THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

Writ Petition No.40130 of 2017

ORDER:

This writ petition is filed seeking verbatim the following relief/s:

> **'…to issue such appropriate writ, order or direction more so particularly one the nature of mandamus declaring that the amendment made to Rule 12(1) of A.P.Minor Mineral Concession Rules, 1966 through G.O.Ms.No.81, Industries and Commerce (Mines-II) Department, dated 01-06-2017 issued by the first respondent is only prospective and will not affect pending applications for grant of Mining Lease and consequently to set aside the proceedings of the 4th respondent in Letter No.1680/Q/2017 dated 04-07-2017 issued to the 2nd petitioner, Letter No.5719/Q/2010 dated nil and letter No.4166/Q/2010, dated 05-09-2017 issued to the 3rd petitioner and letter No.4167/Q/2010 dated 05-09-2017 issued to the 4th petitioner pass such other order or orders…..**

2. I have heard the submissions of *Sri Hari Sreedhar*, learned counsel appearing for the petitioners, and of the learned Government Pleader for Mines & Geology, representing the respondents. I have perused the material record.

3. The case of the petitioners, in brief, is this: - 'The 1st petitioner is a registered welfare association of holders of mining leases and stone crushers in the State of Andhra Pradesh. The 2nd petitioner firm filed an application, dated 18.03.2017, for grant of mining lease for road metal, building stone and gravel over an extent of 20.64 hectares in Survey No.53 of Pandrangi Village,

Padmanabham Mandal, Visakhapatnam District, duly paying the application fee as per Rule 12(1) of A.P. Minor Mineral Concession Rules, 1966, [hereinafter, 'Rules of 1966', for brevity], which are in vogue as on the date of the said application. Similarly, the 3rd petitioner firm also filed applications, dated 30.10.2010 and 03.11.2011, respectively for grant of quarry leases for road metal, building stone and gravel over an extent of 48 hectares in Survey No.84 of V.T. Palem Village, Anakapalle Mandal, Visakhapatnam District, and over an extent of 148 hectares in Survey No.1 of Krishnapuram Village, Padmanabham Mandal, Visakhapatnam District, duly paying application fee as per the said Rule of Rules of 1966. The 4th petitioner filed an application, dated 03.11.2011, for grant of mining lease for road metal, building stone and gravel over an extent of 147 hectares in Survey No.1 of Krishnapuram Village, Padmanabham Mandal, Visakhapatnam District duly paying the application fee under the said Rule of Rules of 1966. While so, *vide* G.O.Ms.No.81 Industries and Commerce (Mines-II) Department, dated 01.06.2017, [hereinafter 'G.O.Ms.No.81', for brevity], the 1st respondent amended the afore-stated Rule 12(1) of Rules of 1966. By virtue of the said amended Rule, applications for quarry leases shall be accompanied by Treasury or Bank challan for Rs.5,000/- towards non refundable application fee and deposit of Rs.10,000/- per every hectare or part thereof which shall be deposited in a bank account notified by the Director for this purpose. Thus, by the amended Rule, the application fee was enhanced from Rs.1,000/- to Rs.5,000/- and the requirement of deposit of Rs.10,000/- per every hectare or part thereof in a notified bank account was introduced. Apart from that, by the amended Rule, a form for submitting the application was prescribed. The 4th respondent-Assistant Director of Mines and Geology, through letter No.1680/Q/2017, dated 04.07.2017, informed the 2nd petitioner that it is required to pay difference of application fee of Rs.4,000/- and also Rs.2,06,400/- deposit amount @ Rs.10,000/- per hectare as per amended Rule 12(1) of the Rules of 1966 and that failing compliance of the said requirements further action will be taken making the 2nd petitioner solely responsible for the same. Similarly, the said respondent, through letter Nos.5719/Q/2010 and No.4166/Q/2010, informed the 3rd petitioner that it is required to pay difference of application fees of Rs.4,000/- each and also Rs.5,00,000/- and Rs.14,80,000/- towards deposit amount @ Rs.10,000/- per hectare as per the amended Rule and that failing compliance of such requirements, further action will be taken making the 3rd petitioner solely responsible for the same. Similarly, the said respondent, through letter No.4167/Q/2010, dated 05.09.2017, informed the 4th petitioner that she is required to pay difference of application fee of Rs.4,000/- and also 14,70,000/- towards deposit amount @ Rs.10,000/- per hectare as per the amended Rule and that failing compliance of such requirement, further action will be taken making the 4th petitioner solely responsible for the same. The said letters received by the respective petitioners apart, the petitioners also learnt that the respondents 5 to 29 are also contemplating to issue similar notices to all those persons whose applications for grant of quarry leases are pending as on the date of amendment to Rule 12(1) of Rules of 1966. Hence, the present writ petition is filed seeking a writ of mandamus to declare that the amended Rule 12(1) of Rules of 1966 vide G.O.Ms.No.81 issued by the 1st respondent is only prospective and will not affect pending applications for grant of mining leases and consequently to set aside the proceedings of the 4th respondent vide letters, dated 04.07.2017, 05.09.2017 and 05.09.2017, respectively issued to the petitioners 2 to 4.'

