

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

WRIT PETITION No.19119 of 2015

ORDER:

This writ petition is filed under Article 226 of the Constitution of India seeking the following relief:

“to issue an appropriate Writ or Direction more particularly a Direction in the nature of Writ of Mandamus declaring the action of the 5th Respondent in terminating the lease through resolution dated 15.05.2015 and not issuing the NOC as arbitrary, illegal and against the principles of natural justice and consequently direct the 5th Respondent to issue the requisite NOC for the balance period of valid permit. Though the Petitioner had paid all the dues due to the 5th Respondent till February 2015, it undertakes to pay any further amount that may be due to the 5th Respondent for quarrying the road metal on an extent of 5.67 acres of land in Sy.No.581/P of Perecherla Village, Medikondur Mandal, Guntur District. In consequence whereof the Hon'ble Court will be further pleased to direct the 4th Respondent to issue the requisite transit permits to enable the Petitioner to transport the road metal to the desired destinations and pass such further or other orders as the Hon'ble Court may deem fit and proper in the circumstances of the case and in the interest of justice.”

2. The facts and circumstances which are pertinent and relevant for the purpose of adjudication of the issue in the present petition are as under:

The Deputy Director of Mines and Geology, Guntur – 3rd respondent herein vide proceedings no. 1108/Q1/2000, dated 18.10.2002, granted quarry lease for Road Metal in favour of the petitioner herein in respect of an extent of acres 32.08 cents in S.No.581/P of Perechela Village, Medikondur Mandal of Guntur District, for a period of 15 years. Subsequently, on the request of the petitioner, the Deputy Director of Mines & Geology, Guntur – 3rd respondent herein, vide proceedings no. 998/Q/AD (GNT)/2000, dated 25.02.2005, issued amendment orders, reducing the area to 7.57 acres

as against the area originally granted over an extent of Acres 32.08 cents. Subsequently, vide proceedings No. 998/Q/2000, dated 02.04.2005, the Assistant Director of Mines & Geology, Guntur - 4th respondent herein granted permission in favour of the petitioner for quarrying operations in respect of the reduced extent for a period of 15 years, commencing from 02.04.2005 to 01.04.2020 subject to the condition that the petitioner should produce no objection certificate for a period of 5 years from the V.G.T.M., U.D.A., Guntur and for three years, from the Zilla Parishad, Guntur.

3. Accordingly, the petitioner had been paying the lease amount fixed by the Zilla Praja Parishad, Guntur – the 5th respondent herein at the rate of one lakh per acre and the 5th respondent had been issuing no objection certificate from time to time till 2013. Because of certain local problems, the petitioner herein made a representation to the 3rd respondent herein on 16.11.2012, requesting for reduction of the quarrying area to Acres 6.00 cents. Then, the 3rd respondent herein by way of proceedings No.1168/Q1/2000, dated 02.05.2013, reduced the area to an extent of Acres 5.67 cents. Thereafter, the 4th respondent herein, vide proceedings No. 1168/Q1/2000, dated 25.05.2013, permitted the petitioner herein to conduct quarrying operations for the unexpired period of the lease till 01.04.2020. In view of the reduction of the area from acres 7.57 cents to acres 5.67 cents, petitioner herein made a representation to the Chief Executive Officer, Zilla Parishad, Guntur - 5th respondent herein, on 30.05.2013, to reduce the lease amount on prorata basis and the petitioner also undertook to pay the revised lease amount and further requested to furnish necessary no objection certificate. Thereafter, the 5th respondent herein issued a demand notice on 06.08.2014, asking the petitioner herein to pay an amount of `30,28,000/- and the petitioner herein made another representation dated 21.08.2014 and enclosed a demand draft for an amount of `1,88,000/- towards its liability of lease payable to the 5th

respondent herein. Thereafter, the 5th respondent herein requested the 4th respondent herein for particulars of permits issued to the petitioner herein from 2009 to till date. Clarifying the situation and liability, on 08.09.2014, the petitioner herein submitted another representation to the 5th respondent herein and thereafter on 15.09.2014, after calculating the correct amount up-to-date, arrived at an amount of `21,73,500/-, the petitioner herein paid an amount of `11,73,500/- through demand draft No.002298, dated 18.09.2014, with an undertaking to pay the balance amount of `10.00 lakhs in one go. Subsequently, the petitioner herein paid `10.00 lakhs through demand draft No.002502, dated 22.01.2015. Subsequently, vide cheque No.002499, dated 12.02.2015, the petitioner herein paid an amount of `2,83,500/- and the same were received by the 5th respondent herein. Thereafter, the 4th respondent herein, vide letter No.9406/Q/2012, dated 06.04.2015, instructed the petitioner herein to clear all the dues to the 5th respondent herein and obtain no objection certificate within 10 days from the date of receipt of the letter. In response to the same, on 20.04.2015, the petitioner herein informed the 4th respondent herein that all the dues were cleared to the 5th respondent herein.

