

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No. 11878 OF 2017

ORDER:

The petitioner was granted lease for quarrying stone and metal over an extent of Acs.12.45 guntas in Survey No. 268 of Bandaraviryala Village, Hayathnagar Mandal, Ranga Reddy District in 2008. On the ground that the petitioner has not remitted the advance dead rent for the year 2010-11 and also mineral revenue arrears of Rs.2,92,327/- up to 31.03.2010, he was issued the show cause notice dated 29.11.2012, which was acknowledged on 11.12.2012. Since there was no reply therefor, the quarry lease of the petitioner was determined *vide* proceedings dated 08.01.2013 of the 3rd respondent Deputy Director of Mines & Geology and the security deposit paid by him was forfeited to the government. Against the said proceedings, the petitioner preferred an Appeal pleading that non-payment of dead rent is on account of his not being allowed to carry on the quarry operations and further the Director of Mines & Geology through proceedings dated 16.11.2011 itself had clarified that the "*dead rent shall not be payable for such periods when the lessee has no possession (physical or legal as the case may be) over the leased areas*". The Appeal was dismissed by the proceedings dated 27.10.2015 of the 2nd respondent Director of Mines & Geology. The Revision preferred thereagainst was also dismissed by the order dated 20.03.2017 of the 1st respondent government. Hence, the Writ Petition.

Learned counsel for the petitioner submits that when the quarry lease of Sri B. Shailendra as well as Sri M.A. Aziz, S/o Nayeem in respect of the land in the very same survey number in

Hayathnagar, was determined, the Appellate Authority as well as the Revisional Authority had renewed the leases in their favour on payment of mineral revenue dues. According to the learned counsel, the petitioner was shown hostile discrimination.

Considered the submissions made by the learned counsel for the petitioner as well as learned Government Pleader for Mines & Geology.

From a perusal of the material available on record, it may be noted that in the case of B. Shailendra, the Appellate Authority in its order dated 30.12.2015 had stated as under:

“A personal hearing of the appeal was held on 25.10.2014. At the time of the hearing, the appellant, the Assistant Director of Mines & Geology, Hyderabad and the Assistant Geologist O/o the Deputy Director of Mines & Geology, Hyderabad were attended. After hearing arguments on both sides, the appellate authority in principle decided to allow the appeal subject to payment of arrears including ADR for 2015-16 and directed the ADM&G, Hyderabad to submit report on payment of the MR dues. Accordingly, the ADM&G, Hyderabad submitted report vide reference 4th cited stating that the appellant paid the mineral revenue dues.

On perusal of the record and report submitted by the ADM&G, Hyderabad, it was decided to allow the appeal, as the appellant paid MR dues as per the report of ADM&G, Hyderabad.”

Whereas, in the case of the petitioner, the same Appellate Authority has stated as under:

“Further, the District Collector, Ranga Reddy District and the Chairman DLTF during the DLTF meeting held on 29.08.2011 observed that the assigned lands in Sy.No. 268 have already been resumed and there is no need for payment of ex-gratia. Therefore, the assignees in Sy. No. 268 have no legal rights since the assignments were cancelled on 23.10.2004 and the assigned lands have already been resumed. Further, the appellant executed the QL deed and

that amounts to handing over of the leased area to the appellant. Therefore, the determination the quarry lease is as per law and requested to dismiss the appeal filed by the appellant.

A personal hearing of the appeal was held on 06.04.2013. The appeal was heard along with the batch of appeals filed in the mining zone of Bandaraviryala Village. The Appellate Authority decided to dismiss the appeal as the appellant failed to pay the dead rents since 2010 and the claiming of not handing over of the leased area is not sustainable and the execution of quarry lease deed itself amounts to possession of the subject area to the appellant.

In view of the above and as per the powers delegated under Rule 35 of Andhra Pradesh Minor Mineral Concession Rules, 1966, the appeal filed by Sri P. Srinivas is hereby dismissed accordingly. The Deputy Director of Mines & Geology, Hyderabad and the Assistant Director of Mines and Geology, Hyderabad are hereby directed to take necessary action in the matter as per rules.”

Likewise, in the Revision filed by Sri M.A. Aziz, S/o Nayeem, it has been observed as under:

“In the reference 4th cited, the Director of Mines & Geology, Hyderabad has stated that the Asst. Director of Mines & Geology, Ranga Reddy reported that as the revision petitioner failed to pay dead rents within the stipulated time, the quarry lease was determined. However, the revision petitioner paid the dead rent arrears subsequent to the determination of the quarry lease.

In order to dispose of the Revision Application, a personal hearing was conducted on 04.02.2017 and examined the relevant documents filed before the Revision Authority. After hearing the contentions of both the parties, it is decided to allow the revision duly setting aside the impugned orders passed by the Director of Mines & Geology and restore the quarry lease in favour of Revision Petitioner, since the petitioner has paid MR (Mineral Revenue) dues and assured to conduct quarrying operations duly paying seigniorage fee to the government regularly. Further, the quarry lease will be cancelled, if the revision petitioner failed to pay the dead rent

within the stipulated time, in future. Accordingly, the Revision Application is disposed of under Rule 35-A of Telangana State Minor Mineral Concession Rules, 1966.”

Whereas in the case of the petitioner, the 1st respondent merely confirmed the order of the Appellate Authority. It is the specific assertion of the learned counsel for the petitioner that out of nine leaseholders, in eight cases, the Director of Mines & Geology himself has allowed the Appeals and the petitioner alone is singled out. This aspect of the matter is not disputed. Therefore, the argument of the learned counsel for the petitioner that the petitioner was given hostile treatment commends acceptance.

In those circumstances, the order of the 2nd respondent dated 27.10.2015, as confirmed by the 1st respondent *vide* order dated 20.03.2017 is set aside with a direction to the respondents to extend the same facility to the petitioner as is done in the case of the other similarly-situated leaseholders.

The Writ Petition therefore, stands allowed. No costs.

Consequently, the miscellaneous Applications, if any shall stand disposed of.

CHALLA KODANDA RAM, J

04th April 2017

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