

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

WRIT PETITION No.27392 of 2017

ORDER:

Heard Sri Sivaraju Srinivas, learned counsel for the petitioner, learned Government Pleaders for the official respondents and Sri K. Satya Gopinath for the 6th respondent apart from perusing the material available before the Court.

The petitioner herein submitted an application, dated 08.12.2008, for grant of quarry lease for black granite over an extent of 6.000 hectares in Sy.Nos.381/12 and 381/13 of Edavalli Village, Chilakaluripeta Mandal, Guntur District. Followed by the proposal submitted by the Assistant Director of Mines and Geology, Guntur, 3rd respondent, for rejecting the said application, the Director of Mines and Geology, 2nd respondent, passed an order vide proceedings No.153/R3-3/2016, dated 05.04.2016, rejecting the quarry lease application of the petitioner under Rule 12(5)(d) of the A.P. Minor Mineral Concession Rules, 1966 (for short, "the Rules"). Thereafter, the petitioner presented an appeal under Rule 35 of the Rules on 02.01.2017, but the said appeal was addressed to the 2nd respondent herein. By way of letter bearing No.218/R3-3/2017, dated 17.04.2017, the office of the 2nd respondent, while returning the said appeal, asked the petitioner to file a revision before the Government as against the orders of the 2nd respondent under Rule 35-A of the Rules. In the above background, the present writ petition has been filed questioning the very rejection order passed by the 2nd respondent on 05.04.2016. According to

the petitioner, the said order of rejection was received by him on 06.10.2016.

According to the learned counsel for the petitioner, the very order of rejection passed by the 2nd respondent on 05.04.2016 is highly illegal, arbitrary, unreasonable and violative of Articles 14 and 19(1)(g) of the Constitution of India. It is submitted by the learned counsel that consideration of the application for quarry lease undertaken by the office of the 2nd respondent is not in accordance with the Rules and that the 2nd respondent did not properly consider the contents of the reply submitted by the petitioner on 10.03.2016. It is further submitted that the petitioner also requested the office of the 2nd respondent by way of letter, dated 15.03.2017, to transfer the appeal filed by him to the Government for necessary adjudication, but the 2nd respondent unreasonably returned the appeal. It is further submitted that even in the grounds of appeal the petitioner arrayed the Director of Mines and Geology and the Assistant Director of Mines and Geology as party respondents.

Per contra, it is vehemently contended by the learned Government Pleaders that the petitioner, having filed the appeal before an inappropriate authority, cannot complain anything against the respondents herein. It is submitted that there is no illegality nor there exists any procedural infirmity in the impugned action, as such, the same is not amenable for any judicial review under Article 226 of the Constitution of India.

Admittedly, in the present case, the petitioner, as against the orders passed by the 2nd respondent rejecting his quarry lease application, presented the appeal/revision before the same authority. Any order passed by the Director of Mines and Geology is appealable under Rule 35 and revisable under Rule 35-A of the Rules. Therefore, this Court does not find any illegality in the action of the 2nd respondent in returning the appeal presented by the petitioner, as the 2nd respondent is not the appropriate authority to adjudicate the same. However, having regard to the facts and circumstances of the case and in view of the said statutory remedies available to the petitioner, this Court deems it appropriate to dispose of the writ petition, leaving it open to the petitioner to present an appeal against the orders of the 2nd respondent, dated, 05.04.2016, before the State Government within a period of four weeks from the date of receipt of a copy of this order. If any such appeal is filed, the same be considered and appropriate orders be passed on merits in accordance with law, within a period of three months thereafter, after giving notice and opportunity of hearing to the petitioner.

The writ petition is accordingly disposed of. No order as to costs.

Miscellaneous petitions, if any, shall also stand disposed of.

A.V.SESHA SAI, J

Date: 17.08.2017
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