

THE HONOURABLE SRI JUSTICE A. V. SSHA SAI

WRIT PETITION No.21036 of 2017

ORDER:

Heard Sri K.Rajanna, learned counsel for the petitioner, the Government Pleader for Revenue (TG) appearing for respondent Nos.1 to 3 and the learned Government Pleader for Mines & Geology (TG) appearing for respondent No.4.

In the present writ petition, challenge is to the letter bearing No.B/ 537/ 2017, dated 25.05.2017, addressed by the Tahsildar, Nawabpet Mandal, Vikarabad District – 3rd respondent herein to the Assistant Director of Mines & Geology, Tandur, Vikarabad District – 4th respondent herein. By virtue of the questioned letter, the 3rd respondent cancelled the No Objection Certificate (NOC) issued earlier in favour of the petitioner herein vide letter bearing No.B/ 537/ 2017 dated 03.05.2017 for grant of quarry lease.

The petitioner herein submitted an application for grant of mining lease for Laterite mineral over an extent of Ac.25.00 guntas in Sy.No.163 of Madireddypally Village, Nawabpet Mandal, Ranga Reddy District, on 16.02.2010. Earlier, questioning inaction on the part of the respondent authorities on the said mining lease application dated 16.02.2010, the petitioner herein filed W.P.No.29973 of 2016. This Court, by way of an order dated 06.09.2016, disposed of the said writ petition directing the Director of Mines & Geology and the Assistant Director of Mines and Geology to consider the said application submitted by the petitioner herein and to take appropriate decision. Thereafter, vide letter bearing No.1000/ M/ 2010, dated 17.04.2017, the Assistant Director of Mines &

Geology requested the Tahsildar, Nawabpet Mandal, to re-verify and to submit a report.

Pursuant to the above said letter dated 17.04.2017, the Tahsildar, Nawabpet Mandal, Vikarabad District, vide letter bearing No.B/ 537/ 2017, dated 03.05.2017, issued No Objection Certificate in favour of the petitioner herein for grant of mining lease. Subsequently, the Assistant Director of Mines & Geology sent the proposals to the office of the Director of Mines & Geology for grant of mining lease in favour of the petitioner.

Now, by way of the letter bearing No.B/ 537/ 2017, dated 25.05.2017, which is under challenge in the present writ petition, the Tahsildar, Nawabpet Mandal, Vikarabad District, cancelled the said No Objection Certificate and communicated the same to the Assistant Director of Mines & Geology. The Assistant Director of Mines & Geology, in turn, addressed a letter bearing No.1000/ M/ 2010, dated 29.05.2017, soliciting further instructions from the office of the Director of Mines & Geology, in view of the said cancellation of No Objection Certificate. In the above background, the present writ petition has been filed questioning the very cancellation of the No Objection Certificate issued earlier.

According to the learned counsel for the petitioner, the questioned action which culminated in issuing the letter bearing No.B/ 537/ 2017, dated 25.05.2017, by the Tahsildar - 3rd respondent is illegal, arbitrary, unreasonable and violative of the principles of natural justice, besides contrary to Articles 14 and 19 (1) (g) of the Constitution of India. It is the further submission of the learned counsel that having issued No Objection Certificate earlier on 03.05.2017 after duly verifying the records, now it is not open for the 3rd respondent to cancel the same without even issuing

any notice and without affording an opportunity of being heard to the petitioner herein.

On the contrary, it is submitted by the learned Government Pleaders that there is no illegality nor there exists any infirmity in the impugned action and the 3rd respondent is justified in resorting to the impugned action in the direction of rectifying the mistake committed earlier.

There is absolutely no dispute with regard to the factum of filing application by the petitioner and issuance of No Objection Certificate earlier in favour of the petitioner herein and the proposals sent by the Assistant Director of Mines & Geology to the Director of Mines & Geology for grant of mining lease. Obviously, the only grievance of the petitioner in the present writ petition is that the letter of cancellation of No Objection Certificate came to be issued without putting the petitioner on notice. A perusal of the impugned letter bearing No.B/ 537/ 2017, dated 25.05.2017, in vivid and clear terms, discloses that the Tahsildar – 3rd respondent herein before resorting to the impugned action of cancellation of No Objection Certificate granted earlier on 03.05.2017 did not issue any notice nor afforded any opportunity of hearing to the petitioner herein. In the considered opinion of this Court, the said action on the part of the Tahsildar – 3rd respondent herein is a patent violation of the principles of natural justice. On this ground alone, the writ petition is liable to be allowed and the impugned letter bearing No.B/ 537/ 2017, dated 25.05.2017, is liable to be set aside.

For the aforesaid reasons, the writ petition is allowed, setting aside the letter bearing No.B/ 537/ 2017, dated 25.05.2017, issued by the Tahsildar, Nawabpet Mandal, Vikarabad District, canceling the No

Objection Certificate issued earlier on 03.05.2017, and the matter is remanded to the respondents for fresh consideration of the issue after giving notice and opportunity to the petitioner herein.

As a sequel, the miscellaneous petitions, if any, shall stand closed.
There shall be no order as to costs.

JUSTICE A. V. SESA SAI

07.08.2017
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