

THE HON'BLE SRI JUSTICE A.V.SESHA SAI

W.P.No.19632 of 2015

ORDER:

The challenge in the present writ petition is to the action of the first respondent/Union of India, in entertaining the revision vide application No.61/01/2015/RC-II, filed by the fifth respondent against G.O.Ms.No.31, Industries and Commerce (Mines-I) Department, dated 04.02.2008.

2. By virtue of the said order, the State Government permitted transfer of mining lease held by M/s. Sri Anjaneya Minerals for Quartz and Felsfer in an extent of 4.945 Hectares in Sy.Nos.226, 227, 255, 256 and 257 of Remaddula Village, Pangal Mandal, Mahaboobnagar District in favour of M/s. Sri Ganesh Mines and Minerals.

3. Heard Sri M.Damodar Reddy, learned counsel for the petitioner, Sri B.Narayana Reddy, learned Assistant Solicitor General, appearing for the first respondent Union of India, learned Government Pleader for Mines and Geology for the respondents 2 to 4 and Sri Hari Sreedhar, learned counsel for the fifth respondent apart from perusing the material available before the Court.

4. Initially vide G.O.Ms.No.228, Industries and Commerce (Mines-I) Department, dated 09.08.2005, the State Government granted mining lease for Quartz and Felsfer in favour of M/s. Sri Anjaneya Minerals for a period of 20 years in respect of the above extent of land and the said lease is valid till 12.12.2025. Subsequently, the State Government vide G.O.Ms.No.31, Industries and Commerce (Mines-I) Department, dated 04.02.2008, permitted transfer of mining lease in favour of M/s. Sri Ganesh Mines and Minerals for unexpired portion of lease i.e., up to 12.12.2015. Subsequently, pursuant to a representation submitted by the fifth respondent, the State Government vide Memo No.3879/M.1 (1)/2009 dated 28.08.2009 kept the orders issued in G.O.Ms.No.228, Industries

and Commerce (Mines-I) Department, dated 09.08.2005 in abeyance till further orders. Against the said order, the petitioner herein filed W.P.No.18906/2009 before this Court and by way of an order dated 16.07.2014, this Court allowed the said writ petition setting aside the impugned No.3879/M.1 (1)/2009 dated 28.08.2009. Against the said order, the fifth respondent filed W.A.1205/2014 which is now pending before this Court.

5. Thereafter, on 21.01.2015, the fifth respondent preferred revision before the Union of India/the first respondent herein under Rule 54 of the Mineral Concession Rules, 1960, against the order of the State Government issued in G.O.Ms.No.31, Industries and Commerce (Mines-I) Department, dated 04.02.2008 wherein the State Government permitted transfer of mining lease in favour of M/s. Sri Ganesh Mines and Minerals. The Union of India, by virtue of an order dated 12.05.2015, in revision application No.61/01/2015/RC-II, condoned the delay and rejected the stay application filed by the fifth respondent herein. Subsequently, the Director of Mines and Geology/third respondent herein intimated the date of hearing of the said revision as 04.07.2015.

6. In the above background, the present writ petition came to be filed before this Court. Reiterating the contents of the affidavit filed in support of the writ petition, the learned counsel for the petitioner raised two contentions principally, they are (1) without filing any application as required under proviso to Rule 54 of Mineral Concession Rules, 1960 for condonation of delay of 6 ½ years, the fifth respondent filed revision and the 1st respondent condoned the delay, fixing the hearing date as 04.07.2015; and (2) since the same subject matter is pending consideration before this Court in W.A.1205/2014, the Union of India lacks jurisdiction to entertain the revision filed by the fifth respondent herein.

7. On the contrary, it is emphatically contended by the learned Government Pleader, appearing for the fifth respondent that there is no

illegality nor there is any procedural infirmity in the questioned action on the part of Union of India and in the absence of the same, the present writ petition is not maintainable and the petitioner is not entitled for any relief from this Court under Article 226 of the Constitution of India. It is the further submission of the learned counsel that there is no reality in the averment in the writ affidavit that the petitioner did not file any delay application along with the revision. It is submitted that in fact in the delay application the petitioner herein also filed counter and only after recording the satisfaction, the revisional authority condoned the delay. It is further argued that the subject matter in the W.A.1205/2014 is different from the subject matter in revision pending before the Union of India and as such the pendency of W.A.1205/2014 is not an impediment for the first respondent/Union of India to proceed with the revision.

8. In the light of the above material produced before this Court, now the issues that boil down for consideration of this Court are as under:

1. Whether the action of the Union of India/the first respondent herein in condoning the delay in filing the revision is in accordance with law? and
2. Whether the first respondent/Union of India is justified in proceeding with the hearing of revision pending W.A.No.1205/2014 before this Court?

