

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

WRIT PETITION No.25928 of 2017

ORDER:

Heard Sri M. Karuna Sagar, learned counsel for the petitioner, and the learned Government Pleader for Mines and Geology for the respondents.

An order of determination of quarry lease for colour granite held by the petitioner in respect of an extent of 10.15 hectares in Sy.No.30 of Jaminivalasa Village, Jalumuru Mandal, Srikakulam District, passed by the Director of Mines and Geology, 2nd respondent herein, vide proceedings D.Dis.No.1987/R1-1/2017, dated 24.03.2017, is under challenge in the present writ petition.

According to the petitioner, it is a company registered under the Companies Act engaged in the business of mining apart from other business and the subject lease was granted initially in favour of M/s. Jayasri Granites and subsequently on the application filed by it, the lease was transferred in its favour for the unexpired period. The 2nd respondent issued a show cause notice bearing No.1987/R1-1/2017, dated 23.01.2017, asking the petitioner to show cause as to why action should not be taken for determination of the subject quarry lease under Rule 12(5)(h)(xii) of the A.P. Minor Mineral Concession Rules, 1966.

According to the learned counsel for the petitioner, the said show cause notice was received on 01.02.2017 and the petitioner submitted its explanation on 15.02.2017 and the office of the 2nd respondent also acknowledged the same and vide proceedings under challenge, dated 24.03.2017, the respondent authorities determined the subject lease under Rule 12(5)(h)(xii) of the Rules principally on the ground that the petitioner failed to submit any reply in response to the show cause

notice. It is submitted by the learned counsel for the petitioner that the impugned order of determination of lease passed by the 2nd respondent is highly illegal, arbitrary, violative of principles of natural justice and violative of Articles 14 and 19(1)(g) of the Constitution of India. It is further submitted that there is absolutely no justification on the part of the 2nd respondent in resorting to the impugned action despite acknowledging receipt of the explanation, dated 15.02.2017, offered by the petitioner in response to the show cause notice.

A perusal of the material available before this Court discloses manifestly that the office of the 2nd respondent acknowledged the explanation, dated 15.02.2017, submitted by the petitioner. Having acknowledged the same, this Court does not find any justification on the part of the 2nd respondent to resort to the impugned action by totally ignoring the same. This action, in the considered opinion of this Court, is a patent violation of principles of natural justice. On this ground alone, the impugned order of determination of the subject lease is liable to be set aside.

For the aforesaid reasons, the writ petition is allowed, setting aside the order passed by the 2nd respondent vide proceedings, dated 24.03.2017, and the matter is remitted to the 2nd respondent for fresh consideration in accordance with law, after considering the explanation offered by the petitioner on 15.02.2017 and after giving notice and opportunity of hearing to the petitioner. No costs.

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

A.V.SESHA SAI, J

Date: 03.08.2017
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