

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

WRIT PETITION No.30124 of 2017

ORDER:

Heard learned counsel for the petitioner and Sri Laxman, learned Assistant Solicitor General, for Union of India apart from perusing the material available before the Court.

In the present writ petition, challenge is to the action of the respondents in not considering the application of the petitioner for the purpose of empanelment as empanelled explorer for providing exploration services in relation to the proposed exploration projects undertaken by National Mineral Exploration Trust (for short, 'NMET').

The Union of India in exercise of the powers conferred under sub-section (1) of Section 9(c) of the Mines and Minerals Development and Regulation Act, 1957 constituted NMET and also framed National Mineral Exploration Trust Rules, 2015 and notified the same vide notification No.GSR 632(E), dated 14.08.2015. The body so constituted by the Union of India, in furtherance of its objective, issued a notification No.EOI request No.4/1/2015, dated 27.12.2016, calling for applications from the eligible mineral explorers. The petitioner is also one of the applicants in response to the said notification. The NMET issued a list of notified exploration entities for empanelment on 08.05.2017 and thereafter a final notification No.4/1/2016-NMET was also

issued on 30.05.2017, but the name of the petitioner was not empanelled. Thereafter, the petitioner filed an application on 23.05.2017, seeking the following information under the Right to Information Act, 2005:

- “1. Selected applicants date of registration of the company/firm.
2. Selected applicants technical strength as on the date of filing application with date of appointment of Geologists in the company together with qualification and experience.
3. Selected applicant's prior projects relating to mineral investigation as furnished by them.
4. I enclose herein IPO for Rs.100/- towards fee for furnishing the information. If at all same is not sufficient, the amount of fee payable may be informed, for payment.

Your earlier positing response is earnestly solicited.”

In response to the same, the CPIO (Mines-I) vide proceedings No.40/35/2015.MI, dated 20.06.2017, refused to furnish the above said information on the ground that the said information sought by the petitioner would not fall under the definition of 'Information' under Section 2(f) of the Right to Information Act, 2005. Aggrieved by the said order, the petitioner on 03.07.2017 filed an appeal before the first appellate authority i.e., Chief Public Information Officer (Mines-I), Ministry of Mines, Shastri Bhawan, New Delhi. Vide order, dated 14.07.2017, the Director (T) and Appellate Authority rejected the said appeal, confirming the order of the primary authority. Aggrieved by the said order, the petitioner preferred a second appeal under Section 19(3) of the Right to

Information Act, 2005 before the Central Information Commission, 3rd respondent herein.

Admittedly, the said appeal is pending consideration before the 3rd respondent and pending the said appeal, the present writ petition is filed, questioning the very action on the part of the authorities in not considering the application of the petitioner for the purpose of empanelment and as an interim measure, a direction is being sought to the respondents not to act upon the selected list published vide notification No.4/1/2016/NMET, dated 30.05.2017. Since the said second appeal is pending before the 3rd respondent, it is always open for the petitioner to pursue the same and pendency of the said appeal is not a ground to the petitioner to file the present writ petition to stop the entire process.

A perusal of the affidavit filed in support of the writ petition also shows that one of the grievances of the petitioner in the present writ petition is that the first appellate authority, without even providing opportunity of hearing, passed the impugned orders by reiterating the orders of the primary authority. The present process undertaken by the respondents is a continuous process. Therefore, this Court is not inclined to entertain the present writ petition at this stage. However, this Court deems it appropriate to direct the 3rd respondent to dispose of the appeal, dated 01.08.2017, filed by the petitioner, within a period of six weeks from the

date of receipt of this order, after giving opportunity of hearing to the petitioner.

With the above observations, the writ petition is disposed of.

Miscellaneous petitions, if any, shall also stand disposed of. No order as to costs.

A.V.SESHA SAI, J

Date: 11.09.2017
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