

THE HON'BLE SRI JUSTICE SANJAY KUMAR

WRIT PETITION No.22968 of 2015

ORDER:

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The grievance of the petitioner was that the Assistant Director of Mines and Geology, Eluru, West Godavari District, was not permitting mining operations and issuing permits though he had a valid mining lease for ball clay, granted by transfer vide G.O.Ms.No.440 dated 20.05.2001, in relation to an extent of Ac.11.30 cents in Sy.No.11 of Dwaraka Tirumala Village and Mandal, West Godavari District.

The Assistant Director of Mines and Geology, Eluru, furnished written instructions dated 28.07.2015 to the office of the learned Government Pleader for Mines and Geology, wherein he admitted that the mining lease, which is valid up to 23.03.2016, was transferred in the name of the petitioner vide G.O.Ms.No.440 dated 20.08.2001. Work orders were stated to have been issued to the petitioner by the office of the Assistant Director of Mines and Geology, Eluru, on 19.11.2001 for the unexpired period of the lease. Reference was made to the fact that the State Convenor of Viswa Hindu Parishad and the Executive Officer of the Endowments Department filed a complaint before the Lokayukta vide Case No.1016 of 2005. The District Collector, West Godavari District, was stated to have issued letter dated 06.01.2008 requesting the Principal Secretary to the Government, Industries and Commerce Department, Government of A.P., to get consent from the Central Government under Section 4A(1) of the Mines and Minerals (Development and Regulation) Act, 1957 (for short, 'the Act of 1957'), for premature termination of the petitioner's mining lease. Proposals in this regard were stated to have been submitted to the Government on 16.04.2008 and were pending consideration. It is on the afore-stated grounds that the Assistant Director of Mines and Geology, Eluru, sought to justify the withholding of dispatch permits to the petitioner. According to him, it would not be possible to issue such permits or allow mining operations till action was completed at the Government level.

Smt. P. Vijaya Lakshmi, learned counsel for the petitioner, pointed out that W.P.No.17466 of 2008 filed by the Viswa Hindu Parishad, seeking a direction to the mining authorities to prevent mining operations by the petitioner and others, was dismissed for default by a Division Bench of this Court on 23.07.2014.

The afore-stated facts demonstrate that the petitioner's valid and subsisting mining lease is effectively stayed though there is no legal framework under which it could have been done, merely because a proposal was submitted under Section 4A(1) of the Act of 1957 as long back as in the year 2008. The learned Assistant Government Pleader concedes that there is no provision in the Act of 1957 or the rules framed thereunder which authorise the mining authorities to stop the mining operations and withhold dispatch permits in relation to a valid and subsisting mining lease only on the ground that a proposal for premature termination thereof is pending consideration. As long as such a lease continues to remain in force, the leaseholder cannot be restrained from carrying on lawful operations thereunder. Arbitrariness on the part of the mining authorities is writ large in the present case as it is admitted that this proposal was made as long back as in the year 2008. No action seems to have been taken to pursue the same but the petitioner is effectively denied the benefits of the valid mining lease granted to him.

On the afore-stated analysis, the writ petition is allowed declaring the action of the mining authorities in not permitting the mining operations of the petitioner despite his valid and subsisting mining lease as wholly illegal and unsustainable. There shall be a consequential direction to the respondents to permit the petitioner to continue the mining operations for the unexpired period of the lease in accordance with law and to issue him dispatch permits as per procedure.

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

JUSTICE SANJAY KUMAR

7th November, 2015

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