

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

WRIT PETITION No.26536 of 2015

ORDER:

This writ petition, filed under Article 226 of the Constitution of India, challenges the action of the 2nd respondent – Asst. Director of Mines and Geology, Kurnool District in not issuing transit permits to the petitioner's leased area admeasuring 20.236 Hectares in Sy.No.29/A1 of Pudicherla Village, Orvakal mandal, Kurnool District as illegal, without jurisdiction, contrary to the provisions of Mines and Mineral (Development and Regulation) Act and Rules framed thereunder besides being violative of Articles 14 and 19(1)(g) of Constitution of India.

Heard Sri V. Surya Kiran Kumar, learned counsel for the petitioner and learned Government Pleader for Mines and Geology for respondents, apart from perusing the material available before this Court.

The State Government vide G.O.Ms.No.3 Industries and Commerce (M.I) Department, dated 29-01-2009 granted mining lease in favour of the petitioner for Silica Sand for a period of twenty (20) years and the said lease is valid till 28-01-2029. Thereafter the Asst. Director of Mines and Geology – 2nd respondent herein issued work order vide proceedings No.5703/M4/2004, dated 29-01-2009, permitting the petitioner herein to carry on the mining operations for a period of twenty years commencing from 29-01-2009 to 28-01-2029. The petitioner herein also executed the mining lease in Form-K.

The grievance precisely in the present writ petition is despite subsistence of the lease the Asst. Director of Mines and Geology – 2nd respondent herein is not issuing the transit permissions to the petitioner herein. It is also the case of the petitioner herein that the Asst. Director of Mines and Geology issued transit permits till recently.

On instructions, it is submitted by the learned Government Pleader for Mines and Geology that there is a proposal pending with the Government for alienation of the land in favour of A.P.I.I.C. for establishment of Industrial Hub and there is also a proposal to terminate all the leases in the area.

In the above background, the present writ petition has been filed seeking a direction to the 2nd respondent – Asst. Director of Mines and Geology to issue transit permits in favour of the petitioner herein.

It is submitted by the learned counsel for the petitioner that as per the provisions of Rule 20 of the A.P. Minor Mineral Concession Rules, 1966 (for short, 'the Rules'), the petitioner herein is entitled to carry on the operations so long as the lease subsists. It is also submitted by the learned counsel for the petitioner that the impugned action on the part of the 2nd respondent – Asst. Director of Mines and Geology is highly illegal, arbitrary and violative of Articles 14 and 19(1)(g) of the Constitution of India.

On the contrary, it is submitted by the learned Government

Pleader for Mines and Geology that there is no illegality nor there is any infirmity in the impugned action and in view of the proposal for alienation in favour of A.P.I.I.C. and the proposal for cancellation of the leases the Asst. Director of Mines and Geology is perfectly justified in refusing to issue transit permits in favour of the petitioner herein.

The information available before this Court manifestly discloses that the State Government by virtue of G.O.Ms.No.3, Industries and Commerce (Mines.I) Department, dated 29-01-2009 granted lease in favour of the petitioner herein and the petitioner herein also entered into a lease deed with the authorities and the Asst. Director of Mines and Geology – 2nd respondent herein also issued work order vide proceedings No.5703/M4/2004, dated 29-01-2009. There is absolutely no controversy with regard to the reality that the said lease granted in favour of the petitioner herein is still valid. In this connection it may be appropriate to refer to the provisions of Rule 20 of the Rules, which reads as under:

“20. Rights under a Lease:– Subject to a contract to the contrary, a quarry lease granted under the rules shall confer on the lessee, the right to quarry, carry away, sell or dispose of the minor mineral or minerals specified in the lease deed and found upon under the lands specified therein.”

It is very much evident from the reading of the above provision of law that the quarry lease granted under the rules confers on the lessee, the right to quarry and dispose of the minerals specified in the lease deed.

There is absolutely no dispute with regard to the fact that as on the today the mining lease granted in favour of the petitioner is in force. This Court finds no justification on the part of the

respondent authorities in refusing to issue the transit permits merely on the ground that certain proposals are pending for sale of the subject lands in favour of A.P.I.I.C. The said justification sought to be offered by the respondent herein is directly in contravention of the mandatory provisions of Rule 20 of the Rules.

For the aforesaid reasons, the writ petition is disposed of, directing the respondent authorities to issue transit permits to the petitioner herein for quarrying the mineral and for transportation of the mineral. It is also made clear that this order will not come in the way of respondents herein from proceeding, in accordance with law, with the proposals as brought to the notice of this Court by the learned Government Pleader for Mines and Geology.

Miscellaneous Petitions pending, if any, shall stand closed.
There shall be no order as to costs.

A.V. SETHA SAI, J

September 07, 2015

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

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