1995) BANKJ 204, (1995) 2 MAHLR 239, (1994) 3 SCJ 527, (1994) 5 JT 647 (SC), (1994) 2 CURLR 753, 1996 (1) JT 1002, (1994) 2 LAB LN 1296, (1994) 2 BANKCAS 594, (1994) 69 FACLR 806, (1994) 2 BANKLJ 1, 1994 LABLR 1 833, (1994) 28 ATC 146, 1994 (5) SCC 572, (1994) 2 LABLJ 836

Bench: R M. Sahai, N.P. Singh

CASE NO.:

Appeal (civil) 6040 of 1994

PETITIONER:

STATE OF GOA AND ORS.

RESPONDENT:

A. H. JAFFAR AND SONS

DATE OF JUDGMENT: 09/09/1994

BENCH:

R M. SAHAI & N.P. SINGH

JUDGMENT:

JUDGMENT 1994 SUPPL. (3) SCR 259 The following Order of the Court was delivered:

Leave granted.

This appeal filed by the State of Goa and others, is directed against the judgment and order of the Bombay High Court, (Goa Bench). The respondents made an application for a lease for mining mineral boxite in Mopa, Chandal, Warkhan, Kasarwame Villagers of Pernem Taluk in Goa. As this application was not disposed of by the State Government within 12 months as stipulated in Rule 11 of the Mineral Concession Rules, 1960 the application was deemed to have been rejected. Against this order of deemed rejection the respondents filed a revision under Section 30 of the Mines and Minerals Regulation and Development Act, 1957 (hereinafter referred to as 'the Act') to the Central Government in which a direction was issued to the State Government to dispose of the respondents' application on merits. In pursuance of the direction issued by the Central Government the State Government decided the application of the respondent and rejected it on 18th August 1987. This order was set aside by the

High Court and the State Government was directed to decide the application, afresh, after hearing the respondents and deciding the applicability of the amend-ment to the Act which had come into force with effect from 10th February 1987. The application was heard this time by the Commissioner and Secretary for industries to the Government of Goa who being a delegate of State Government by virtue of notification issued under Section 26 of the Act was empowered to decide the application. The application was rejected in exercise of power under sub-section (3) of Section 10 the Act. Against this order the respondents approached the State Government. The order was set aside by the Minister for Mines and direction was issued to grant the lease. What happened thereafter is not necessary to be narrated. But the order of the Minister was set aside by the Government. Validity of this order was challenged in the High Court under Article 226 of the Constitution of India. Various issues were raised. They were decided in favour of the respondents. The order of the Government dated 14.1.1993 was quashed and that of the Minister dated 31.10.1991 was restored. It is the correctness of this order that has been challenged by the State.

The appeal has been argued at length. Shri Siraj Sait has attempted to support the judgment with industry and precision. But it does not appear necessary to decide whether the finding recorded by the High Court that the order of Commissioner being administrative in nature it could be reviewed by the State Government nor it is necessary to decide whether the Minister could exercise any power where the grant of lease is regulated by the Statute as in our opinion the remedy of revision having been provided by Section 30 of the Act, the proper course for the respondent was to approach the Central Government and not the High Court. Learned counsel for the respondent expressed apprehension that the period for limitation provided in rule 54 of the Minerals Concession Rules, 1960 having expired, the revision might not be entertained. The proviso to the rule, however, empowers the revising authority to condone delay if it is satisfied that the revision could not be presented for sufficient cause within time. Since the respondent was pursuing its remedy in High Court bona fide, it would be sufficient cause to condone the delay and we trust that the revision if preferred within four weeks from today shall not be dismissed as being barred by time.

In the result, this appeal succeeds and is allowed. The order of the High Court is set aside subject to the observations made above that the respondent shall be entitled to approach the revising authority, namely, the Central Government within four weeks from today which shall decide the same in accordance with law.

Parties shall bear their own costs.