

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

WRIT PETITION No.26572 of 2017

ORDER:

This Writ Petition, filed under Article 226 of the Constitution of India, challenges the proceedings bearing No.1130/R2-1/2016-3, dated 11.05.2017 of the Director of Mines & Geology-second respondent herein, Government of Telangana, Hyderabad-second respondent herein.

Heard Smt.N.Shobha, learned counsel for the petitioner, and the learned Government Pleader for Mines & Geology for the State of Telangana.

Petitioner herein submitted an application for grant of quarry lease for Laterite over an extent of Ac.80.00 gts in Sy.No.273 of Manchenpally village, Pudur mandal, Ranga Reddy District. The Director of Mines & Geology-second respondent herein issued a show cause notice bearing No.1130/R2-1/2016-2, dated 18.03.2017, asking the petitioner to show cause as to why his application should not be rejected under Rule 12 of the Telangana State Minor Mineral Concession Rules, 1966. Responding to the said show cause notice, dated 18.03.2017, the petitioner herein submitted explanation dated 07.04.2017. Thereafter, the Director of Mines & Geology-second respondent

herein, by virtue of the proceedings under challenge, dated 11.05.2017, rejected the quarry lease application of the petitioner herein. The present Writ Petition challenges the validity and the legal sustainability of the said order of rejection passed by the Director of Mines & Geology-second respondent.

According to the learned counsel for the petitioner the order impugned in the Writ Petition is highly illegal, arbitrary, unreasonable and also 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 Mines & Minerals (Development and Regulation) Act, 1957 and the rules framed thereunder. It is the further submission of the learned counsel that the impugned action is a patent violation of the principles of natural justice, as the second respondent rejected the application of the petitioner herein on the grounds other than the grounds mentioned in the show cause notice dated 18.03.2017. It is also submitted by the learned counsel that the Director of Mines & Geology-second respondent herein did not consider the explanation offered by the petitioner herein in a proper perspective.

On the other hand, it is submitted by the learned Government Pleader that there is no illegality nor there exists

any procedural infirmity in the impugned action and, only after affording opportunity to the petitioner herein, the authorities have resorted to the impugned action of rejection of the application and, as such, the petitioner herein cannot complain of the violation of principles of natural justice.

There is absolutely no dispute with regard to the submission of the quarry lease application by the petitioner herein. A perusal of the show cause notice dated 18.03.2017 shows that the Assistant Director of Mines & Geology, Tandur-third respondent herein submitted proposals for rejection of the petitioner's application on the ground that the petitioner failed to show the applied area and on the ground of pendency of the Writ Petition before this Court. Responding to the said show cause notice, admittedly, the petitioner herein submitted an explanation on 07.04.2017. Eventually the Director of Mines & Geology-second respondent herein, by way of the order under challenge, rejected the application of the petitioner herein on the ground that the reply submitted by the petitioner herein was not satisfactory for the following reasons:

1. "The applicant was not able to show the applied area on the ground. It shows the casualness of the applicant.

2. The Revenue Department was not inclined to issue NOC for the applied area of the applicant.
3. The applicant insisting for processing of his application based on the NOC's received on the subsequent applicant even though the applied area is very less against the applied area of his application. It demonstrates the intension of the applicant for blocking the area.

Further the applicant filed the application for QL directly, even though the area was not prospected earlier and being a virgin area. There is a PL application was received over the subject area and as per rules the PL application will have the merit over the direct grant of QL application. Hence, the application filed by the applicant deserves no consideration".

As rightly pointed out by the learned counsel for the petitioner the reasons shown in the final order of rejection, as extracted above, did not find place in the show cause notice issued on 18.03.2017. Therefore, the Director of Mines & Geology-second respondent herein erred in passing the order under challenge without indicating the said reasons in the show cause notice issued earlier. This ground is sufficient to send back the matter for re-consideration by the respondents herein.

For the aforesaid reasons the Writ Petition is allowed, setting aside the order of the Director of Mines & Geology-second respondent herein issued vide proceedings dated 11.05.2017. It is open for the respondents herein to issue a show cause notice afresh and to proceed in accordance with law.

As a sequel to the disposal of the Writ Petition, miscellaneous petitions, if any, pending shall stand closed.

09th August, 2017
Tsy

A.V.SESHA SAI, J