4. In the above background, the petitioner herein earlier filed Writ Petition No.15548 of 2015 and when it was taken up, the learned standing counsel for the Zilla Praja Parishad, Guntur - 5th respondent herein informed that in the General Body meeting of Zilla Praja Parishad, Guntur, held on 15.05.2015, it was decided not to renew lease for further period and with the permission of this court, the petitioner herein withdrew the said petition with a liberty to file fresh petition, challenging the decision of the 5th respondent herein. In the above background, the petitioner herein filed the present writ petition, assailing the resolution of the 5th respondent herein, dated 15.05.2015 and not issuing no objection certificate as illegal,

arbitrary and against the principles of natural justice.

5. Heard Sri Prasadrao Vemulapalli, learned counsel for the petitioner and learned Government Pleader for Mines and Geology, for the respondents 1 to 4 and Sri Ravi Chimalapati, learned Standing Counsel for the 5th respondent and perused the material available on record.

6. It is contended by the learned counsel for the petitioner that the impugned resolution passed by the 5th respondent – Zilla Parishad, is highly illegal, arbitrary, unreasonable, without jurisdiction and violative of Articles 14 and 19(1)(g) of the Constitution of India and the principles of natural justice. It is further contended that the 5th respondent – Zilla Parishad has no power to pass the questioned resolution, resolving not to extend the lease. It is also the submission of the learned counsel for the petitioner that the lease granted by the competent authority under the Andhra Pradesh Minor Mineral Concession Rules, 1966, is intact and valid and the 5th respondent-Zilla Parishad has no role to interfere with the said validly granted lease. It is also submitted by the learned counsel for the petitioner that the impugned resolution is completely bereft of any valid reasons recognized by law.

7. Per contra, it is strenuously contended by the learned Government Pleader for Mines and Geology and the learned standing counsel for the 5th respondent – Zilla Parishad that as there is no illegality nor there is any infirmity in the impugned action, the present writ petition is not maintainable under Article 226 of the Constitution of India.

8. In the above backdrop, now the issue that boils down for consideration of this court is:

“Whether the questioned resolution dated 15.05.2015 passed by the 5th respondent – Zilla Parishad is sustainable and tenable?”

9. The mineral which is the subject matter of the issue is Road Metal, which is governed by the Andhra Pradesh Minor Mineral Concession Rules, 1966, framed by the State Government in exercise of the powers conferred under Section 15 of the Mines and Minerals (Regulation and Development) Act, 1957. There is absolutely no dispute with regard to the fact that initially the Deputy Director of Mines and Geology, Guntur – 3rd respondent herein in the year 2002 granted quarry lease in favour of the petitioner over an extent of Acres 32.08 cents and subsequently as the petitioner failed to execute the lease within the stipulated period, the lease was revoked by the Deputy Director of Mines and Geology, Guntur, in the year 2003 and later, on appeal filed by the petitioner the said order was set aside and pursuant to the request made by the petitioner, the Deputy Director of Mines and Geology, Guntur, vide orders dated 25.02.2005 granted the quarry lease for a reduced extent of Acres 7.57 cents subject to clearance from the Zilla Parishad. Subsequently, vide proceedings dated 02.04.2005, the Assistant Director of Mines and Geology, Guntur, issued work order for the period, commencing from 02.04.2005 to 01.04.2020 with a condition that the petitioner should produce no objection certificate for five years from V.G.T.M., U.D.A., Guntur and for three years from the 5th respondent – Zilla Parishad.

10. According to the petitioner, the no objection certificate granted by the Urban Development Authority is valid till 2017, which is evident from the proceedings of the V.G.T.M. Urban Development Authority, dated 07.02.2014 and the same is not disputed by the other side. There is no dispute that no objection certificate was being issued by the 5th respondent – Zilla Parishad from time to time. On a representation submitted by the petitioner on 16.11.2012, the Deputy Director of Mines and Geology, Guntur, vide proceedings No.1168/Q1/2000, dated 02.05.2013, accepted the surrender of Acres 1.90 cents out of Acres 7.57 cents with effect from 16.05.2012 while

