

THE HONOURABLE SRI JUSTICE RAJA ELANGO
WRIT PETITION Nos.15745 of 2017 & 18265 of 2017

COMMON ORDER:

These two writ petitions are disposed of by way of a common order since the subject matter in both the writ petitions is one and the same.

2. The W.P.No.15745 of 2017 is filed by the petitioner – M/s. Bhadrachalam Girijan Sand Quarry Labour Contract, Bhadrachalam, Bhadradri Kothagudem District, under Article 226 of the Constitution of India seeking to declare the action of the respondents, particularly proceedings issued by the 1st respondent vide Ref.No.TSMDC/BO/KMM/SAND/BCM-OSR17/2017-18/13, dated 17.04.2017, for stopping of mining work of the petitioner society as Raising Contractor at Bhadrachalam Sand Reach of Bhadrachalam Mandal of Bhadradri Kothagudem District and asking to submit the Gram Panchayath Resolution from the Bhadrachalam Gram Panchayath, as illegal, arbitrary and contrary to the New Sand Mining Policy-2014 issued in G.O.Ms.No.38, Industries and Commerce (Mines-I) Department, dated 12.12.2014, and the Telangana State Sand Mining Rules, 2015, issued through G.O.Ms.No.3, Industries & Commerce (Mines-I) Department, dated 08.01.2015, and consequently set aside the same with a direction to continue mining work of the petitioner society till subsisting of agreement period.

3. The W.P.No.18265 of 2017 is filed by the petitioners under Article 226 of the Constitution of India seeking to declare the action of respondents 1 to 6 in granting permission to the 7th

respondent - M/s. Bhadrachalam Girijan Sand Quarry Labour Contract, Bhadrachalam, Bhadradri Kothagudem District, who is petitioner in W.P.No.15745 of 2017, for excavation and transportation of sand from Godavari River without obtaining any grama sabha permission and also the Gram Panchayat resolution, as illegal and arbitrary and against the principles of natural justice and also violation of Articles 14, 19 and 21 of the Constitution of India and also violation of Section 4 (k) & (l) of the provisions of The Panchayat (Extension of the Scheduled Areas) Act, 1996 (PESA Act) and also consequently direct respondents 1 to 6 to direct the 7th respondent not to excavate the sand from the Godavari River.

4. Heard learned counsel for both the parties and perused the material available on record.

5. The facts of the cases are that the Project Officer, Telengana State Mineral Development Corporation Ltd. (for short, 'TSMDC'), Kothagudem District, 1st respondent in W.P.No.15745 of 2017, has entered into an agreement with the petitioner in W.P.No.15745 of 2017 and appointed as a Raising Contractor for excavation and transportation of sand from the mining point of Bhadrachalam Sand Reach to the stockyard and again loading at stockyard specified by the TSMDC through agreement and the agreement is valid upto 30.06.2017. Though the 1st respondent in W.P.No.15745 of 2017 has issued impugned proceedings Ref.No.TSMDC/BO/KMM/SAND/BCM-OSR17/2017-18/13, dated 17.04.2017, requesting the petitioner in W.P.No.15745 of 2017 to stop the mining work from 18.04.2017 and further asked to

submit the Gram Panchayat resolution in favour of the petitioner in W.P.No.15745 of 2017 to act as Raising Contractor.

6. On 27.04.2017, this Court, at the time of admission of W.P.No.15745 of 2017, granted interim suspension of the impugned order, dated 17.04.2017, issued by the 1st respondent in W.P.No.15745 of 2017 and in the guise of the said interim order, the petitioner in W.P.No.15745 of 2017 is continuing mining operations i.e., excavation and transportation of sand from Godavari River. Aggrieved by the same, the petitioners in W.P.No.18265 of 2017, filed W.P.No.18265 of 2017 praying to stop granting permission to the petitioner in W.P.No.15745 of 2017 and consequently to direct the petitioner in W.P.No.15745 of 2017 not to excavate and transport the sand from Godavari river.

7. Learned counsel for the petitioners in W.P.No.18265 of 2017 submitted that the lease period granted to the petitioner in W.P.No.15745 of 2017 was already completed by 30.06.2017 and if any new license is to be given, it will be only after 30.06.2017.

8. Considering the facts and circumstances of both the cases and the submissions of the learned counsel for the petitioners in W.P.No.18265 of 2017, this Court is of the view that both the writ petitions are liable to be disposed of. Regarding the question raised in W.P.No.15745 of 2017 as to whether any No Objection Certificate is required for the mining operation as far as the petitioner in W.P.No.15745 of 2017 is concerned, it is left open to the respondent authorities to decide the issue and pass appropriate orders, in accordance with law.

9. Accordingly, both the Writ Petitions are disposed of.
There shall be no order as to costs.

Miscellaneous Petitions, if any pending in these two writ petitions shall also stand closed.

RAJA ELANGO,J

Date: 19th July, 2017

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