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

WRIT PETITION No.25308 of 2017

ORDER:

Heard Smt.N.Shoba, learned counsel for the petitioner and learned Government Pleader for Mines and Geology (Telangana) for respondents.

2. A quarry lease for black granite was granted in favour of the petitioner firm over an extent of 2-000 hectors for a period of five years commencing from 22.03.1991. According to the petitioner, an extent of 1-000 hector was surrendered to the Government on 01.03.1993. Subsequently, the said lease was cancelled by the respondents on 01.09.1995. The Assistant Director of Mines and Geology, Nalgonda, fourth respondent herein, addressed a letter bearing No.2262/M/2006, dated 29.07.2010, to the Tahsildar, Himayathnagar Mandal, Hyderabad District, requesting him to furnish the information as to the moveable and immovable properties and assets of the petitioner. Thereafter, the petitioner filed a revision on 09.09.2010 before the State Government, the first respondent herein, under the provisions of Rule 35-A of the A.P. Minor Mineral Concession Rules, 1966 (for short, the Act). The first respondent, vide memo bearing No.13894/M.I(2)/2010-4, dated 07.06.2016, dismissed the said revision. Thereafter, on 12.09.2016, the petitioner filed another revision before the first respondent under Rule 35-A of the Rules against the demand notice dated 29.06.2016 subsequently issued by the fourth respondent. The first respondent, vide memo bearing No.7881/M.I(2)/2016-3, dated 28.03.2017, refused to entertain the said revision on the ground that earlier he dismissed the revision filed by the petitioner pertaining to the same cause of action. In the above backdrop, the present writ petition is filed.

3. According to the learned counsel for the petitioner, the impugned memo dated 28.03.2017 is highly illegal, arbitrary and contrary to the very spirit and object of the provisions of the Act and the principles of natural justice. Reiterating the contents of the affidavit filed in support of the writ petition, it is submitted by the learned counsel for the petitioner that a notice of hearing dated 19.12.2015 was received by the petitioner after 19.12.2015 and the notice of posting the case on 04.01.2017 was received by the petitioner on 04.01.2016 at 6.00 pm.

4. A perusal of the memorandum of revision dated 12.09.2016 shows that the petitioner brought the above said fact to the notice of the first respondent, but the first respondent, vide memo dated 28.03.2017, dismissed the subsequent revision on the ground of maintainability. In this connection, it is appropriate to refer to the provisions of Rule 35-A of the Rules and it reads as follows:

> " **35-A. Revision:-** The Government may either *suo motu* at any time or on an application made within ninety days, call for an examine the record relating to any order passed or proceeding taken by the Director, Deputy Director or Assistant Director under these rules for the purpose of satisfying themselves as to the legality or propriety of such order or as to the regularity of such proceedings and pass such order in reference thereto as they think fit.
>
> Provided that no order adversely affecting any person shall be passed under this rule unless such person has been given an opportunity of making his representation."

5. A reading of the above provision of law makes it clear that no order adversely affecting any person shall be passed under the said Rule unless such person has been given an opportunity of making his representation. In the instant case, according to the learned counsel for the petitioner, without affording reasonable opportunity,

as stipulated under the abovesaid Rule, the impugned order rejecting the revision came to be passed by the first respondent.

6. In the considered opinion of this Court, the said action on the part of the first respondent is not only violative of the aforesaid Rule, but also violative of principles of natural justice. On this ground alone, the writ petition is liable to be allowed and the matter requires reconsideration by the first respondent in accordance with law.

7. For the aforesaid reasons, the writ petition is allowed, setting aside the memo bearing No.7881/M.I(2)/2016-3, dated 28.03.2017, of the first respondent and the revision filed by the petitioner stands restored. The revision so restored shall be disposed of by the first respondent in accordance with law, after giving due opportunity to the petitioner. Till such time, no coercive action shall be taken by the respondents. Miscellaneous petitions pending, if any, shall stand closed. There shall be no order as to costs.

A.V. SESHA SAI, J

Date: 21.08.2017
TJMR