

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

WRIT PETITION No.28691 of 2017

ORDER:

Heard learned counsel for the petitioner and learned Government Pleader for Mines and Geology for the respondents.

This writ petition filed under Article 226 of the Constitution of India challenges the letter bearing No.2277/M.I(1)/2016, dated 11.07.2017, passed by the State Government, rejecting the revision application filed by the petitioner under the provisions of Rule 35-A of the A.P. Minor Mineral Concession Rules, 1966 (hereinafter called, "the Rules").

The Director of Mines and Geology, 3rd respondent herein, vide proceedings No.29942/R4-1/08, dated 27.08.2008, granted quarry lease in favour of the petitioner for black granite over an extent of 0.650 hectares in Sy.Nos.94/P and 95/P of Malayanur Village, Kundurpi Mandal, Ananthapur District for a period of 20 years under Rule 12 of the Rules. The said grant was followed by a work order issued by the Assistant Director of Mines and Geology, Ananthapur, vide proceedings No.3557/Q2/BG/2008, dated 10.11.2008. The 3rd respondent issued a show cause notice, dated 25.06.2011, calling upon the petitioner to show cause as to why the quarry lease should not be determined on the ground that the petitioner failed to remit the advance dead rent and did not submit the approved mining plan. Admittedly, the petitioner did not submit any explanation in response to the said show cause notice. Thereafter, the 3rd respondent vide proceedings D.Dis.No.18073/R4-1/2011, dated 08.12.2011, ordered

determination of the lease of the petitioner under Rule 12 of the Rules.

Aggrieved by the said order of determination, the petitioner preferred revision before the State Government under Rule 35-A of the Rules on 15.03.2017. The State Government, 1st respondent herein, by virtue of the impugned letter, dated 11.07.2017, rejected the said revision on the ground of delay in filing the same. Assailing the validity and legal sustainability of the said rejection order, the present writ petition is filed.

According to the learned counsel for the petitioner, the impugned action of rejection of the revision filed by the petitioner is highly illegal, arbitrary, unreasonable and violative of Articles 14 and 19(1)(g) of the Constitution of India besides being opposed to the very spirit and object of the provisions of the Rules. It is submitted by the learned counsel that had the contents of the revision filed by the petitioner been considered by the 1st respondent from proper perspective, the order impugned would not have emanated. It is further submitted by the learned counsel that in view of the valid reasons furnished by the petitioner for condonation of delay, the State Government grossly erred in rejecting the revision on the ground of delay.

According to Rule 35-A of the Rules, the Government may either suo motu at any time or on application made within ninety days, call for and examine the record relating to any order passed or proceeding taken by the Director, Deputy Director or Assistant Director for the purpose of satisfying 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 it thinks fit.

In the instant case, as against the order of determination passed by the 3rd respondent on 08.12.2011, petitioner preferred revision under Rule 35-A of the Rules on 15.03.2017 with a delay of five years one month and six days. In the grounds of revision, the petitioner stated that he is suffering from spinal problems since 2011 and undergoing treatment for the same and subsequently the division of State took place and the same affected his business, which lead to financial crisis, making him unable to pay the advance dead rent from 2011 to 2016. Along with the present writ petition, a doctor certificate, dated 11.03.2017, is also enclosed, which says that the petitioner is advised to take rest till recovery. There is absolutely no evidence to show that the petitioner submitted any such document in support of his plea before the State Government for condonation of delay from 2011 to 2017. As per Rule 35-A, the revision is required to be filed within a period of 90 days from the date of communication of the order. Admittedly, after the lapse of such period, the petitioner filed the revision before the State Government without any proper or valid explanation. Therefore, this Court does not find any valid reason to meddle with the order passed by the State Government vide letter, dated 11.07.2017.

Accordingly, the writ petition is dismissed. No costs.

Miscellaneous petitions, if any, shall also stand dismissed.

A.V.SESHA SAI, J