

HON'BLE SRI JUSTICE M. SEETHARAMA MURTI

WRIT PETITION No.38823 of 2017

ORDER:

This writ petition is filed seeking the following relief:

“...to issue a writ of mandamus declaring the action of the respondents is not considering the petitioner's pending proposal of application for grant of lease in pursuance petitioner application dated 26-12-2008, of Ball Clay mineral lease for extent Ac. 31.39 Cents in R.S.No.358 Venkatakrishnapuram Village, Dwaraka Tirumala Mandal, West Godavari District, A.P. as illegal, arbitrary, in violation mining rules, in violation or principles of natural justice and in violation of Article 14 & 21 of the Constitution of India and consequently direct the respondents to grant Ball Clay lease in favour of the petitioner by considering his representation dt.11-05-2017.”

2. The grievance of the petitioner is non-disposal of his explanation, dated 10.11.2014, by the authority concerned despite lapse of a long time.

3. Heard the submissions of learned counsel for the petitioner and of learned Government Pleader appearing for respondents 1 to 3.

4. A perusal of the record, particularly, memo dated 29.10.2014 makes it clear that the application of the petitioner, dated 26.12.2008, was considered and the petitioner was informed that based on the recommendation of the Director of Mines and Geology, Government of Andhra Pradesh, Hyderabad, it was proposed to reject the petitioner's application for grant of Mining Lease for Ball Clay over an extent of Ac.100.00 cents in Survey No.358,

Venkatakrishnapuram Village, Dwaraka Tirumala Mandal, West Godavari District, and that therefore, the petitioner was directed to show cause within 15 days from the date of the said memo as to why further action shall not be taken on the basis of the material available with the Government. Pursuant thereto, the petitioner submitted his explanation, dated 10.11.2014. However, the said explanation is not considered and disposed of till today is not disputed. Be that as it may, in the very memo by which the explanation of the petitioner was called for, the Director of Mines and Geology, Government of Andhra Pradesh, Hyderabad, is also requested to resubmit the file along with his specific remarks/recommendations, if any received, to take necessary further action in the matter.

Learned counsel for the petitioner now brings to the notice of this Court, the report of the Tahsildar, Dwaraka Tirumala, whereby it is stated that from out of Ac.100.00 cents, which is the subject land, an extent of Ac.31.39 cents, is available for lease. The said letter, dated 02.01.2010, of the Tahsildar, Dwaraka Tirumala, addressed to the District Collector is placed on record. Therefore, learned counsel for the petitioner submits that insofar as that extent of land, there is no overlapping and therefore, the request of the petitioner, who is the first applicant, can be considered for grant of mining lease to that extent.

Learned Government Pleader, on instructions, would submit that the authority concerned would consider and dispose of the explanation of the petitioner in accordance with procedure established by law.

Recording the submissions, the writ petition is disposed of directing the authority concerned to consider and dispose of the explanation and application of the petitioner, in strict accordance with procedure established by law, however, within four weeks from the date of receipt of a copy of this order, if necessary, after considering the remarks and recommendations, if any, received through the Director of Mines and Geology, Andhra Pradesh, Hyderabad, and pass appropriate orders and communicate the decision taken thereon to the petitioner within a week thereafter.

Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

M. SEETHARAMA MURTI, J

Date: 17.11.2017
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