

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

W.P.No.30942 of 2017

ORDER:

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

2. In the present writ petition challenge is to the letter bearing No.573/Illegal/2017, dated 11.07.2017 of the Deputy Director of Mines and Geology, Warangal Region, Warangal, whereby and whereunder the Deputy Director of Mines and Geology rejected the representation made by the petitioner herein.

3. Petitioner herein claims to be the owner and possessor of land admeasuring Ac.2.19 gts in Sy.Nos.268 & 269/A of Kothagattu Village, Athmakur Mandal, Warangal Rural District and according to the petitioner the said land is adjacent to Sy.No.35/A1 in respect of which, the mining authority has granted lease in favour of unofficial respondent herein. Petitioner herein submitted representation to the Deputy Director of Mines and Geology, Warangal Region, Warangal on 27.01.2017, requesting to terminate the above mentioned lease granted in favour of the 7th respondent on the ground that his land is becoming useless because of the blasting operations being undertaken by the unofficial respondent herein.

4. On the said representation, the Deputy Director of Mines and Geology, Warangal called for a report from the Assistant Director of Mines and Geology, Warangal Rural vide memo dated

28.01.2017. There is absolutely no dispute with regard to the fact that thereafter, the Assistant Director of Mines and Geology did not submit any report in response to the said memo. The Deputy Director of Mines and Geology vide orders under challenge declined to interfere with the matter and rejected the representation of the petitioner herein holding that Sy.No.35/A/1 of Kottagattu Village, Aathmakur Mandal, Warangal rural is not adjacent to Sy.No.268 and 269/A of Kothagattu Village.

5. In the present writ petition, it is stated by the petitioner herein that the Deputy Director of Mines and Geology without properly verifying the ground realities, issued the said letter of rejection. It is also the submission of learned counsel that as per the report of the Valuers and Architects dated 03.12.2016, furnished on the request of the petitioner herein, it is evident that because of the blasting operations, the land of the petitioner is getting affected.

6. It is also submission of the learned counsel for the petitioner that on the application made by the petitioner herein, the Telangana State Pollution Control Board, Regional Office, Warangal, issued a letter bearing No.1074/PCB/RO-WGL/2017-431, dated 23.02.2017, furnishing the particulars as regards to the ground realities.

The said letter reads as under:

- “1. As per the records, the details of quarry operated by Sri E.Ravindra Rao at Sy.No.35/A1, Kothagattu (V), Athmakur (M), Warangal District is not available.
2. As per the records, Sri E. Ravindra Rao is operating a stone crusher is in the name & style of M/s. Sree Venkateshwara Stone Crusher,

Sy.No.280, Kothagattu (V), Athmakur (M), Warangal District and obtained CFO from the Board on 18.10.2016 valid upto 31.10.2021.

3. As per records, the details of air pollution control measure taken by the industry is as given below:
 - a. The stone crusher has provided cladding system to vibrating screen to control fugitive dust emissions.
 - b. The stone crusher has provided water sprinklers at crushing section & on conveyors to control fugitive dust emissions.
 - c. The stone crusher has provided G1 sheet covers over the conveyor to control the fugitive emissions.
 - d. The stone crusher has provided dust bunker to control the fugitive emissions.
 - e. The stone crusher has maintained 50 mts buffer zone around the crusher.
 - f. The stone crusher has not developed greenbelt within the Stone Crusher premises.
 - g. The stone crusher has not provided wind breaking walls & metals roads within the Stone Crusher premises.”

7. While referring to above said letter of the Pollution Control Board dated 23.03.2017 and the certificate given by the Valuers and Architects on 03.12.2016, it is contended by the learned counsel for the petitioner that the findings arrived at by the Deputy Director of Mines and Geology, Warangal, are far from truth and are baseless and contrary to the ground of realities. It is also pointed by the learned counsel that having called for the report from the Assistant Director Mines and Geology, there is absolutely no justification on the part of the Deputy Director to issue the impugned order without waiting for the report of the Assistant Director.

8. On the other hand, it is submitted by the learned Government Pleader that the present writ petition is not maintainable in view of the availability of alternative remedy of

appeal, before the Director of Mines and Geology under Rule 35 of the Rules and the factual controversies alleged in the present writ petition cannot be adjudicated under Article 226 of Constitution of India

9. This Court considers sufficient force in the submission of the learned Government Pleader and also is of the view that as certain factual aspects are required to be verified, petitioner herein can avail the remedy of appeal before the Director of Mines and Geology and this Court is not inclined to entertain the present writ petition.

10. Accordingly, the writ petition is disposed of, keeping it open to the petitioner herein to file appeal before the Director of Mines and Geology within a period of one(1) week from the date of receipt of the order, against the impugned order dated 11.07.2017 of the Deputy Director of Mines and Geology, Warangal, by enclosing all the necessary and supportive documents. Thereafter, it is open for the Director of Mines and Geology to pass appropriate orders, after hearing all the stakeholders, within a period of two (02) months thereafter. There shall be no order as to costs.

11. As a sequel, the miscellaneous petitions, if any, shall stand closed.

A.V.SESHA SAI, J

Date: 13.09.2017
dv

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



W.P.No.30942 of 2017

13.09.2017