

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

WP.No.40588 of 2014

ORDER :

Heard the counsel for petitioner, and the learned Standing Counsel for Wakf Board, for respondents.

2. This Writ Petition is filed by petitioner challenging the action of respondents in not issuing proceedings to lease lands of extent Acs.5.84 cents in Survey No.288/1, 288/3 and 293 of Palukur village, Banaganapalli Taluq, Kurnool District.

3. The admitted facts are that petitioner applied for grant of mining lease in respect of the subject land belonging to 1st respondent and a resolution was passed by 1st respondent vide Resolution No.641/2013 dt.12.10.2013 allotting the above mentioned land for a period of three years on lease basis to petitioner for mining minor minerals.

4. On 12.12.2013, pursuant to the said resolution, the petitioner was directed to deposit a sum of Rs.4,21,200/- with the 1st respondent; and it is stated that on 24.12.2013 the petitioner complied with the said directive. The petitioner however contends that in spite of payment of the said amount, the respondents are not executing lease deed in favour of petitioner.

5. Counter-affidavit has been filed by respondents admitting that petitioner applied for grant of lease of the said land which is Wakf; that the lease was also granted to petitioner for three years; and that the petitioner paid the amount of Rs.4,21,200/- on 24.12.2013. It is further contended that the respondents are not bound to execute any lease deed in favour of petitioner in view of the fact that there was no advertisement inviting bids in national and regional newspapers of such lease as mandated by 3rd proviso to Section 56 (1) of the Wakf Act, 1995 as amended by the Wakf (Amendment) Act, 2013.

6. The counsel for petitioner however contended that the Central Government had issued a notification dt.29.10.2013 in exercise of powers conferred on it under sub-Section (2) of Section 1 of the Wakf (Amendment) Act, 2013 appointing 01.11.2013 as the date on which provisions of the said Amendment Act would come into force.

7. This is not disputed by Sri Mohd. Habeebur Rahman, learned Standing Counsel for respondents.

8. Since the provisions of the Wakf (Amendment) Act, 2013 have come into effect only from 01.11.2013, in view of the Notification S.O.3292(E) dt.29.10.2013 issued by the Central Government, on the date when the respondents had granted lease to petitioner through the Board Resolution dt.12.10.2013, the 3rd proviso to sub-Section (1) of Section 56 of the Act was not in force. Therefore, there was no

illegality committed by respondents in granting lease to petitioner of the subject land.

9. The Writ Petition is allowed, and the action of respondents in not issuing proceedings to lease out the lands in favour of petitioner for a period of three (03) years pursuant to the Board Resolution dt.12.10.2013 of the 1st respondent is declared as illegal, arbitrary and unconstitutional; and the respondents are directed to issue proceedings to petitioner on the basis of the said resolution granting lease in favour of petitioner of the above lands within a period of three (03) weeks from the date of receipt of a copy of this order. No order as to costs.

10. As a sequel, miscellaneous petitions pending if any in this Writ Petition, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 27-09-2016

Ndr/*