9. A through perusal of the material available before this Court, manifestly reveals that alleging certain irregularities in permitting transfer of mining lease in favour of M/s.Sri Ganesh Mines and Minerals by virtue of G.O.Ms.No.31, Industries and Commerce (Mines-I) Department, dated 04.02.2008, the fifth respondent herein submitted a representation and responding to the same, the State Government issued a memo bearing No.3879/M.1 (1)/2009, dated 28.08.2009, keeping the orders of transfer of mining lease in abeyance. Assailing the validity and the legal sustainability of the said orders, the petitioner herein filed W.P.18906/2009, and this Court, by way of an order dated 16.07.2014 allowed the said writ petition, declaring the said memo as invalid and set

aside the same. There is absolutely no dispute with regard to the fact that challenging the transfer order dated 04.02.2008, the fifth respondent filed a revision before the fifth respondent.

10. A perusal of the information available before this Court manifestly discloses that along with the revision, the fifth respondent filed application praying for condonation of delay, and resisting the said application, the petitioner herein filed a counter affidavit on 18.02.2015, and after considering the material available, the Union of India condoned the delay, by way of an order dated 12.05.2015, and thereafter, the Director of Mines and Geology vide letter dated 24.06.2015, informed the date of hearing of revision as 04.07.2015. Therefore, the contention of the petitioner herein that without there being any petition, the Union of India condoned the delay is factually incorrect and far from reality, as such, this Court does not find any infirmity in the action of the Union of India in condoning the delay exercising its discretion vested in it under proviso to Rule 54 of the Mineral Concession Rules, 1960. In fact, in the reply filed by the petitioner herein, it is stated that by inadvertence it was initially stated that no condone delay application was filed, but later, the petitioner came to know that in response to the condone delay petition, the petitioner herein also filed counter. Therefore, issue No.1 is answered in positive and against the petitioner herein.

11. Coming to issue No.2 - it is noteworthy that earlier the petitioner herein filed WP.18906/2009 before this Court against the Memo No.3879/M.1 (1)/2009, dated 28.08.2009, keeping the orders, transferring the mining lease in favour of the petitioner herein in abeyance, and this Court, by way of an order dated 16.07.2014, held the memo invalid on the ground of violation of principles of natural justice and the operative portion of the said order reads as under:

“On the basis of facts presented in writing and oral submissions made on behalf of the revisionists, State Government and the Impleaded party, it emerges that in the wake of High Court’s decision of 16.07.2014, the memo of the State Government of 28.08.2009 has been declared as invalid

and set aside. The immediate legal fall out of the decision is that State Government's impugned order of 04.01.2008 comes into operation.

Hon'ble Division Bench has not passed any interim direction staying the operation of the impugned order.

In view of ongoing legal process, there is no case to interfere in the matter at this stage. The stay at this juncture would tantamount to contempt of court as according to the State Government. Permits are being issued in implementation of the court order whereby Memo No.3879/M.I (1)/2009 dated 28.8.2008 has been declared invalid and set aside. This forum agrees with the views of the State Government. Prayer of the revisionist to grant stay is rejected herewith."

12. There is absolutely no controversy with regard to the reality that as against the above said order, the fifth respondent herein filed W.A.No.1205/2014 and the same is pending now before this Court. The order impugned in W.P.No.18906/2009 was the order, keeping the order of transfer of mining lease in abeyance, but not the orders passed by the State Government in G.O.Ms.No.31, Industries and Commerce (Mines-I) Department, dated 04.02.2008. Therefore, in the considered opinion of this Court, there is no merit in the contention of the learned counsel for the petitioner that the subject matter in W.A.1205/2014 and the subject matter of the revision are one and the same, as such, the first respondent cannot proceed with the hearing of the revision, cannot be sustained by any stretch of imagination. Therefore, the issue No.2 is also answered in positive and against the petitioner herein.

15. In view of the reasons stated supra, this Court has absolutely no scintilla of hesitation nor any traces of doubt to hold that the petitioner herein has failed in making out a case, warranting interference of this Court by way of judicial review under Article 226 of the Constitution of India.

16. For the aforesaid reasons, writ petition is accordingly dismissed. As a sequel, pending miscellaneous petitions, if any, shall stand closed. No costs.

Date:25.08.2015
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A.V.SESHA SAI, J

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THE HON'BLE SRI JUSTICE A.V.SESHA SAI

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W.P.No.19632 of 2015

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Dated 25th August, 2015

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**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD FOR THE
STATE OF TELANGANA AND THE STATE OF ANDHRA
PRADESH THE HON'BLE SRI JUSTICE A.V.SESHA SAI**

W.P.No.19632 of 2015

Between:

M/s. Sri Ganesh Mines & Minerals,
Represented by its proprietor B.Janga Reddy,
S/o. Late B.Yadi Reddy, aged about 44 years,
Occ: Business, R/o. 9-5-61, Rajireddy Nagar,
Champapet, Hyderabad.

... Petitioner

And

The Union of India,
Ministry of Mines, Shastri Bhavan,
New Delhi and four others.

....Respondents

JUDGMENT PRONOUNCED ON: 25th August, 2015

THE HONOURABLE SRI JUSTICE A.V.SESHA SAI

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| 1. Whether Reporters of Local Newspapers
May be allowed to see the Judgment? | Yes/No |
| 2. Whether the copies of judgment may be
Marked to Law Reporters/Journals? | Yes/No |
| 3. Whether Their Lordship wish to see the
Fair copy of the judgment? | Yes/No |