

CASE NO.:
Appeal (civil) 2536 of 2001

PETITIONER:
Government of Goa

RESPONDENT:
A.H. Jaffar and Sons and Anr.

DATE OF JUDGMENT: 26/03/2008

BENCH:
DR. ARIJIT PASAYAT & P. SATHASIVAM

JUDGMENT:
JUDGMENT

Dr. ARIJIT PASAYAT, J.

1. Challenge in this appeal is to the judgment of a Division Bench of the Bombay High Court at Goa in Writ Petition no.41/93 filed by the respondents. The writ petition no.41/93 was filed seeking quashing of the orders dated 3rd January, 1991 passed by the Directorate of Mines and Labour and dated 22nd March, 1999 passed by the Secretary, Mines, Government of Goa. Further prayer was for direction for grant of respondent's application for mining lease over an area of 34.68 hectares situated at two different villages in Ponda Taluka after executing the necessary lease deeds in favour of the respondents.

2. After referring to the chequered history of the litigation the High Court ultimately directed as follows:

\02318. Considering the fact that the matter is pending over 16 years, as the Respondents were without addressing themselves to the main issue involved in the matter, virtually compelling the Petitioner to approach the Court every now and then to make the Respondents realize about the main issue involved in the matter, and considering all the observations made hereinabove, we are compelled to direct the Respondents to dispose of the application of the Petitioner on merits within the period of six weeks from today. The Respondents should be careful in disposing the matter bearing in mind the observations made therein and should pass a reasoned Order addressing themselves to the main issue involved in the matter after considering all the materials placed on record. In the facts and circumstances of the case, we are constrained to impose exemplary costs of Rs.10,000/- to be paid by the Respondents to the Petitioner. The costs to be paid within six weeks from today. The Respondents shall furnish to the Additional Registrar of this Court a copy of the Order to be passed in accordance with the directions issued herein within two weeks from the date of passing such Order. Rule made

absolute in above terms.\024

3. Though various points were urged in support of the appeal, Mr. H.L. Aggarwal, learned senior counsel, submitted that a dispute of similar nature involving the parties was before this Court and issues involved were identical in State of Goa and Ors. v. M/s. A.H. Jaffar and Sons (AIR 1995 SC 333). It was, inter alia, held as under:

\0233. The appeal has been argued at length. Sri 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 Sec.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 Concessions 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 the revision if preferred within four weeks from today shall not be dismissed as being barred by time.\024

4. Therefore, it is submitted that when the matter had attained finality between the parties, and the High Court could not have given the impugned directions.

5. Learned counsel for the respondents on the other hand submitted that much prior to the hearing of the matter by this Court, order dated 30th June, 2000 was served on the respondents on 3rd July, 2000, and they had moved the Revisional Tribunal of the Central Government in terms of Section 30 of the Mines and Minerals (Development and Regulation) Act, 1957 (in short the \021Act\022) read with Rule 54 of the Mineral Concession Rules, 1960 (in short the \021Rules\022). The Revisional Tribunal of the Central Government by its final order dated 13.5.2002 has already decided the matter in favour of the respondents.

6. It is to be noted that notice was issued in the SLP on 18.8.2000 and stay was granted. Subsequently, leave was granted on 30.3.2001 and the stay was directed to continue. Much before that date the respondents were represented by counsel before this Court. It is surprising that notwithstanding stay order passed by this Court, the respondents pursued their remedies before the Revisional Tribunal. That certainly was not proper and desirable. To add to the vulnerability it needs to be noted that the writ petition though filed in 1993 was disposed of on 1st March, 2000, and

by that time the decision of this Court in the earlier case between the same parties had been decided in a particular way. Unfortunately, the High Court did not notice that also. It needs no reiteration that once the decision is rendered intra parties and attains finality, a different view cannot be taken, more so, when finality is attached by this Court's order.

7. In the circumstances, we set aside the impugned order of the High Court and directions contained in paragraph 3 of the earlier decision shall operate so far as this case is concerned. If any decision has been taken by the State Government or the Central Government in the present dispute, the same shall be of no consequence because of the stay order of this Court, while issuing notice on 18.8.2000 and order granting leave on 30th March, 2001.

8. The appeal is allowed to the aforesaid extent with no order as to costs.