permitting retention of balance area of Acres 5.67 cents under Rule 16(1) of the A.P. Minor Mineral Concession Rules, 1966. Thereafter, the Assistant Director of Mines and Geology, Guntur, vide proceedings dated 25.05.2013, issued work order for the said reduced extent up to 01.04.2020. Later, on 30.05.2013, the petitioner herein submitted a representation to the Zilla Parishad - 5th respondent herein for no objection certificate while bringing to its notice the reduction of the area and to furnish the particulars for the revised area. Subsequently, vide proceedings Rc.No.10815/2002/H2, dated 06.08.2014, the Chief Executive Officer, Zilla Parishad, issued a notice, demanding the petitioner to pay a sum of `30,28,000/- within seven days for the period ending by 30.01.2014 while showing the extent as Acres 7.57 cents. Subsequently, the petitioner herein submitted a representation dated 21.08.2014 giving particulars of the amounts payable for the reduced extent as `28,35,000/- while enclosing a demand draft for `1,88,000/- and while requesting to issue no objection certificate for the period 2014 to 2017. Pursuant to the said representation, the Chief Executive Officer, Zilla Parishad, vide Rc.No.10815/2002/H2, dated 28.08.2014, asked the Assistant Director of Mines and Geology, Guntur, to furnish the particulars with regard to the permits issued in favour of the petitioner from the year 2009. The petitioner thereafter made a representation to the Chief Executive Officer, Zilla Parishad, on 15.09.2014, furnishing the particulars of calculations while indicating the due amount as `21,73,500/- while paying a sum of `11,73,500/- by way of demand draft dated 18.09.2014.

11. Subsequently, pursuant to the letter received from the Chief Executive Officer, Zilla Parishad, dated 25.03.2015, wherein the Chief Executive Officer, asked the Assistant Director of Mines and Geology, Guntur, not to issue despatch permits, the Assistant Director of Mines and Geology – 4th respondent herein asked the petitioner to clear the dues to the Zilla Parishad, Guntur and obtain no objection certificate from the Zilla Parishad. On 20.04.2015, the petitioner sought one

month time for production of no objection certificate. On 06.05.2015, while stating that all the dues were paid till March 2015, the petitioner made a representation to the Zilla Parishad, requesting to communicate to the Assistant Director of Mines and Geology, Guntur, for continuation of the operations while informing that the dues payable up to March 2015 were already paid.

12. Thereafter, the Zilla Parishad – 5th respondent herein took up the matter and the following issues were placed for consideration:

- (A) Renewal of lease subject to payment of earlier lease amount of rupees one lakh as required by the lease holder.
- (B) Consideration of the issue for renewal of lease by enhancing amount by 1/3rd as per the Government Orders.
- (C) In view of the expiry of the lease, the consideration for taking over the possession of the land.

13. On the above said issues, the 5th respondent - Zilla Parishad passed a resolution dated 15.05.2015, rejecting the proposals for renewal of lease on the ground of future necessity for development of Kailasagiri pilgrim place. A perusal of the impugned resolution clearly shows that the Zilla Parishad did not consider the issues before it and in the name of certain suggestions refused to consider the request of the petitioner. It is not in dispute that the lease granted by the competent authority i.e., Deputy Director of Mines and Geology, Guntur – 3rd respondent herein, under the provisions of the Andhra Pradesh Minor Mineral Concession Rules, 1966 is valid till 2020. According to the petitioner, he paid the entire lease amount in favour of the Zilla Parishad till March, 2015 and Zilla Parishad did not issue no objection certificate from April, 2013. In the name of future development which was never the issue in the meeting, the Zilla Parishad ought not to have rejected the request of the petitioner for grant of no objection certificate during the currency of the quarry lease. The impugned resolution passed by the Zilla Parishad speaks of rejection of renewal

of lease, which is not within the jurisdiction of the Zilla Parishad. In the instant case, the competent authority is Deputy Director of Mines and Geology, Guntur – 3rd respondent herein for grant of lease and the lease granted by the said competent authority under the provisions of the Andhra Pradesh Minor Mineral Concession Rules, 1966 is still valid and intact. Therefore, there is absolutely no justification on the part of the Zilla Parishad- 5th respondent herein to reject the request of the petitioner herein. The 5th respondent – Zilla Parishad is neither the granting authority nor the authority to renew the quarry lease. So long as the lease continues to subsist in favour of the petitioner, the Zilla Parishad – 5th respondent herein cannot reduce the period of lease. The legal position raised by the learned counsel for the petitioner is not disputed by the other side nor any counter is filed, opposing the writ petition.

14. In these circumstances, this court does not find any scintilla of hesitation nor traces of doubt to hold that the impugned resolution cannot be sustained and the action of the Zilla Parishad– 5th respondent herein is liable to be deprecated as unreasonable, preposterous, iniquitous and reprehensible.

15. For the above reasons, the writ petition is allowed, setting aside the impugned resolution dated 15.05.2015 passed by the Zilla Praja Parishad, Guntur - 5th respondent herein and the 5th respondent herein is directed to issue no objection certificate to the petitioner herein, subject to the compliance of other requirements, within fifteen days from the date of receipt of a copy of this order. There shall be no order as to the costs.

16. Miscellaneous petitions pending consideration, if any, in the Writ Petition shall stand closed in consequence. No order as to costs.

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A.V. SESA SAI, J

July 21, 2015

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