

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

WRIT PETITION No.28372 of 2017

ORDER:

Heard Smt.N.Shoba, learned counsel for the petitioner and learned Government Pleader for Mines and Geology (Andhra Pradesh) for the respondents.

2. This writ petition is filed under Article 226 of the Constitution of India for the following relief:

“...to issue writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the 2nd respondent Director of Mines and Geology in Lr.No.16270/R3-2/2006, dated 15.05.2017 proceeding to reduce the area to 50.000 hectares on the application of the Petitioner dated 23.11.2004 for grant of mining lease for Quartz over an extent of 448.57 acres in Sy.No.1035/111 of Kalvapally, hamlet of Racherla Village, Racherla Mandal, Prakasam district by applying G.O.Ms.No.29, Industries & Commerce (M.II) Department, dated 15.02.2017 retrospectively when the State Government has proposed to grant Mining Lease in Memo No.4423/M.II(2)/2008-1, dated 15.05.2009 and called for approved Mining Plan as arbitrary, illegal, unjust and unconstitutional and contrary to the provisions of Mines and Minerals (Development & Regulation) Act 1957 and A.P. Minor Mineral Concession Rules 1966...”

3. According to the petitioner, it submitted an application on 23.11.2004 for grant of mining lease in its favour over an extent of Ac.448.57 cents in Sy.No.1035/1 of Kalvapally, hamlet of Racherla Village and Mandal, Prakasam District and the same was acknowledged by the Assistant Director of Mines and Geology, third respondent herein, on the even date. Thereafter, the area was inspected, surveyed and the area was reduced by Ac.25-00 cents. The petitioner gave consent for the same and a survey report was furnished on 02.06.2008 and the same was forwarded to the Director of Mine and Geology, second respondent herein. The first respondent, vide memo No.4423/M.II(2)/2008-1, dated

15.05.2009, proposed to grant mining lease of quartz for a period of 20 years subject to submission of approved mining plan under Rule 22(4) of the Mineral Concession Rules, 1960 and also subject to submission of environmental clearance from the Government of India under environmental impact assessment as per S.O.1533, dated 14.09.2006, and also the consent for establishment from A.P. Pollution Control Board. It is further stated that the mining plan was approved by the Zonal Joint Director of Mines and Geology, Ongole vide letter No.9934/DMP/ONG/09, dated 12.11.2010, and the same was forwarded to the Government on 14.07.2010 by the second respondent, requesting the Government to grant mining lease in the subject area. It is also averred in the writ affidavit that the petitioner received environment clearance certificate dated 10.08.2015 from the Government of India and also consent from the Pollution Control Board by its order dated 21.10.2015.

4. It is stated that by way of Act No.10 of 2015, certain amendments were made to Mines and Minerals (Development & Regulation) Act, 1957 with effect from 12.01.2015 and the Government of India declared 31 major minerals as minor minerals and the subject mineral i.e., quartz is one among them. It is further stated that the petitioner deposited a sum of Rs.45,40,175/- towards deposit amount and Rs.7,500/- towards differential application fee on 28.09.2016 and submitted original challans to the third respondent by way of a letter dated 29.09.2016. Thereafter, the third respondent recommended for grant of quarry lease in favour of the petitioner to the second respondent vide letter dated 29.09.2016. Thereafter, the second respondent called for a report from the third respondent on 15.10.2016 for processing the application. On receipt of the same, the third respondent requested the petitioner to furnish certain

additional information, for which, the petitioner furnished the information on 01.02.2017. It is also stated that the third respondent resubmitted the sketches to the second respondent vide letter dated 17.04.2017 and recommended for grant of quarry lease in favour of the petitioner.

5. It is further stated that vide letter bearing No.16270/R3-2/2016, dated 15.05.2017, the second respondent called for a justification report as to why the extent should not be reduced in accordance with G.O.Ms.No.29, Industries and Commerce (M.II) department, dated 15.02.2017. In response to the said letter dated 15.05.2017, the petitioner submitted an explanation on 22.05.2017, raising objections as regards the applicability of G.O.Ms.No.34, dated 14.03.2016 and G.O.Ms.No.29, dated 15.02.2017. In the said explanation, the petitioner stated that the said GOs cannot be made applicable as the application of the petitioner was made as long back as on 23.11.2004 and the letter of communication was received on 15.03.2009 and it paid all the amounts to the Government. In the said explanation, the petitioner also stated that amended Rule 12(5)(f) of the A.P. Minor Mineral Concession Rules, 1966 does not apply because of compliance of all formalities even prior to 15.02.2017. Eventually, in the said explanation, the petitioner requested the second respondent to grant mining lease for the entire extent. In the above background, the present writ petition is filed.

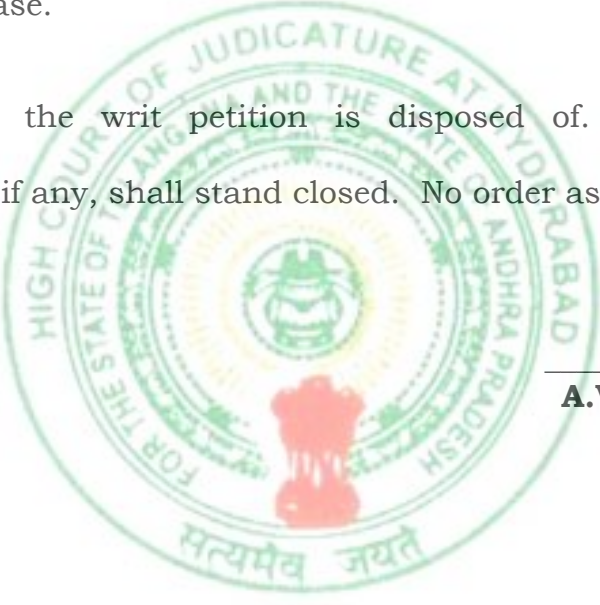
6. It is contended by the learned counsel for the petitioner that without considering the explanation of the petitioner dated 22.05.2017 and the contents of the same and, without passing any orders on the said explanation, the respondents are proceeding with the grant of lease.

7. On the other hand, it is submitted by the learned Government Pleader that there is no cause of action for the petitioner as on date to file the present writ petition and the explanation submitted by the petitioner, in response to the justification report dated 15.05.2017, is pending with the second respondent and no action has been taken on the same.

8. Having heard the learned counsel for the petitioner and the learned Government Pleader, this Court deems it fit to direct the second respondent to consider the explanation/objections dated 22.05.2017 submitted by the petitioner in response to the justification report of the second respondent dated 15.05.2017 before proceeding further with grant of subject lease.

9. Accordingly, the writ petition is disposed of. Miscellaneous petitions pending, if any, shall stand closed. No order as to costs.

Date: 23.08.2017
TJMR



A.V. SESA SAI, J