

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

WRIT PETITION No.33614 of 2010

ORDER:

This Writ Petition, filed under Article 226 of the Constitution of India, challenges the order passed by the 1st respondent – State Government vide Memo No.15113/M.II(1)/2008-4, dated 09-08-2010, rejecting the revision application filed by the petitioner under the provisions of Telangana Minor Mineral Concession Rules, 1966 (hereinafter called, 'the Rules'), thereby confirming the order of revocation of quarry lease passed by the 2nd respondent – Director of Mines and Geology vide proceedings No.6655/R6-3/2007, dated 16-10-2008.

Heard, learned counsel for the petitioner and learned Government Pleader for Mines and Geology for respondents, apart from perusing the material available before this Court.

On an application made by the petitioner herein, the Director of Mines and Geology, Hyderabad – 2nd respondent herein vide proceedings No.6655/R6-3/2007, dated 22-02-2008 granted quarry lease in favour of the petitioner for colour granite over an extent of 4.000 Hectares in Sy.No.180 of Mannempally Village, Thimmapur Mandal,

Karimnagar District for a period of twenty (20) years as per Rule 12(5) of the Rules.

The Director of Mines and Geology vide proceedings No.6655/R6-3/2007, dated 16-10-2008 ordered revocation of the said lease under Rule 12 (5)(e) of the Rules on the ground that the petitioner/grantee did not execute the quarry lease and failed to produce the required documents for execution of the lease deed within the time stipulated.

Aggrieved by the said order of revocation passed by the Director of Mines and Geology, the petitioner herein filed a revision application on 04-11-2008 before the 1st respondent – State Government under Rule 35 (a) of the Rules. The State Government – 1st respondent vide Memo No.15113/M.II(1)/2008-4, dated 09-08-2009 rejected the said revision application filed by the petitioner, thereby confirming the order of revocation passed by the Director of Mines and Geology.

Challenging the validity and legal sustainability of the said orders passed by respondents 1 and 2, the present writ petition came to be filed.

It is contended by learned counsel for the petitioner, reiterating the averments in the affidavit filed in support of the writ petition, that the Director of Mines and Geology

without issuing any notice and without providing an opportunity of being heard to the petitioner passed the order of revocation on 16-10-2008. It is further argued by learned counsel that the 1st respondent – State Government also without providing any sufficient and reasonable opportunity of hearing erroneously dismissed the revision application filed by the petitioner and the said action on the part of the primary and the revisional authorities is in violation of principles of natural justice and opposed to the very spirit and object of the provisions of Telangana Minor Mineral Concession Rules, 1966.

On the contrary, it strenuously contended by learned Government Pleader for Mines and Geology, appearing for the respondents that there is absolutely no illegality in the order of revocation passed by the 2nd respondent - Director of Mines and Geology as confirmed in the revision by the 1st respondent – State Government. It is further contended that only after giving reasonable opportunity to the petitioner the 1st and 2nd respondents passed the orders under challenge, as such, the said orders are not amenable for any judicial review under Article 226 of the Constitution of India.

In the above background, now the issue that emerges for consideration of this Court is “whether the impugned

action on the part of the respondents 1 and 2 in revoking the lease and confirming the said order of revocation in the revision is sustainable and tenable?

The information available before this Court manifestly discloses that the Assistant Director of Mines and Geology vide letter No.1023/Q1/07, dated 15-03-2008 requested the petitioner herein to produce certain documents for the purpose of execution of lease deed but the order of revocation passed by the 2nd respondent - Director of Mines and Geology is absolutely silent as to the issuance of any show cause notice prior to revoking the lease granted earlier in favor of the petitioner. No material also is available to show that any such show cause notice was issued by the Director of Mines and Geology. This action, on the part of the Director of Mines and Geology is a patent violation of principles of natural justice as the order of revocation undoubtedly has the civil consequences.

Coming to the order passed by the State Government on the revision application filed by the petitioner vide Memo No.15113/M.II(1)/2008-4, dated 09-08-2010, it is the specific case of the petitioner herein that without giving any proper and sufficient opportunity, the 1st respondent - State Government rejected the revision filed by the petitioner.

In order to substantiate the same, a copy of the Telegram, dated 06-04-2010 issued on behalf of the 1st respondent is placed on record by the petitioner as a material paper along with the writ petition. The said Telegram fixed the date of hearing of the revision as 07-04-2010 at 10.30 A.M. It is also evident from the said Telegram that the petitioner herein received the said notice on 07-04-2010.

The impugned Memo, dated 09-08-2010 states that hearing was conducted on 07-04-2010 and reviewed the case duly giving opportunity of personal hearing. In the considered opinion of this Court by any stretch of imagination it cannot be said that the 1st respondent afforded reasonable opportunity to the petitioner before deciding the revision application. Therefore, the impugned order of revocation and the orders passed by the State Government on the revision application filed by the petitioner cannot be sustained in the eye of law. In the definite opinion of this Court, the matter certainly requires re-consideration by the Director of Mines and Geology after giving notice and opportunity of hearing to the petitioner.

For the aforesaid reasons, the writ petition is allowed, setting aside the order passed by the 1st respondent vide Memo No.15113/M.II(1)/2008-4, dated 09-08-2010 and the

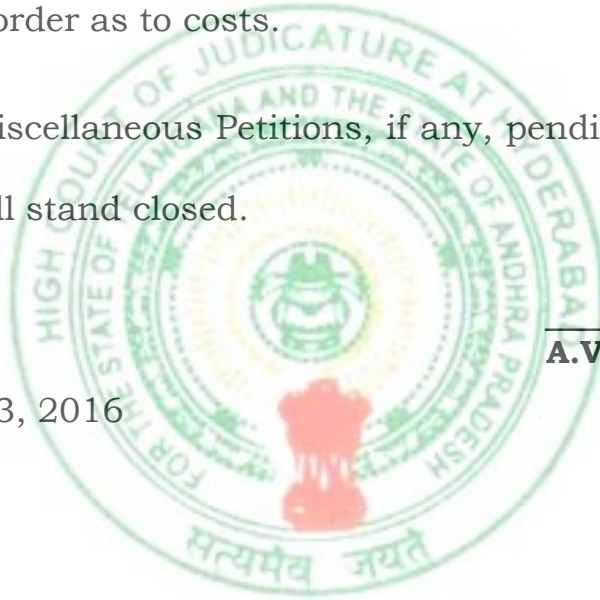
order of the 2nd respondent - Director of Mines and Geology issued vide proceedings No.6655/R6-3/2007, dated 16-10-2008 and the matter is remanded to the 2nd respondent - Director of Mines and Geology for fresh consideration of the issue, in accordance with law, after giving notice and opportunity of hearing the petitioner. This exercise shall be completed within a period of three (3) months from the date of receipt of a copy of this order. There shall be no order as to costs.

The Miscellaneous Petitions, if any, pending in this Writ Petition shall stand closed.

November 03, 2016

Pn

A.V. SESA SAI, J



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