

HON'BLE SRI JUSTICE VILAS V.AFZULPURKAR

W.P.No.40874 of 2014

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ORDER:

Heard.

The petitioner claims that a mining lease for Barytes was granted in her favour vide G.O.Ms.No.756, dated 15-12-1982 for a period of 20 years over an extent of 79.90 acres in Sy.No.466 of Sankavaram Village, Udayagiri Taluk, Nellore District. The lease deed was accordingly executed for the period from 07-04-1983 to 06-04-2003. The petitioner states that she applied for renewal of lease before expiry of the lease period i.e., on 06-04-2002. While the said renewal application is pending with the 2nd respondent, the petitioner also sought grant of environmental clearance. While the said applications are pending, this Court in PIL No.202 of 2013 directed that no mining activity shall be permitted without environmental clearance. Accordingly, the mining activity of the petitioner was stopped. The petitioner states that similarly 16 other mining leases were also stopped from operating mining activity as environmental clearance is awaited. The petitioner states that the excavated mineral, which was lying on the site, is found to be 33000 Metric Tons and as per the order of the 1st respondent-Director of Mines and Geology, dated 16-07-2013, though 16 mining leases were operating, the dispatch permits for the excavated material alone were issued. The petitioner has filed the proceedings of the 2nd respondent-Assistant Director of Mines and Geology, dated 22-07-2013 and 02-01-2014, wherein the aforesaid order of the 1st respondent is already referred to and it is reiterated that no mining activity is permitted on the subject site and dispatch permits are being issued only for the existing stock lying at the site. The petitioner states in the affidavit that she was

already granted dispatch permit and accordingly she has lifted quantity of about 12000 metric tones upto September, 2014, but thereafter dispatch permits are not being issued. Hence, questioning the action of the respondents in not issuing dispatch permits for the balance excavated material, the present writ petition is filed.

I have heard the learned Government Pleader for Mines and Geology. He has placed a copy of the written instructions received in the matter, which confirms that no mining activity is permitted on the subject site and environmental clearance sought for by the petitioner is still pending with the authority concerned. It is also stated that after inspection over the mines, it was found that 33000 Metric Tons of the material is lying on the site, which is already excavated, and in terms of the order of the 1st respondent referred to above, dispatch permits were issued to a tune of 14000 Metric Tons in different spells to the petitioner and 19000 Metric Tons of Barytes exist at the site of the mines. No reasons are forthcoming as to why dispatch permits are not being issued for the balance quantity of excavated mineral.

Evidently, while not allowing the mining activity to proceed, the petitioner was permitted to lift the stock of excavated quantity and in that regard, 14000 Metric Tons were already permitted to be lifted by issuing dispatch permits to the petitioner. Hence while reiterating that no mining activity to take place till the environmental clearance is granted to the petitioner, I do not see any reason as to why the dispatch permits to the extent of balance quantity of excavated mineral are not being issued by the 2nd respondent, as it is neither in conformity with the orders of the 1st respondent nor inconformity with the earlier action of the respondents in issuing dispatch permits for lifting 14000 Metric Tons.

In the circumstances, the writ petition is disposed of directing respondents 1 and 2 to consider the petitioner's request for grant of dispatch permits for balance quantity of excavated mineral lying on the site of the subject mines in accordance with law and pass appropriate

orders thereon within four weeks from the date of receipt of a copy of this order. No order as to costs.

The miscellaneous petitions, if any, pending in this writ petition shall stand closed.

VILAS V.AFZULPURKAR, J

Date: 21-01-2015

Prv

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