

HON'BLE SRI JUSTICE S.V. BHATT

W.P. Nos.31128, 31151 AND 31155 of 2016

COMMON ORDER:

Heard Si Kaatrapati Satyanarayana for petitioners, the Assistant Government Pleader holding for learned Additional Advocate General (TS) and Smt.N.Shoba for 3rd respondent.

The petitioners are agriculturists, doing agriculture adjacent to Survey No.179 of Bompally, H/o. Appannapet Village, Peddapalli Mandal, Karimnagar District. The petitioners challenge proceedings No.464/KMNR/AH/2016 dated 04.08.2016 of 2nd respondent in these writ petitions.

The Deputy Director of Mines and Geology through proceedings No.811/QL-2/2007 dated 05.12.2014 determined the mining lease standing in the name of 3rd respondent for quarrying Road Metal in Survey No.179 .

The 3rd respondent filed appeal before the 2nd respondent and as noted above, the appeal is allowed. Petitioners refer to various irregularities and illegalities against the order impugned in the writ petitions and are vehement in their opposition in allowing the appeal by 2nd respondent, for according to them, the 2nd respondent did not consider the concern or safety aspects which the statutory authorities are expected to consider and examine while granting mining leases involving explosion of granite for mining purpose. On account of granting lease in favour of 3rd respondent, the livelihood of petitioners is affected.

The 3rd respondent relies upon the order passed by the District Collector in the year 2009 and that in Survey No.179 several leases are in operation. Pursuing grievance against 3rd respondent shows the selective attitude in challenging the order of mining lease granted by the respondents. According to 3rd respondent, the 3rd respondent has not been doing mining activity from 2009 onwards and the period for which the lease was granted is also substantially affected without the 3rd respondent extracting Road Metal from subject quarry.

The Assistant Government Pleader submits that the grant of mining leases are firstly according to the rules and regulations governing the grant and on the question of safety and security and the steps required to be taken for ensuring safety either for petitioners or persons doing agricultural operations in the neighbourhood, he submits that a revision under Rule 35(A) of the A.P. Minor Mineral Concession Rules, 1966 is the effective and appropriate remedy. Having regard to the scope and object of revision, the record either in granting the mining lease or the objections of petitioners, can be comprehensively considered by 1st respondent and a decision taken in this behalf.

After going through the material available on record, this Court is persuaded to accept the objections raised by the Assistant Government Pleader. Rule 35(A) of the A.P. Minor Mineral Concession Rules, 1966 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, Joint 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.”

From the above Rule, it is clear the Government can call for and examine the record relating to any order passed or proceeding taken by the Director, Joint Director, Deputy Director or Assistant Director under the Rules and satisfy itself on the legality or propriety of such order or as to the regularity of such proceeding and dispose of the same. In the case on hand, thrust is on the regularity in setting aside determination of lease than the determination of lease. The writ petitions are disposed of by this order:

- a) petitioners are permitted to file revision by enclosing a copy of this order within four weeks from today before the 1st respondent.
- b) the 1st respondent while calling for record from the Director of Mines and the Deputy Director, calls for independent report within a period of four weeks on the physical conditions, explosion safety measures to be taken and the impact on the neighbourhood in the event of explosion and such other relevant circumstances. Thereafter, affords opportunity to petitioners and 3rd respondent and disposes of

the same as expeditiously as possible preferably not later than 15 weeks from today. The interim order granted on 19.09.2016 is directed to be continued till the disposal of the revision.

- c) the 1st respondent, if considers appropriate to have report on the impact from explosion etc., is given liberty to pass orders for operating the mine for the purpose of collecting report alone.

No order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

Date: 07.08.2017
Note: C.C. in three days.
B/o.
Sp



S.V.BHATT, J