4. At the hearing, learned counsel for the petitioners submitted as follows: - 'The applications of the petitioners as stated in the affidavit filed in support of the writ petition (the details of which are stated supra) shall be considered as per the Rule that was in force as on the date of filing of the applications but not as per the amended Rule which came into force subsequently by applying the amended Rule retrospectively. G.O.Ms.No.81 clearly says that the said amended Rule is only prospective. There is nothing in the amended Rule to indicate that it is retrospective in its operation and would apply to pending applications for grant of quarry leases which are filed and eligible for consideration prior to the introduction of the amended Rule. When a provision of law like the present Rule is to be made applicable retrospectively, it shall be specifically stated so in the provision itself. Thus, the claim of the 4th respondent in the letters issued to the petitioners 2 to 4 by applying the amended Rule retrospectively and asking them to pay the deficit fee and make the required deposits as per the amended Rule is illegal, and contrary to the settled principles of law and principles of natural justice. As on the date of submission of applications by the petitioners 2 to 4 for grant of quarry leases, the amended Rule is not in force and there is no requirement of making payment of deficit fee and making deposit as claimed in the letters of the 4th respondent and the petitioners 2 to 4 along with the applications complied with the requirements as per then existing Rule 12(1) of Rules of 1966 and acquired right for consideration of their respective quarry lease applications as per the then applicable Rule 12 (1) of Rules of 1966 which was in force as on the date of submission of applications. Not only petitioners 2 to 4 but all the other applicants whose applications for grant of quarry leases were under process prior to the date of amended Rule are entitled for consideration of their

applications as per the said Rule, which was in force by the dates of theirs respective applications. Prior to the amended Rule, there is no requirement to submit applications in Form B or make the deposits @ Rs.10,000/- per hectare. The new Rule says that the deposit amounts shall be refundable when the application is rejected on technical grounds like non availability of area, rejection of no objection certificate etcetera and that the deposit amount shall be forfeited when the applicant fails to attend the survey and inspection and on withdrawal application by the applicant and non execution of the leases or on any lapse on the part of the applicant. The Rule clearly indicates that the amended Rule applies prospectively but not to the applications which were made earlier to the said Rule. Therefore, the respondents have no authority to insist upon the applicants like the petitioners 2 to 4 to comply with the requirement of the amended Rule which is only prospective in operation. The Supreme Court in **Federation of Indian Mineral Industries & others v. Union of India and another**[1] held as follows: - "On the facts before us, it is clear that Section 15 of the MMDR Act empowers the State Government to make rules for regulating the grant of quarry leases, mining leases or other mineral concessions in respect of minor minerals and for purposes connected therewith. This section does not specifically or by necessary implication empower the State Government to frame any rule with retrospective effect"……. "Therefore, it must follow that under the provisions of the MMDR Act that we are concerned with, no State Government has the power to frame a rule with retrospective effect or to create a deeming fiction, either specifically or by necessary intendment." Therefore, in the circumstances stated, the amendment to Rule 12(1) of the Rules of 1966 is only prospective.

[1] 2017 (12) SCALE 586

As such, the impugned letters issued by the 4th respondent asking the petitioners 2 to 4 to pay the enhanced application fee and also pay deficit amount as per the amended Rule 12(1) of the Rules of 1966 are illegal and arbitrary.'

