

THE HON'BLE SRI JUSTICE SANJAY KUMAR

WRIT PETITION NO.9438 OF 2012

DATED 16th JULY, 2015

Between:

JSN Raju

.. Petitioner

and

Government of Andhra Pradesh,
Represented by its Principal Secretary
(Industries and Commerce) (Mines-II)
Department, Hyderabad, and others.

.. Respondents

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ORDER

The challenge in this writ petition is to the order embodied in Memo No.3509/M.II(1)/2005-7 dated 23.03.2010 passed by the revisionary authority, the Government of Andhra Pradesh, and the Memo No.9279/M.II(1)/2010-3 dated 01.03.2012, whereby the Government rejected the representation of the petitioner to permit him two years time or till the stones were crushed by him in the leased land.

Perusal of the impugned revisionary order dated 23.03.2010 reflects that the revisionary authority merely extracted the grounds raised in the revision application and rejected the petitioner's case stating as follows:

'9. In order to dispose of the revision application a final hearing was conducted on 20-10-2009 and reviewed the case duly giving an opportunity for personal hearing. The Revision Authority after taking the material made available and the grounds of the petitioner into consideration in general and the position stated at foregoing paras at 3 and 4 in specific, hereby reject the request of the petitioner. However, the petitioner is at liberty to file application before the Department for removal of material stocked, if any, as per rules and merits. Accordingly, the revision application is disposed off as per Rule 35-A of APMMC Rules, 1966.'

The order is therefore bereft of reasons as to why the revision of the petitioner was not considered and as to why it warranted rejection. Further, the first paragraph of the revisionary order indicated that the revision was filed by the petitioner only against the letter dated 17.01.2005 of the Assistant Director of Mines and Geology and not

against the proceedings dated 17.02.2004 of the Deputy Director of Mines and Geology, Hyderabad. The learned Assistant Government Pleader for Mines and Geology was therefore asked to produce the record to verify this aspect.

Today, the record is placed before the Court and perusal thereof reflects that the revision was preferred by the petitioner not only against the subsequent letter dated 17.01.2005 but also against the initial proceedings dated 17.02.2004 of the Deputy Director of Mines and Geology, Hyderabad. Lack of application of mind by the revisionary authority is therefore clearly manifest as the very first paragraph of the order records an incorrect fundamental fact.

That apart, a quasi-judicial authority exercising statutory revisionary powers is required to deal with the matter in accordance with the principles of natural justice. Bald and cryptic orders, as in the present case, do not conform to such requirement as disclosure of the reasons underlying the decision has been held to be an intrinsic part of the principles of natural justice. On this short ground, the impugned Memo dated 23.03.2010 is liable to be set aside. As the subsequent Memo dated 01.03.2012 was only consequential upon the rejection of the petitioner's revision, the same is kept in abeyance. It is for the revisionary authority to apply its mind to the petitioner's revision and dispose of the same in accordance with law. In that process, it shall be open to the revisionary authority to either confirm, modify or set aside the subsequent decision reflected in the Memo dated 01.03.2012.

It is made clear that this Court has not ventured into the merits of the matter and all the issues are left open to be considered on their own strength by the revisionary authority.

Learned Assistant Government Pleader for Mines and Geology would contend that even if the matter is remitted to the revisionary authority at this stage, no relief can be granted to the petitioner. According to him, as the lease has already expired, it would not be open to the State to grant extension to the petitioner, be it on any ground. He

further states that the petitioner suffered imposition of penalties under Rule 26 of the Andhra Pradesh Minor Mineral Concession Rules, 1966 and that he would therefore be debarred from getting a new quarry lease or renewal of the existing quarry lease for a period of ten years, under Rule 26(4) of the said rules. He also states that the location where the petitioner earlier enjoyed the quarry lease is now within proximate distance of a human habitation and he would therefore be barred from carrying on such operations at that location presently.

All these issues would necessarily have to be taken into consideration by the revisionary authority while dealing with the petitioner's revision. It is not for this Court to step into the shoes of the revisionary authority merely because such authority failed to discharge its statutory duty properly and in accordance with law.

The revisionary authority shall pass appropriate reasoned orders in the revision within three months from the date of receipt of a copy of this order.

The writ petition is allowed to the extent indicated above. Pending miscellaneous petitions shall also stand closed. No order as to costs.

SANJAY KUMAR, J

16th JULY, 2015
PGS