

HON'BLE SRI JUSTICE A.V. SSHA SAI

WRIT PETITION No. 9057 OF 2009

ORDER:

This writ petition is filed under Article 226 of the Constitution of India questioning the order, dated 19.03.2009, passed by the Director of Mines and Geology, 2nd respondent herein.

Heard learned counsel for the petitioner and learned Government Pleader for Mines and Geology for the respondents.

According to the petitioner, she made an application on 06.12.2006 for grant of quarry lease for black granite over an extent of 1.000 Hectare in Sy.No.95 of Karvetinagaram Village and Mandal, Chittoor District, and the Assistant Director of Mines and Geology, 3rd respondent herein, vide letter, dated 06.12.2006, forwarded her application to the Mandal Revenue Officer, Karvetinagaram Mandal to submit a report as to the category of land and availability of land. It is further stated that basing on the report of the 3rd respondent, who stated that the applied area is classified as "Adavi Poramboke" as per the information given by his subordinate authorities, the 2nd respondent passed the impugned proceedings under Rule 12(5)(d) of the Andhra Pradesh Minor Mineral Concession Rules, 1966 (for short, "the Rules"), rejecting the quarry lease of the petitioner. In the said proceedings, the 2nd respondent also stated that no reply was received from the applicant despite issuance of show cause notice.

Learned counsel for the petitioner submits that the grounds assigned in the impugned order are neither sustainable nor tenable and that prior to passing of the said order no show cause notice was issued to the petitioner.

On the directions of this Court, the learned Government Pleader placed the connected records before this Court, which disclose that show cause notice was

issued and the petitioner acknowledged the same. Learned Government Pleader submits that as against the orders of the 2nd respondent, the petitioner has an effective alternative remedy of revision before the State Government, 1st respondent herein, under the provisions of Rule 35A of the Rules and without availing the same, the present writ petition came to be filed. Hence, he submits that on the ground of availability of alternative remedy, the present writ petition is not maintainable and the same is liable to be dismissed.

Rule 35A of the Rules reads as under:

"Revision:- The Government may either suo motu at any time or on an application made within ninety days, call for and examine the record relating to any order passed or proceeding taken by the Director, Deputy Director or Assistant Director under these rules for the purpose of satisfying themselves as to the legality or propriety of such order or as to the regularity of such proceedings and pass such other order in reference thereto as they think fit."

It is very much clear from the above provision of law that any person aggrieved by the order of Director of Mines and Geology is entitled to file a revision before the State Government under the said provision of law. In view of the alternative remedy available to the petitioner, this Court is not inclined to entertain the writ petition. However, this Court is of the opinion that ends of justice would be served if the petitioner is permitted to file statutory revision before the State Government under Rule 35A of the Rules.

Writ petition is disposed of, permitting the petitioner to file revision before the State Government, 1st respondent, against the order, dated 19.03.2009, passed by the 2nd respondent, within a period of one month from the date of receipt of a copy of this order. If any such revision is filed within the time stipulated above, the Government shall consider the same and pass appropriate orders in accordance with law, after giving notice and opportunity of hearing to the petitioner without reference to the aspect of limitation, within a period of three months from the date of receipt of revision.

Miscellaneous petitions, if any, shall also stand disposed of. No order as to costs.

A.V. SESA SAI, J

Date: 10.11.2016
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