4.1 In support of the said contentions, learned counsel for the petitioner also placed reliance on the decision of the Supreme Court in **Commissioner of Income Tax (Central)-I, New Delhi v. Vatika Township Pvt., Ltd.,**[2]

5. Per contra, the learned Government Pleader forcefully contended as follows: "Admittedly, *vide* G.O.Ms.No.81 the 1st respondent amended the afore-stated applicable Rule 12(1) of Rules of 1966. By virtue of the said amended Rule, applications for quarry leases shall be accompanied by Treasury or Bank challan for Rs.5,000/- towards non refundable application fee and deposit of Rs.10,000/- per every hectare or part thereof which shall be deposited in a bank account notified by the Director for this purpose. Thus, by the amended Rule, the application fee was enhanced from Rs.1,000/- to Rs.5,000/- and the requirement of deposit of Rs.10,000/- per every hectare or part thereof in a notified bank account was introduced. Apart from that, by the amended Rule, a form for submitting the application was prescribed. The 4th respondent-Assistant Director of Mines and Geology, through the letters addressed to the petitioners 2 to 4 correctly informed them that they are required to pay respectively difference of application fee of Rs.4,000/- and also make deposits @ Rs.10,000/- per hectare as per amended Rule 12(1) of the Rules of 1966 and that failing compliance of the said requirements further action will be taken making them solely responsible for the consequences. The

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[2] (2015)1 SCC 1

applicants for fresh leases like the petitioners 2 to 4 have no vested rights for making a demand to consider their applications as per the then existing unamended Rule, which was in force on the dates of their respective applications. The amended Rule is admittedly in force and is holding the field as on the date, the letters were addressed to the petitioners 2 to 4 by the 4th respondent. Hence, the respondents need not be faulted for applying the Rule which was in force. The writ petition is misconceived and is liable for dismissal." He further submitted that the judgment of the Constitution Bench of the Supreme Court in **COMMISSIONER OF INCOME TAX (CENTRAL)-I, NEW DELHI** (2 supra) has no relevance and application as certain observations were only made in the context of imposition of liability on the assessee who had accrued interest prior to the amendment.

5.1 In support of his submissions, the learned Government Pleader placed reliance on the following decisions of the Supreme Court: (i) **STATE OF TAMIL NADU v. M/S. HIND STONE AND OTHERS**[3]; **(ii) ALIGARH MUSLIM UNIVERSITY AND OTHERS v. MANSOOR ALI KHAN**[4]; **(iii) M.P.RAM MOHAN RAJA v. STATE OF T.N. AND OTHERS**[5]; **(vi) STATE OF ORISSA & ORS v. MD.ILLIYAS**[6]; **(v) ISLAMIC ACADEMY OF EDUCATION AND ANOTHER v. STATE OF KARNATAKA AND OTHERS**[7]; (vi) **STATE OF RAJASTHAN v. MANGILAL PINDWAL**[8]; **(vii) STATE OF U.P. & ORS v. HIRENDRA PAL SINGH ETC**[9]; **(viii) BISHUN NARAIN MISRA v. THE STATE**

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[3] (1981)2 SCC 205
[4] (2000)7 SCC 529
[5] (2007)9 SCC 78
[6] (2006) 1 SCC 275
[7] (2003) 6 SCC 697
[8] AIR 1996 SC 2181
[9] (2011) 5 SCC 305

OF U.P AND OTHERS[10]**; STATE OF TAMIL NADU V. M/S.HIND STONE AND OTHERS**[11]**; M.P.RAM MOHAN RAJA V. STATE OF T.N. AND OTHERS**[12] and (ix) **K.NAGARAJ AND AOTHERS v. STATE OF ANDHRA PRADESH AND ANOTHER**[13]**.**

6. I have given earnest consideration to the facts and submissions.

7. The petitioner contends that the un-amended Rule of the Rules as on the dates of the applications would only apply as the amended Rule, which is prospective in operation, cannot be applied to the applications of the petitioners 2 to 4 which are submitted when the unamended Rule was in force and holding the field. The respondents contend that the amended Rule is rightly applied while addressing the impugned letters to the petitioners 2 to 4 by the 4th respondent. In that view of the matter it is necessary to refer to infra, the Rule and the amended Rule.

