

THE HON'BLE SRI JUSTICE SANJAY KUMAR

WRIT PETITION Nos.27379 and 31385 of 2015

COMMON ORDER:

The petitioner in these two writ petitions is common and the issues are also interlinked. The two writ petitions are therefore amenable to disposal by way of a common order.

W.P.No.27379 of 2015 was filed assailing the proceedings dated 13.07.2015 passed by the Director of Mines and Geology, State of Andhra Pradesh, Hyderabad, promulgating prohibitory orders on all quarrying operations in Sy.Nos.324 and 513 of Boppudi Village, Chilakaluripeta Mandal, Guntur District, with immediate effect. The said orders were issued in exercise of powers conferred by Rule 11(2)(a) of the Andhra Pradesh Minor Mineral Concession Rules, 1966 (for short, 'the Rules of 1966').

By order dated 27.08.2015, this Court granted interim suspension of the impugned prohibitory orders to the extent of the petitioner alone. This Court also made it clear that this would not preclude the authorities from proceeding in accordance with the directions of this Court in W.P.Nos.22027 and 30220 of 2014, which were disposed of by common order dated 30.10.2014.

W.P.No.31385 of 2015 was filed assailing the action of the Assistant Director of Mines and Geology, Guntur, in not issuing mineral transit permits to the petitioner even though a valid mining lease was subsisting and in force authorizing him to undertake quarrying operations for road metal in Sy.No.324P of Boppudi Village, Chilakaluripeta Mandal, Guntur District.

It is not in dispute that the issue as to quarrying operations in the subject lands, including Sy.No.324/P of Boppudi Village concerning the petitioner herein, came up for consideration before this Court in W.P.Nos.22027 and 30220 of 2014. The said writ petitions were disposed of by common order dated 30.10.2014 with the following directions:

"1. Petitioner as well as the Assistant Commissioner of Endowments,

Guntur, shall be at liberty to make appropriate application before the Government of Andhra Pradesh through its Secretary, Mines and Geology Department and/or to the Director of Mines and Geology in terms of Rule 11 of the Rules, referred to above.

2. If such an application is made, the appropriate authority shall issue notices to the mining leaseholders giving them opportunity to respond.
3. The appropriate authority shall also call for report from any of the authorities concerned it deems necessary including calling for a report by directing joint inspection and survey of the lands where leases are granted as well as where the temple and habitation exists.
4. The appropriate authority shall give opportunity of hearing to petitioner as well as mining leaseholders and then take appropriate decision in the matter with regard to either continuation or otherwise of the mining leases including placing of appropriate restrictions on the mining leases, if the facts of the case so warrant.”

It is an admitted fact that the afore-stated directions of this Court have not been implemented till date. Though no time stipulation was made in the afore-stated order, Rule 21 of the Writ Proceedings Rules, 1977, requires implementation of the order passed by this Court within two months from the date of receipt of a copy of the order, if no specific time stipulations are made therein. Notwithstanding the same, the authorities have not chosen to complete the enquiry as directed by this Court. Having kept the matter pending, it appears that the Director of Mines and Geology resorted to exercise of powers under Rule 11(2)(a) of the Rules of 1966 prohibiting quarrying operations by the mining leaseholders, under the proceedings dated 13.07.2015 which were impugned in W.P.No.27379 of 2015.

Rule 11(2)(a) of the Rules of 1966 empowers the Director of Mines and Geology to prohibit quarrying operations for reasons to be recorded in consultation with the competent authority. However, perusal of the impugned proceedings dated 13.07.2015 reflects that no reasons worth the name were recorded by the Director of Mines and Geology warranting exercise of power under the said provision. On the one hand, the mining authorities failed to complete the enquiry as directed by this Court under the order dated 30.10.2014 passed in W.P.Nos.22027 and 30220 of 2014 and on the other, they resorted to exercise of power under Rule 11(2)(a) of the

Rules of 1966 without proper application of mind.

Though various issues have been raised by the authorities in their pleadings, including several factors which go beyond the scope of the enquiry as directed in W.P.Nos.22027 and 30220 of 2014, this Court is of the opinion that such matters need not be gone into in these writ petitions at this stage as it is for the authorities concerned to apply their mind and take necessary action in the matter, be it as directed in W.P.Nos.22027 and 30220 of 2014 or in the light of the new issues raised in the counter-affidavit filed by the authorities. Insofar as the enquiry contemplated under the order dated 30.10.2014 passed in W.P.Nos.22027 and 30220 of 2014 is concerned, it is stated that the Director of Mines and Geology, Andhra Pradesh, is seized of the enquiry. If that be so, the said enquiry shall be completed within four weeks from the date of receipt of a copy of this order without fail. In addition thereto, it shall be open to the mining authorities to undertake verification of all the other aspects as set out in the counter-affidavit independently.

The impugned proceedings dated 13.07.2015 are accordingly set aside. The petitioner shall be permitted to continue with his quarrying operations in accordance with his valid subsisting lease until the completion of the enquiry in the matter by the Director of Mines and Geology, Andhra Pradesh.

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

JUSTICE SANJAY KUMAR

2nd November, 2015

Note:-

Issue CC in two days.

B/o

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