

THE HON'BLE SRI JUSTICE SANJAY KUMAR

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WRIT PETITION No.38098 of 2015

ORDER:

Despite the matter being adjourned five times to enable the mining authorities to file a counter-affidavit, no counter-affidavit has been filed till date.

Sri Virupaksha Dattatreya Gouda, learned counsel for the petitioner, states that the matter is squarely covered by the decision of this Court in W.P.No.26536 of 2015.

Perusal of the order dated 07.09.2015 passed in W.P.No.26536 of 2015 reflects that the grievance of the petitioner therein was identical to the petitioner's grievance herein. In the said writ petition, the stand of the State was that a proposal was pending with the Government for alienation of the land covered by the mining leases in the very same area for establishment of an Industrial Hub and there was consequently a proposal to terminate all the mining leases in the area. This Court took note of the fact that under Rule 20 of the Andhra Pradesh Minor Mineral Concession Rules, 1966, an existing leaseholder had a right to quarry, carry away, sell and dispose of the minor mineral specified in the said lease. Therefore, as long as the lease subsists and is in operation, this Court opined that the leaseholder could not be prevented from giving effect to his rights thereunder by denying him dispatch permits. It was on this basis that the earlier writ petition was disposed of directing the mining authorities to issue transit permits to the petitioner therein for quarrying the mineral and transporting it. This Court also made it clear that the order would not come in the way of the authorities from proceeding in accordance with law with its pending proposals.

In the present case, the written instructions furnished by the Assistant Director of Mines and Geology, Kurnool, state to the effect that the petitioner was granted dispatch permits earlier. However, according to the Assistant Director, the bank guarantee furnished by the petitioner had expired and he failed to produce an explosives licence and a

Consent Order for Operation from the Pollution Control Board.

The aforestated instructions seem to be self-serving as the Assistant Director, on the one hand, conceded that the petitioner was issued dispatch permits earlier, while on the other hand, he stated that the petitioner did not have the requisite permissions for operation. Even if that be so, it is for the mining authorities to take appropriate action in the matter for cancellation of the mining lease in accordance with the rules. Having failed to do so, it is not open to them to withhold the dispatch permits.

On the aforestated grounds, this Court finds no reason to disagree with the earlier decision in W.P.No.26536 of 2015.

The writ petition is accordingly disposed of in terms thereof directing the respondent authorities to issue transit permits to the petitioner herein for quarrying and transporting the mineral covered by the subsisting lease. This order shall however not preclude the authorities from taking appropriate action as deemed fit in the matter in accordance with law.

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

SANJAY KUMAR, J

Date:31.12.2015

GJ