> **<u>The un-amended Rule reads as under:</u>**
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> 12. Grant of lease:– 1 [(1) A quarry lease for any minor mineral except sand, granite useful for cutting and polishing and marble] shall be granted on application subject to the provisions of sub-rules (2) and (3) and each such application for grant of quarry lease shall be accompanied by Treasury or Bank challan for rupees one thousand in token of the remittance towards fees.
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> **<u>The amended Rule reads as under:</u>**
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> A quarry lease for any minor mineral except Granite useful for cutting and polishing, Marble and the 31 minerals mentioned at Sl.No.18 to 48 in Schedule-I of rule 10 shall be granted subjected to the provisions of sub-rules (2) and (3) by Deputy Director on an application in Form-B made to the Assistant Director of Mines & Geology, concerned. Each application shall be accompanied by a sketch drawn to the scale demarcating the boundaries duly signed by the applicant and by a qualified Surveyor. Every application

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[10] AIR 1965 SC 1567
[11] (1981) 2 SCC 205
[12] (2007) 9 scc 78
[13] (1985) 1 SCC 523

shall be accompanied by Treasury or Bank challan for Rs.5,000/- (Rupees five thousand only) towards non refundable application fee and deposit of Rs.10,000/- (Rupees ten thousand only) for every hectare or part thereof in a bank account notified by the Director for this purpose. The deposit amount shall be refundable when the application is rejected on technical grounds like non availability of area, rejection of No Objection Certificate (NOC). The deposit amount shall be forfeited when the applicant fails to attend survey and inspection, withdrawal of the application by the applicant, non execution of the lease and for any other lapse on the part of the applicant.

8. The short but important question that falls for consideration is –

Whether the respondents are justified in applying the amended Rule retrospectively? And, whether, the 4th respondent is justified in addressing the impugned letters by retrospectively applying the amended Rule 12 (1) of the Rules, 1966?

9. <u>POINT:</u>

9.1 The factual matrix is not in dispute. I have carefully gone through all the decisions.

9.2 The learned Government Pleader distinctively brought to the notice of the Court the observations in paragraph 12 of the decision of the Supreme Court in **STATE OF ORISSA & ORS v. MD.ILLIYAS** (supra) in support of the following proposition laid down in the cited decision:

"According to well settled theory of precedents every decision contains three basic postulates. (i) An inferential finding of facts is the inference which the Judge draws from the direct, or perceptible facts; (ii) statements of the principles of law applicable to the legal problems disclosed by the facts; and (iii) judgment based on the combined effect of the above. A decision is an authority for what it actually decides. What is of the essence in a decision is its

ratio and not every observation found therein nor what logically flows from the various observations made in the judgment. The enunciation of the reason or principle on which a question before a Court has been decided is alone binding as a precedent. (See: State of Orissa v. Sudhansu Sekhar Misra and Ors. (AIR 1968 SC 647) and Union of India and Ors. v. Dhanwanti Devi and Ors. (1996 (6) SCC 44). A case is a precedent and binding for what it explicitly decides and no more. The words used by Judges in their judgments are not to be read as if they are words in Act of Parliament. In Quinn v. Leathem (1901) AC 495 (H.L.), Earl of Halsbury LC observed that every judgment must be read as applicable to the particular facts proved or assumed to be proved, since the generality of the expressions which are found there are not intended to be exposition of the whole law but governed and qualified by the particular facts of the case in which such expressions are found and a case is only an authority for what it actually decides."

There is no dispute with the settled legal position supra.

9.3 He next stated that the decision of the Supreme Court in **COMMISSIONER OF INCOME TAX (CENTRAL)-I, NEW DELHI** (2 supra) relied upon by the learned counsel for the petitioner is not applicable to the facts of the case and *inter alia* urged as follows: "The petitioners 2 to 4 have no vested right to ask for application of the old Rule merely on the ground that their applications for grant of leases have been pending. They cannot direct the respondents to deal with such applications in a particular way by applying particular provision. They have no vested rights. In the absence of any vested right in the petitioners 2 to 4, the 4th respondent is justified in dealing with the applications of the petitioners 2 to 4 as per the Rule in force on the date of the consideration of the applications. The acts of the 4th respondent in addressing the letters impugned are just and correct." Learned Government Pleader placed reliance upon the decision in **State of Tamil Nadu v. M/s.Hind Stone** [10 supra], and further contended that the ratio in the said decision squarely applies to the facts of the present case and that, therefore, the petitioners 2 to 4 are not entitled to contend that their applications for grant of leases have to be disposed of on the basis of the Rule in force at the time of making the applications and that the petitioners have no vested rights and hence, their applications have to be dealt with according to the Rules in force on the date of the disposal of the applications despite the fact that there is a long delay since making of the applications. A perusal of the cited decision would disclose the following facts: 'Several persons, who held leases for quarrying black granite belonging to the State Government and whose leases were about to expire, applied to the Government of Tamil Nadu for renewal of their leases; there was long delay in disposal of the said applications by the Government; in the meanwhile there was a change of the rule position; the applications for renewal of leases were rejected by applying the Rule in force on the date of the disposal of the applications despite the fact that there is a long delay since the making of the applications.' The Supreme Court while confirming the said rejections held as follows: - - '**While applications should be dealt with within a reasonable time, that does not clothe an applicant for a lease with a right to have the application disposed of on the basis of the rules in force at the time of the making of the application. In the absence of any vested rights in anyone, an application for a lease has necessarily to be dealt with according to the rules in force on the date of the disposal of the application despite the fact that there is a long delay**

