

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

WRIT PETITION No.2412 of 2011

ORDER:

This writ petition, filed under Article 226 of the Constitution of India, challenges the order passed by the Assistant Director of Mines and Geology, Kurnool – 3rd respondent herein determining the lease of the petitioner herein.

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

Followed by a show cause notice bearing No.301/Q2/ 2010, dated 09-02-2010 the Deputy Director of Mines and Geology, Kurnool – 3rd respondent herein passed the impugned order vide proceedings No.301/Q2/2010, dated 27-05-2010 ordering termination of the lease of the petitioner herein in respect of area admeasuring 0.510 Hectares in Sy.No.308 of Thammarajupalli village, Panyam Mandal, Kurnool District.

When the matter is taken up today, a preliminary objection with regard to the maintainability of the writ petition is taken by the learned Government Pleader contending that as against the order impugned in the writ petition there is a statutory remedy of appeal provided under Rule 35 of A.P. Minor Mineral Concession Rules, 1966 (for short, 'the Rules'). The said provision of law reads as under:

“35. Appeal:- An appeal against any order passed by the Assistant Director or Deputy Director, Joint Director under these rules shall lie to the Director within a period of two months from the date of communication of such order to the party aggrieved and an appeal against an order of the Director shall be to the Government in like manner.”

In view of above alternative remedy of appeal, available to the petitioner herein, against the orders impugned in the writ petition this Court is not inclined to entertain the present writ petition. However, this Court is of the opinion that the ends of justice would be met if the petitioner is permitted to avail the said remedy by fixing some time.

For the aforesaid reasons, the writ petition is disposed of, permitting the petitioner herein to file appeal against the order issued by the Deputy Director of Mines and Geology, Kurnool vide proceedings No.301/Q2/2010, dated 27-05-2010 within a period of one month from the date of receipt of a copy of this order and if any such appeal is filed the same be considered and appropriate orders be passed, in accordance with law, within a period of three (3) months thereafter after giving notice and opportunity of being heard to the petitioner herein. There shall be no order as to costs.

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

A.V. SESA SAI, J

January 18, 2016

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