

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

WRIT PETITION No.30450 of 2013

ORDER:

This writ petition is filed under Article 226 of the Constitution of India seeking the following relief:

“to issue writ of Mandamus to declaring the action of the 2nd respondent in granting quarry lease in favor of the 5th respondent, over an extent of one hectare in Survey No.233, 235, 236 and 237 of Kondaiahpalem Village, Ballipuruva Mandal, Prakasham District vide proceedings No.10186/R3-1/2011 dated 25.9.2013 as illegal, arbitrary against the rules of Mines and Geology and unconstitutional and consequently set aside the impugned Proceedings, vide.No. No.10186/R3-1/2011 dated 25.9.2013 of the 2nd respondent.”

Heard Sri Challa Srinivasa Reddy, learned counsel for the petitioner, learned Government Pleader for Mines and Geology for respondents 1 to 3, learned Government Pleader for Revenue for respondent No.4 and Sri J.N. Bhushan for respondent No.5, apart from perusing the material available before this Court.

When the matter is called today a preliminary objection with regard to the maintainability of the writ petition is taken by the learned Government Pleaders stating that as against the orders passed by the Director of Mines and Geology, Hyderabad statutory appeal lies under the provisions of Rule 35 of the A.P. Miner Mineral Concession Rules, 1966 and in view of the same, the present writ petition is not maintainable.

Though a number of contents have been advanced by the learned counsel for the petitioner as well as learned counsel for respondent No.5, in view of the alternative remedy of appeal to the

State Government under the provisions of Rule 35 of the A.P. Miner Mineral Concession Rules, 1966 this Court is inclined to relegate the petitioner to alternative and effective remedy of appeal available under the said provisions of law.

For the aforesaid reasons and having regard to the nature of controversy, the writ petition is disposed of, permitting the petitioner herein to file statutory appeal under the provisions of Rule 35 of the A.P. Miner Mineral Concession Rules, 1966 within a period of one week from the date of receipt of a copy of this order. If any such appeal is filed within the time stipulated the same be considered by the 1st respondent herein and appropriate orders be passed, in accordance with law, within a period of three (3) weeks from the date of filing of the said appeal after giving notice and opportunity of being heard to all the stakeholders. Till then, interim order granted earlier by this Court shall continue. It is also made clear that this order will not enure to the benefit of the petitioner if no appeal is filed as directed supra within the time stipulated above.

Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. There shall be no order as to costs.

A.V. SESA SAI, J

August 17, 2015

Pn

-

-

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

-

-

-

-
-
-
-
-
-
-
-
-
-
-
-
-
-
-
-
-
-
-
-
-

-

WRIT PETITION No.30450 of 2013

-

August 17, 2015

Pn