

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

W.P.No.19795 of 2017

O R D E R:

In the present writ petition, challenge is to the order passed by the Deputy Director of Mines and Geology, Kurnool, vide proceedings No.3892/M4/2007 dated 09.05.2017. The Deputy Director of Mines and Geology, Kurnool granted quarry lease in favour of the petitioner herein for Road Metal and Building Stone over an extent of 1-00 hectares in Sy.No.USHB of Bhanumukkala village, Banganapalli Mandal, Kurnool District vide proceedings No.3892/M4/07 dated 27.09.2007.

2. The Director of Mines and Geology/third respondent herein issued a show-cause notice bearing S.C.N.No.3892/M4/2007, dated 21.04.2017, calling upon the petitioner to show cause as why action should not be taken as per Rule 11 (1) (a) of A.P. Minor Mineral Concession Rules, 1966. In response to the said show-cause notice on 03.05.2017 petitioner submitted an explanation. Thereafter, the third respondent/Deputy Director, vide proceedings under challenge dated 09.05.2017, ordered determination of the quarry lease of the petitioner herein under Rule 11 (1) (a) of the Rules.

3. This writ petition challenges the validity and the legal sustainability of the said order of determination passed by the third respondent.

4. According to the learned counsel for the petitioner, the order impugned is highly illegal, arbitrary and opposed to the very spirit and

object of the provisions of A.P. Minor Mineral Concession Rules, 1966. It is further submitted that the third respondent herein did not consider the explanation offered by the petitioner herein and without assigning any valid reason passed the questioned order.

5. On the other hand, it is vehemently contended by the learned Government Pleader that there is absolutely no illegality nor there is any procedural infirmity in the impugned action and in the absence of the same, the impugned action is not amenable for any judicial review under Article 226 of the Constitution of India. It is further submitted by the learned Government Pleader that only after affording complete opportunity to the petitioner herein i.e., after issuing show-cause notice, the third respondent passed the impugned order determining the lease in the public interest. It is the further submission of the learned Government Pleader that the order impugned in the writ petition is appealable order and without availing the said remedy, the present writ petition came to be filed before this Court directly and on the said ground also writ petition is liable to be dismissed.

6. As per Rule 35 of the A.P. Minor Mineral Concession Rules, 1966 any order passed by the Deputy Director of Mines and Geology is appealable before the Director. Since the efficacious and alternative remedy is available to agitate all the aspects including the factual aspects, this Court is not inclined to entertain the present writ petition under Article 226 of the Constitution of India.

7. This Court, on 19.06.2017, granted interim suspension and the same stood extended for a further period of four weeks from 17.07.2017.

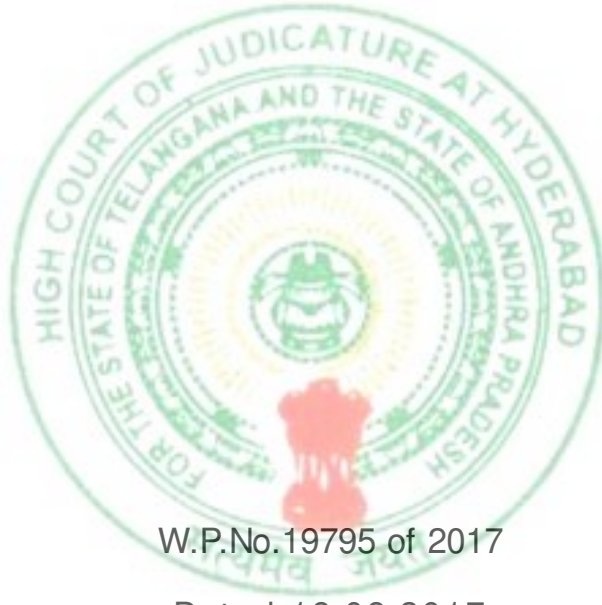
8. Having regard to the submissions and for the aforesaid reasons, writ petition is disposed of, keeping it open for the petitioner herein to file appeal under the provisions of Section 35 of A.P. Minor Mineral Concession Rules, 1966 against the order passed by the third respondent vide proceedings No.3892/M4/2007, dated 09.05.2017 which is impugned in the present writ petition, within one week from the date of receipt of this order. If any such appeal is filed within the time stipulated, the same shall be considered and appropriate orders may be passed in accordance with law as expeditiously as possible after giving notice and opportunity of hearing to the petitioner herein. It is also made clear that in the event of failure on the part of the petitioner herein to file appeal within the time as indicated above, this order will not enure to the benefit of the petitioner herein. It is also made clear that till the disposal of the appeal, interim order passed by this Court on 19.06.2017 shall continue. As a sequel, the miscellaneous petitions, if any, shall stand closed. There shall be no order as to costs.

A.V.SESHA SAI, J

Date: .08.2017
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THE HON'BLE SRI JUSTICE A.V.SESHA SAI



W.P.No.19795 of 2017

Dated:18.08.2017

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