

THE HON'BLE SRI JUSTICE VILAS V. AFZULPURKAR

WRIT PETITION No.2857 OF 2015

Date:27.02.2015

Between:

Mupparaju Vasudeva Murthy

.. Petitioner

And

The Sate of Andhra Pradesh, rep., by its
Principal Secretary, Mines and Geology,
Secretariat, Hyderabad and others

.. Respondents

THE HON'BLE SRI JUSTICE VILAS V. AFZULPURKAR

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ORDER:

I have heard learned counsel for the petitioner, learned Government Pleader for Mines and Geology, learned Government Pleader for Revenue as well as Mr. M. Balaji, learned counsel representing respondent No.5.

The relief sought for in this Writ Petition is with reference to the 3rd respondent omitting to consider the application of the petitioner for grant of Silica Sand Mining Lease in respect of land admeasuring Acs.6.71 cents in Survey No.115/1 of Motupalli Village, Chinnaganjam Mandal, Prakasam District.

The petitioner states that he made an application for grant of lease and the 4th respondent forwarded the same to the Tahsildar, Chinnaganjam Mandal, for submitting feasibility report for grant of quarry lease. It is further stated that on 06.09.2014, while the Revenue Divisional Officer recommended 'No Objection Certificate', the 4th respondent placed the matter before the District Level Screening Committee (DLSC) headed by the Collector and was proposed to be discussed in the 10th District Level Screening Committee. The petitioner states that note put up before the DLSC shows the name of the petitioner as well as the name of the 5th respondent. While so, the copy of the note obtained by the petitioner by Resolution No.1 with regard to the issuance of

'No Objection Certificate' shows that in the 10th Meeting, the Chairman, DLSC, as per the Minutes and Resolution, recommended 'No Objection Certificate' with regard to the 5th respondent as well as one H. S. Narayana Goud to the Director of Mines and Geology and the said proceedings and Resolution of the DLSC is questioned in the Writ Petition, primarily on the ground that though the note put up by the Assistant Director of Mines and Geology, after completing the checklist and inspection, referred to the applications of the petitioner and the 5th respondent, the name of the petitioner is deleted by the DLSC and in that place, the name of one H.S. Narayana Goud is recommended. In that circumstance, the said proceeding and the action of the DLSC is questioned in this Writ Petition.

Learned Government Pleader for Mines and Geology as well as learned Government Pleader for Revenue has placed before the Court the written instructions, which include the extract of the Resolution of the DLSC. While it is true that two applications of the 5th respondent and the said H.S. Narayana Goud were recommended by the DLSC by endorsing 'No Objection', the recommendations of the Committee shows that they passed three resolutions. Resolution No.1 relates to the 5th respondent, Resolution No.2 relates to H.S. Narayana Goud and the petitioner's name is not found in Resolution No.1. They are extracted as under:

- "1. Resolution No.1 to issue of NOC in Sy.No.115 of Motupalli Village, Chinaganjam Mandal of Prakasam District over an extent of 6.71 cents in favour of G. Krishna Murthy, who is having priority over Sri M. Vasudeva Murthy as per M.C. Rules for grant of Silica Sand Mining Lease.
2. Resolution No.2 to issue of NOC in Sy.No.387 of Uppumaguluru Village, Ballikurava Mandal

of Prakasam District over an extent of 5.000 Hects. In favour of Sri H.S. Narayana Goud for grant of Quarry Lease for Colour Granite Lease.

3. Resolution No.3 rejection of NOC in Sy.No.170/3-2 of Gorrepadu Village, Ballikurava Mandal of Prakasam District since the applied area were fallen in R.F. as against agenda Item No.3.”

The extracted portion, as above, would show that while the applications of the petitioner and the 5th respondent are with respect to the land in Survey No.115 of Motupalli Village, the application of H.S. Narayana Goud is with reference to the land in Survey No.387 of Uppumagulur Village, Ballikurava Mandal, Prakasam District, and former relates to lease of Colour Granite, whereas the 5th respondent is seeking lease of Silica Sand Mining. Hence, Survey No.115 and Survey No.387 applied for by

H.S. Narayana Goud are entirely different and in different villages.

Hence, Resolution No.2 relating to H.S. Narayana Goud is not concerned with the petitioner or the 5th respondent. To the extent of the deletion of name of the petitioner from the recommendations under Resolution No.1 of the DLSC, it is apparent that while issuing ‘No Objection Certificate’ for the Silica Sand Mining Lease in Survey No.115 of Motupalli Village, Chinnaganjam Mandal, the DLSC has gone into the issue of deciding priorities among the applicants i.e., the petitioner and the 5th respondent and on account of thereof, the petitioner’s name was deleted by proposing to give priority to the 5th respondent.

Learned counsel for the 5th respondent supports the DLSC Resolution and asserts that the 5th respondent is entitled to priority over petitioner.

Learned counsel for the parties have, therefore, made

submissions with regard to the role of the DLSC, as enumerated in G.O.Ms.No.94, Industries and Commerce (Mines IV) Department, dated 28.08.2014 as well as G.O.Ms.No.2, Revenue (Assignments.I) Department, dated 02.01.2013. A submission is also made with reference to Sections 10 and 11 of the Mines and Minerals (Regulation and Development) Act, 1957 to contend that the priorities among the applicants is required to be decided by the State Government, including the preferential right of any of the applicant and the said function of deciding priorities is clearly beyond the purview of the DLSC. The power to grant or refuse, therefore, is being exclusively vested with the State Government, including the issue as to deciding the priority, it is contended that the DLSC could have merely endorsed its 'No Objection' but could not have decided the priorities among the applicants.

I have examined the matter in the light of the contentions above and in my view the DLSC was only concerned with the examination as to whether 'No Objection' is required to be issued with regard to the mining lease applied for and the said aspect regarding priorities is exclusively within the purview of the State Government or the Director of Mines and Geology, as the case may be. The copy of the Resolution extracted above shows that the applications of the petitioner as well as the 5th respondent with respect to the same land in Survey No.115 was before the DLSC and by the time the said application was placed before the Committee, the relevant notings of the Assistant Director of Mines and Geology as well as the Joint Inspection report was already before the Committee. The said Joint Inspection Team has also recommended 'No Objection' in favour of both the applicants i.e., the petitioner and the 5th respondent and as such the DLSC was, therefore, required to merely consider whether 'No Objection Certification' is required to be issued or not. It is also apparent from the Resolution that the DLSC has recommended its 'No

Objection' for considering granting of mining lease. Hence, the issue of priority as well as who among the petitioner and the 5th respondent is entitled to be granted mining lease was the matter solely for the decision of the Government/Director of Mines and Geology and not for the DLSC.

Hence, the recommendations of a DLSC under Resolution No.1 so far as not considering the claim of the petitioner and to the extent of deciding the priority among the petitioner and the 5th respondent, therefore, cannot be sustained and accordingly set aside. The DLSC, which is impleaded as respondent No.3, shall accordingly issue a modified Resolution endorsing its 'No Objection' in terms of the 'No Objection' already recorded under Resolution No.1 of its 10th Meeting and whether the petitioner and the 5th respondent are entitled to be granted lease, be left to the decision of the competent authority. The DLSC shall meet for the aforesaid purpose ahead of its schedule, preferably within four weeks from the date of receipt of a copy of this order and act according to the directions given hereunder. It is made clear that the competent authority is free to adjudicate upon the priorities among the petitioner and the 5th respondent in accordance with law and then proceed further.

The Writ Petition is accordingly disposed of. There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this Writ Petition shall stand closed.

VILAS V. AFZULPURKAR, J

27.02.2015

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