

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

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WRIT PETITION No.28468 OF 2015
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ORDER:

The only issue that arise for consideration of this court in the present writ petition is:

“Whether mining lease application submitted by the petitioner for grant of lease for Manganese Ore in respect of the area admeasuring Acres 39.20 in Sy.Nos.68, 69/1 and 69/2 of Gollagat Village, Tamsi Mandal, Adilabad District, Telangana State, suffered ineligibility as informed by the Union of India vide letter bearing No.5/75/2009-MIV, dated 31.07.2015, in terms of Section 10A(1) of the Mines and Minerals (Development and Regulation) Act, 1957.”

2. Heard Smt.N.Shobha, learned counsel for the petitioner, learned Assistant Solicitor General, appearing for the 1st respondent - Union of India and learned Government Pleader for Mines and Geology, appearing for the respondents 2 to 4.

3. The Union of India promulgated the Mines and Minerals (Development and Regulation) Amendment Act, 2015, (herein after, ‘the Act’), which subsequently became Act No.10 of 2015. Section 10 A, which has been inserted by virtue of the said amendment Act No.10 of 2015 is germane and relevant for the purpose of resolving the issue in the said writ petition. The said provision of law reads as under:

“10. After section 10 of the principal Act. the following sections shall be inserted, namely:—

10A. (1) All applications received prior to the date of commencement of the Mines and Minerals (Development and Regulation) Amendment Act, 2015, shall become ineligible.

(2) Without prejudice to sub-section (1), the following shall remain eligible on and from the date of commencement of the Mines and Minerals (Development and Regulation) Amendment Act, 2015:—

(a) applications received under section 11A of this Act;

(b) where before the commencement of the Mines and Minerals (Development and Regulation) Amendment Act, 2015 a reconnaissance permit

or prospecting licence has been granted in respect of any land for any mineral, the permit holder or the licensee shall have a right for obtaining a prospecting licence followed by a mining lease, or a mining lease, as the case may be, in respect of that mineral in that land, if the State Government is satisfied that the permit holder or the licensee, as the case may be,—

(i) has undertaken reconnaissance operations or prospecting operations, as the case may be, to establish the existence of mineral contents in such land in accordance with such parameters as may be prescribed by the Central Government;

(ii) has not committed any breach of the terms and conditions of the reconnaissance permit or the prospecting licence;

(iii) has not become ineligible under the provisions of this Act; and

(iv) has not failed to apply for grant of prospecting licence or mining lease, as the case may be, within a period of three months after the expiry of reconnaissance permit or prospecting licence, as the case may be, or within such further period not exceeding six months as may be extended by the State Government;

(c) where the Central Government has communicated previous approval as required under sub-section (1) of section 5 for grant of a mining lease, or if a

letter of intent (by whatever name called) has been issued by the State Government to grant a mining lease, before the commencement of the Mines and

Minerals (Development and Regulation) Amendment Act, 2015, the mining lease shall be granted subject to fulfilment of the conditions of the previous approval

or of the letter of intent within a period of two years from

the date of commencement of the said Act.”

4. A reading of the above provision of law makes it very much evident that Section 10A(1) renders all the mining lease applications received prior to the date of commencement of the Act ineligible. The said contingency has certain exceptions and the same are stipulated under Section 10A(2)(c) of the Act and according to the same, the application on which already the Union of India accorded approval and letter of intent (by whatever name called) already issued by the State Governments, remain valid and in respect of the same, the mining lease shall be granted subject to fulfilment of the conditions of the previous approval or of the letter of intent within a period of two years from the date of commencement of the Act.

5. In the present case, State Government by virtue of Letter No.761/M.III(2)/2009-2, dated 25.05.2009 already communicated its decision for granting mining lease to the petitioner. Subsequently, the Union of India vide letter No.5/75/2009-M.IV, dated 29.09.2015, advised the State Government to examine the case. In response to the said letter, the 1st respondent – State Government, by way of letter bearing No.761/M.II(2)/2009-7, dated 15.04.2015, requested the Union of India to convey the prior approval of the Government of India under Section 5(1) of the Mines & Minerals (Development & Regulation) Act, 1957, for grant of mining lease in favour of the petitioner herein for Manganese Ore in respect of an extent of 39.20 acres in Sy.Nos.68,69/1 and 69/2 of Gollaghat Village, Tamsi Mandal, Adilabad District, for a period of twenty years.

6. Since the State Government already decided to grant mining lease in favour of the petitioner herein, as evident from the Memo No.761/M.III(2)/2009-2, dated 25.05.2009, it can be undoubtedly and safely concluded that the mining lease application of the petitioner herein does not suffer from any ineligibility as stipulated under Section 10A(1) of the Act and on the otherhand, it is saved under exception as

provided under Section 10A(2)(c) of the Act. Therefore, this court finds absolutely no justification on the part of the Union of India to conclude, by virtue of the impugned letter No.5/75/2009-MIV, dated 31.07.2015, that the application of the petitioner has suffered ineligibility.

7. For the aforesaid reasons, writ petition is allowed, setting aside the impugned Letter No.5/75/2009-MIV, dated 31.07.2015, issued by the Union of India – 1st respondent and the 1st respondent is directed to grant approval for mining lease in favour of the petitioner herein for the area 39.20 acres in Sy.No.68,69/1 and 69/2 of Gollaghat Village, Tamsi Mandal, Adilabad District, pursuant to the letter bearing No.761/M.II(2)/2009-7, dated 15.04.2015, addressed by the State Government. This exercise shall be completed within a period of three months from the date of receipt of a copy of this order.

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

A.V.SESHA SAI,J

14th September, 2015

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