

HONOURABLE SRI JUSTICE A.V. SESA SAI

WRIT PETITION No. 17874 of 2015

DATED 19TH JUNE, 2015

BETWEEN

Sirra Ramappa

...Petitioner

And

The State of Telangana,
Rep. by its Secretary,
Industrial and Commerce Department,
Secretariat, Hyderabad and ors.

...Respondents.

HONOURABLE SRI JUSTICE A.V SESA SAI

WRIT PETITION No. 17874 OF 2015

ORDER:

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Heard.

This Writ Petition is filed under Article 226 of the Constitution of India with the following relief:

“....pleased to issue an appropriate writ or any other order or direction particularly one in the nature of writ of mandamus declaring the proceedings of 3rd respondent vide proceedings No.3721/Q-1(2)/2008, dated 22.05.2015 and the consequential actions of the respondents in trying to take possession of the leased area being an extent of Ac.1.00 cents in Sy.No.56/E of Ogipur village, Tandur Mandal, Ranga Reddy District as illegal, unjust, arbitrary and violative of principles of natural justice and in contravention of Mines and Mineral (Development and Regulation) Act, 1957 and A.P. Minor Mineral concession Rules, 1966 and consequently set aside the same and direct the respondents to issue dispatch permits in respect of the above leased area and

pass such other order or orders as this Honourable Court may deem fit and proper in the circumstances of the case.”

The third respondent-Deputy Director of Mines and Geology, Hyderabad granted quarry lease in favour of the petitioner herein for lime stone slabs in Sy.No.56/E of Ogipur village, Tandur Mandal, Ranga Reddy District over an extent of Ac.1.00 cents for a period of ten years by virtue of proceedings No.3721/Q-1(2)/2008, dated 18.11.2008. The Deputy Director of Mines and Geology-third respondent issued show cause notice No.3721/Q-1(2)/2008, dated 09.04.2015 calling upon the petitioner to show cause as to why action should not be initiated for determination of quarry lease under Rule 31(xvi) of the Andhra Pradesh Minor Mineral Concession Rules, 1966 (for short ‘the Rules’). In response to the said show cause notice issued by the Deputy Director of Mines and Geology, the petitioner herein submitted his explanation on 01.05.2015. The Deputy Director of Mines and Geology, third respondent herein by virtue of the proceedings No. 3721/Q-1(2)/2008, dated 22.5.2015 ordered termination of the lease granted earlier in favour of the petitioner in exercise of powers conferred under Section 31(xvi) of the Rules.

Assailing the validity and legal sustainability of the said order passed by the Deputy Director of Mines and Geology, Hyderabad, determining the lease, the present Writ Petition has been filed.

It is contended by the learned Counsel for the petitioner that the order determining the lease passed by the Deputy Director of Mines and Geology under Section 31(xvi) of the

Rules is wholly illegal and arbitrary and opposed to the spirit and object of the provisions of the Rules. It is also submitted by the learned Counsel for the petitioner that the impugned order is tainted with malafidies and is in violation of principles of natural justice.

On the contrary it is vehemently submitted by the learned Government Pleader appearing for the respondents that the order passed by the Deputy Director of Mines and Geology is in accordance with the provisions of the Rules and there is no illegality nor infirmity in the order passed by the Deputy Director of Mines and Geology and in the absence of the same, the present 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 contention of the learned Government Pleader that in view of the availability of alternative remedy by way of appeal under Rule 35 of the Rules, the present Writ Petition is not maintainable.

In the instant case there is absolutely no dispute with regard to the fact that only after issuance of show cause notice and after considering the explanation submitted by the petitioner herein, the Deputy Director of Mines and Geology passed order dated 22.5.2015, determining the lease granted earlier in favour of the petitioner. As per the provisions of Rule 35 of the Rules, appeal lies against the order passed by the Deputy Director of Mines and Geology or Assistant Director to the Director within a period of two months from the date of communication of such order to the party aggrieved and appeal against the order of the Director shall be to the Government in

the like manner. In the present case, as rightly pointed out by the learned Government Pleader appearing for the respondents as against the order passed by the Deputy Director of Mines and Geology, statutory appeal lies before the Director of Mines and Geology. In view of the availability of the said efficacious alternative remedy, this Court is not inclined to entertain the present Writ Petition filed under Article 226 of the Constitution of India.

For the aforesaid reason, the Writ Petition is disposed of, giving liberty to the petitioner to prefer statutory appeal under Rule 35 of the Rules against the order of the Deputy Director of Mines and Geology, dated 22.05.2015 within statutory period and if any such appeal is filed, the same shall be considered in accordance with law and appropriate orders be passed within a period of four weeks from the date of filing of such statutory appeal by the petitioner.

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

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JUSTICE A.V. SETHA SAI

Dated 19TH JUNE, 2015.
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