

THE HON'BLE SRI JUSTICE SANJAY KUMAR

WRIT PETITION NO.6980 OF 2016

ORDER

This writ petition was filed assailing the letter dated 31.07.2015 passed by the Government of India through its Ministry of Mines, whereby the Industries and Commerce Department, State of Telangana, was informed that the recommendation made by it for prior approval under Section 5(1) of the Mines and Minerals (Development and Regulation) Act, 1957 (for brevity, 'the Act of 1957') for the purpose of availing exemption under Section 10(A)(2)(c) of the Mines and Minerals (Development and Regulations) Amendment Ordinance, 2015 could not be accepted. The proposal was therefore returned with a request to the State Government to take necessary action as per the amended Act.

It is an admitted fact that in so far as the State Government is concerned, it had decided under Rule 22(4) of the Mineral Concession Rules, 1960, to grant the mining lease for iron ore over the subject land to the petitioner subject to obtaining prior approval from the Government of India under Section 5(1) of the Act of 1957. This was also conveyed to the Government of India under letter dated 10.01.2013 addressed by the Secretary to the Government, Industries and Commerce Department, Government of Telangana. In spite of the affirmation by the State that it had issued the letter of intent as aforestated, the Government of India chose to ignore the same, held the petitioner's application ineligible, and wished to apply the amended provisions of the Act to the case. It is no doubt true that pending mining lease applications became ineligible if they were received prior to the commencement of the Amendment Act of 2015. However, one of the exceptions stipulated thereto is that under Section 10A(2)(c) relating to applications where the State Government had already issued approval or a letter of intent.

It is stated before this Court that a similar issue fell for consideration before this Court in W.P.No.18035 of 2015. A copy of the

order dated 01.09.2015 passed therein is placed on record and reflects that a somewhat similar communication from the Government of India was set aside and it was directed to grant approval for the mining lease in favour of the petitioner therein as per the letter of the State of Government within a time frame. In the light of the aforestated decision and given the admitted facts of the case, this Court finds no necessity to invite a counter from the respondents.

The writ petition is accordingly allowed setting aside the impugned letter dated 31.07.2015 of the Government of India. The Government of India is directed to pass appropriate orders for granting prior approval under Section 5(1) of the Act of 1957 to the State of Telengana for granting a mining lease to the petitioner over the subject land pursuant to his applications dated 03.03.2004, and 16.02.2005 subject to compliance with other requirements, if any.

Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

SANJAY KUMAR, J

3rd March, 2016

PGS