

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF
ANDHRA PRADESH**

WRIT PETITION NOs.37453 AND 38040 OF 2014

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WRIT PETITION NOs.37453 OF 2014

Between:

VVSKDN Somaraju and others. .. Petitioners

and

The State of Andhra Pradesh, rep.

by its Principal Secretary,

Industries and Commerce (Mines) Department,

Secretariat, Hyderabad, and others. .. Respondents

DATE OF JUDGMENT PRONOUNCEMENT : 13th NOVEMBER, 2015

SUBMITTED FOR APPROVAL:

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THE HON'BLE SRI JUSTICE SANJAY KUMAR

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| 1. Whether Reporters of Local newspapers may be allowed to see the Judgment? | Yes/No |
| 2. Whether copies of the Judgment may be marked to Law Reporters/Journals | Yes/No |
| 3. Whether His Lordship wishes to see the fair copy of the Judgment? | Yes/No |

THE HON'BLE SRI JUSTICE SANJAY KUMAR

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WRIT PETITION NOS.37453 AND 38040 OF 2014

COMMON ORDER

The petitioners in these two cases assail the action of the mining authorities in not issuing transit passes to them for transportation of the sand already extracted during the extended period of their mining leases and stored in their respective stockyards. Consequential relief is sought by way of setting aside the undated proceedings, signed on 22.11.2014, of the Principal Secretary to the Government, Industries and Commerce (Mines) Department, Government of Andhra Pradesh, and a direction to the authorities to grant transit passes to the petitioners.

The admitted facts, to the extent relevant, are that the petitioners were granted leasehold rights for mining ordinary sand within a time frame, but were unable to do so during the said period. The authorities granted them extension of lease after the expiry of the sanctioned lease period. This extension was set aside by this Court by order dated 11.04.2014 passed in a batch of cases. Aggrieved thereby, appeals were filed in W.A.Nos.732 and 737 of 2014 by the petitioners herein, which are

pending consideration. While so, as the petitioners were not permitted to remove the sand already extracted by them pursuant to the extension of their leases, they made representations to the authorities for grant of transit passes to enable them to transport the stocked sand.

W.P.No.21592 of 2014 and batch was filed by the petitioners in W.P.No.37453 of 2014 while W.P.Nos.30979 and 30984 of 2014 were filed by the petitioners in W.P.No.38040 of 2014. These writ petitions were filed aggrieved by the inaction of the authorities upon their representations. W.P.No.21592 of 2014 and batch came to be dismissed on 01.09.2014 by the same learned Judge who had decided the earlier batch of cases relating to extension of the leases. The learned Judge held that the petitioners were not entitled to issuance of transit passes and that the sand extracted would vest in the State. Aggrieved by the dismissal of their writ petitions, the petitioners therein filed W.A.No.1186 of 2014 and batch. This batch of writ appeals was disposed of by a Division Bench of this Court by common order dated 12.09.2014. The Division Bench held that the learned Judge should have allowed the authority to dispose of the representations filed by the petitioners instead of deciding the writ petition itself; as such an exercise would amount to usurping the jurisdictional powers of the executive authority. The common order passed by the learned Judge was accordingly set aside and the Government was directed to dispose of the representations made by the petitioners in accordance with law after giving due opportunity of personal hearing to them and the impleaded respondents. This Court further observed that before allowing a hearing to the impleaded respondents, the Government should examine whether they had *locus* in the matter and whether they had interest in the issue raised in the representations. The Division Bench also observed that in the event they did not have any interest establishing their *locus*, their objections should not be entertained. That apart, the Government was asked to decide whether this sort of representations could be entertained under law and then decide the matter on merits. This decision was to be taken independently by the Government without being influenced by the observations made either by the Division Bench or by the learned Judge and was to be effected within a time frame. Following the aforesaid order dated 12.09.2014 passed in W.A.Nos.1186 of 2014 and batch, W.P.Nos.30979 and 30984 of 2014 were separately disposed of by order dated 18.10.2014 in terms thereof. It is pursuant to these directions that the impugned undated proceedings, signed on 21.11.2014, came to be passed.

However, as rightly pointed out by the learned senior counsel appearing for the petitioners, the question that arises at the outset is whether these proceedings are in keeping with the directions in Writ Appeal Nos.1186 of 2014 and batch. Pertinent to note, the said directions were to the Government to undertake the exercise of examining the representations made by the petitioners, apart from looking into various other issues set out in the common order. However, the impugned proceedings were not even issued in the name of the Government. The title of these proceedings reads thus:

‘Proceedings of the Principal Secretary to Government, Industries &
Commerce (Mines) Department.’

There is no date mentioned in the proceedings and only the signature of the Principal Secretary bears the endorsement of the date 21.11.2014. It is no doubt true that the Secretary to the Government, being the principal permanent executive of that State department, would pass the final order in terms of this Court's directions, but he must necessarily do so in the name of and on behalf of the Government, which was directed to do the needful in the matter. Further, there is no indication in the impugned proceedings of the *locus* and, if the need arose, the objections of the impleaded respondents having been considered at all. It appears that mere lip service was paid to the directions of this Court by routinely passing an order without even taking care to see the form or substance thereof. As the Principal Secretary was acting in response to the directions of a Division Bench of this Court, this kind of lackadaisical and casual attitude on his part is appalling, to say the least. Being a senior functionary of the State, the Principal Secretary ought to have been more conscious of the responsibility resting upon him in terms of this Court's order. Unfortunately, the impugned proceedings demonstrate that the Principal Secretary did not live up to this standard. On this short ground, the impugned undated proceedings, signed on 21.11.2014, are set aside.

As matters stand, the directions of this Court have not been complied with. As pointed out by the Division Bench in the common order dated 12.09.2014, it is for the authorities concerned to first apply their mind and deal with the representations made by the petitioners. Such consideration of the representations would have to be in keeping with the directions of the Division Bench in the aforesaid order. The

Government shall accordingly consider the matter afresh in terms of the said common order dated 12.09.2014 and pass appropriate reasoned orders within four weeks from the date of receipt of a copy of this order.

The writ petitions are disposed of accordingly. Pending miscellaneous petitions shall stand closed in the light of this final order. No order as to costs.

SANJAY KUMAR, J

13th NOVEMBER, 2015

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