

THE HON'BLE SRI JUSTICE A.V.SESHA SAI
WRIT PETITION No.21884 of 2015

ORDER:

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

“To issue writ, order or direction more particularly one in the nature of WRIT OF MANDAMUS declaring the action of Respondent No.3 in proceedings No.1268/RR/Q/2003, dated 25.06.2015 determining the quarry lease granted to the Petitioner in proceedings No.1268/RR/Q/2003, dated 27.03.2003 in over an extent of Ac.5.00 in Sy.No.200/1 of Yacharam village and Mandal, R.R.District, as arbitrary, illegal, unjust, unconstitutional and in violation of principles of natural justice and in violation of Mines and Minerals (Development & Regulation) Act 1957 and A.P. Minor Mineral Concession Rules 1966, consequently call for records in proceedings No.1268/RR/Q/2003, dated 25.06.2015.”

2. Heard Smt N.Shobha, learned counsel for the petitioner and the learned Government Pleader for Mines and Geology for the respondents.

3. The petitioner herein was granted quarry lease for stone and metal over an extent of Ac.5-00 in Sy.No.200/1 of Yacharam village and Mandal, R.R. District for a period of fifteen years on 27.03.2003 and the lease deed was executed by the Assistant Director of Mines and Geology/fourth respondent herein on 29.03.2003 and work orders were issued vide proceedings No.1556/M.II/2003 on 29.03.2003.

4. The Deputy Director of Mines and Geology, Hyderabad/third respondent herein issued a show-cause notice bearing No.1268/RR/Q/2003, dated 13.10.2014, asking the petitioner herein to show-cause as to why the quarry lease held by the petitioner should not be determined. In response to the said show-cause notice issued by the third respondent herein, petitioner submitted its explanation dated

03.11.2014. Subsequently, the Deputy Director of Mines and Geology, Hyderabad/third respondent herein vide proceedings No.1268/RR/Q/2003 dated 25.06.2015 determined the quarry lease of the petitioner herein under Rule 31 (xvi) of A.P. Minor Mineral Concession Rules, 1966.

5. Calling in question, the validity and legal sustainability of the said order passed by the Deputy Director of Mines and Geology, Hyderabad/third respondent herein, this writ petition has been filed.

6. It is contended by the learned counsel for the petitioner that the questioned order is highly illegal, arbitrary and violative of the principles of natural justice and Articles 14 and 19 (1) (g) of the Constitution of India.

It is further submitted that the Deputy Director of Mines and Geology, Hyderabad/third respondent herein did not consider the explanation offered by the petitioner herein, as such, the impugned order is liable to be set aside. It is also submitted that the Deputy Director of Mines and Geology, Hyderabad/third respondent herein failed to consider the issue from a proper perspective and had the material available before the third respondent been considered, the order would not have emanated.

7. Per contra, It is contended by the learned Government Pleader for Mines and Geology that there is no illegality nor any procedural infirmity in the impugned action and in the absence of the same the writ petition is not maintainable and the petitioner is not entitled for any relief from this Court under Article 226 of the Constitution of India. It is also the submission of the learned Government Pleader that the present writ petition is not maintainable in view of availability of alternative remedy of appeal under Rule 35 of the A.P. Minor Mineral Concession Rules, 1966.

8. The information available before this Court, manifestly discloses that in response to the show-cause notice dated 03.10.2014 issued by

the Deputy Director of Mines and Geology, Hyderabad/third respondent herein, the petitioner herein submitted an elaborate explanation dated 03.11.2014 meeting various issues in the show-cause notice. By virtue of the impugned proceedings dated 25.06.2015, the Deputy Director of Mines and Geology, Hyderabad/third respondent herein, determined the quarry lease of the petitioner herein.

9. A perusal of the impugned order discloses that the Deputy Director of Mines and Geology, Hyderabad/third respondent herein except indicating the explanation of the petitioner herein in the references, did not consider the contents of the explanation submitted by the petitioner herein. Being a statutory authority, the Deputy Director of Mines and Geology, Hyderabad/third respondent herein ought to have considered the contents of the explanation offered by the petitioner herein. In the instant case, the said exercise is conspicuously absent. This, in the considered opinion of this Court is highly arbitrary and unreasonable.

10. For the aforesaid reasons and having regard to the contentions raised by the learned Government Pleader with regard to maintainability of the writ petition and in view of availability of alternative remedy of appeal, writ petition is disposed of, permitting the petitioner herein to file statutory appeal with the stay application under the provisions of Rule 35 of the A.P. Minor Mineral Concession Rules, 1966, within statutory period as stipulated under the Rules. It is made clear that pending consideration of the said stay application, there shall be suspension of the impugned proceedings No.1268/RR/Q/2003, dated 25.06.2015 issued by the Deputy Director of Mines and Geology, Hyderabad/third respondent herein. Miscellaneous Petitions, if any, pending in this Writ Petition, shall stand disposed of. There shall be no order as to costs.

A.V.SESHA SAI, J

Date:15.07.2015

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Dated 15th July, 2015

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Between:

M/s.Taher Ali Industries & Projects (P) Limited,
Represented by its General Manager, Imtiaz Ali Siddikqui,
Bungalow No.43, Czech Colony, Sanathnagar, Hyderabad.

... Petitioner

and

State of Telangana,
Represented by its Principal Secretary,
Industries & Commerce (M.I) Department,
Secretariat, Hyderabad and three others.

... Respondents