since the making of the application.' It is to be noted that in the cited case, the applications are for renewal of licence. In the light of the said fact, the Supreme Court also observed in the cited decision that an application for renewal of a lease is, in essence an application for the grant of a lease for a fresh period.

9.4 Be that as it may. The amended Rule does not indicate that it is retrospective in its operation. It is apt to note, that the law passed today cannot apply to the events of the past as the applicants for grant of quarry leases made applications on the belief that they will be entitled to proceed in the matter in accordance with the existing law and obviously arranged their affairs and made plans by relying upon the existing law. If the amended Rule is retrospectively applied to the present facts of the case, their plans would be upset and the affairs they arranged relying on the existing law would suffer a set back as the application of the amended Rule retrospectively would change the character of the past transaction carried on upon the faith of the then existing law. Therefore, the contention of the learned Government Pleader cannot be countenanced. This view of this Court is fortified by the ratio in the decision of the Supreme Court in **Commissioner of Income Tax (Central)-I, New Delhi v. Vatika Township Pvt., Ltd.,** [2 supra]. Now, it is apposite to extract the following two paragraphs in the said decision as the legal position laid down aptly sums up the relevant legal position.

> **31. Of the various rules guiding how a legislation has to be interpreted, one established rule is that unless a contrary intention appears, a legislation is presumed not to be intended to have a retrospective operation. The idea behind the rule is that a current law should govern current activities. <u>Law passed today cannot apply to the events of the past. If</u>**

<u>we do something today, we do it keeping in view the law of today and in force and not tomorrow's backward adjustment of it. Our belief in the nature of the law is founded on the bed rock that every human being is entitled to arrange his affairs by relying on the existing law and should not find that his plans have been retrospectively upset. This principle of law is known as lex prospicit non respicit: law looks forward not backward.</u> As was observed in Phillips v. Eyre (1870) LR 6 QB 1, a retrospective legislation is contrary to the general principle that legislation by which the conduct of mankind is to be regulated when introduced for the first time to deal with future acts ought not to change the character of past transactions carried on upon the faith of the then existing law.

32. The obvious basis of the principle against retrospectivity is the principle of 'fairness', which must be the basis of every legal rule as was observed in the decision reported in L'Office Cherifien des Phosphates v. Yamashita-Shinnihon Steamship Co. Ltd. (1994) 1 AC 486. <u>Thus, legislations which modified accrued rights or which impose obligations or impose new duties or attach a new disability have to be treated as prospective unless the legislative intent is clearly to give the enactment a retrospective effect;</u> unless the legislation is for purpose of supplying an obvious omission in a former legislation or to explain a former legislation. We need not note the cornucopia of case law available on the subject because aforesaid legal position clearly emerges from the various decisions and this legal position was conceded by the counsel for the parties. In any case, we shall refer to few judgments containing this dicta, a little later.

(<u>Emphasis is by this Court</u>)

9.5 In **Federation of Indian Mineral Industries v. Union of India (UOI)** **[**1 supra**]** it was held as follows:

> **21. The power to give retrospective effect to subordinate legislation whether in the form of Rules or Regulations or notifications has been the subject matter of discussion in several decisions rendered by this Court and it is not necessary to deal with all of them - indeed it may not even be possible to do so. It would suffice if the principles laid down by some of these decisions cited before us and relevant to our discussion are culled out. These are obviously relatable to the present set of cases and are not intended to lay down the law for all cases of retrospective operation of statutes or subordinate legislation. The relevant principles are:**
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> **(i) The Central Government or the State Government (or any other authority) cannot make a subordinate legislation having retrospective effect unless the parent statute, expressly or by necessary implication, authorizes it to do so. (Hukum Chand v. Union of India: (1972) 2 SCC 601 and Mahabir Vegetable Oils (P) Ltd. v. State of Haryana: (2006) 3 SCC 620).**
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> **(ii) Delegated legislation is ordinarily prospective in nature and a right or a liability created for the first time cannot be given retrospective effect. (Panchi Devi v. State of Rajasthan: (2009) 2 SCC 589).**
>
> **(iii) As regards a subordinate legislation concerning a fiscal statute, it would not be proper to hold that in the absence of an express provision a delegated authority can impose a tax or a fee. There is no scope or any room for intendment in respect of a compulsory exaction from a citizen.**

(Ahmedabad Urban Development Authority v. Sharadkumar Jayantikumar Pasawalla: (1992) 3 SCC 285 and State of Rajasthan v. Basant Agrotech (India) Limited.: (2013) 15 SCC 1).

9.6 Thus, in the decision in **Federation of Indian Mineral Industries** (1 supra) a binding precedent, the Supreme Court while considering the power to give retrospective effect to subordinate legislation in the form of Rules or regulations or notifications noted the legal position obtaining by referring to various decisions including the decision in **Commissioner of Income Tax** (2 Supra) relied upon by the petitioner herein and further held as follows:

> **23. On the facts before us, it is clear that Section 15 of the MMDR Act empowers the State Government to make Rules for regulating the grant of quarry leases, mining leases or other mineral concessions in respect of minor minerals and for purposes connected therewith. This Section does not specifically or by necessary implication empower the State Government to frame any Rule with retrospective effect. Also, the MMDR Act does not confer any specific power on the State Government to fictionally create the DMF deeming it to be in existence from a date earlier than the date of the notification establishing the DMF. <u>Therefore, it must follow that under the provisions of the MMDR Act that we are concerned with, no State Government has the power to frame a Rule with retrospective effect or to create a deeming fiction, either specifically or by necessary intendment.</u>**
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> **24. Similarly, Section 13 of the MMDR Act does not confer any specific power on the Central Government to frame any Rule with retrospective effect. Section 9B(5) and (6) read with Clause (qqa) inserted in Section 13(2) of the MMDR Act enable the Central Government to make Rules to provide for the amount of payment to be made to the DMF**

established by the State Government Under Section 9B(1) of the MMDR Act. None of these provisions confer any power on the Central Government to require the holder of a mining lease or a prospecting licence-cum-mining lease to contribute to the DMF with retrospective effect. Therefore, even the scope and extent of the Rule making power of the Central Government is limited.

9.7 Under the old unamended Rule the application fee payable was Rs.1,000/- and there is no requirement of making any deposit. However, by the amended Rule, the application fee was enhanced from Rs.1,000/- to Rs.5,000/- and the requirement of deposit of Rs.10,000/- per every hectare or part thereof in a notified bank account was introduced. Apart from that, by the amended Rule, a form for submitting the application was prescribed. Further, under the amended Rule the deposit amount is liable to be forfeited when the applicant fails to attend the survey and inspection and on withdrawal application by the applicant and non execution of the leases or on any lapse on the part of the applicant. By the amended new Rule, liability is created for the first time. As per law such liability cannot be given retrospective effect. It is apt to reiterate that the Supreme Court in the decision in **Federation of Indian Mineral Industries (13 Supra)** having referred to the decision in **Panchi Devi v. State of Rajasthan: (2009) 2 SCC 589** held that Delegated legislation is ordinarily prospective in nature and a right or a liability created for the first time cannot be given retrospective effect.

9.8 In-fact, in the recent decision in **Federation of Indian Mineral Industries and others** (1 supra), the Supreme Court having referred to the Constitution Bench decision on the subject observed that a much more erudite, general and broad-based discussion on the subject is found in the said

Constitution Bench decision. Further, while rendering the decision in **Federation of Indian Mineral Industries and others** (1 supra), the Supreme Court observed that it is bound by the conclusions arrived at in the Constitution Bench decision and, therefore, it is not at all necessary to repeat the discussion and the conclusions arrived at by the Constitution Bench. On the above analysis, this Court finds that for all the reasons alike as were mentioned in the Constitution Bench decision and also the latest decision of the Supreme Court this writ petition deserves to be allowed.

10. In the result, the writ petition is allowed as prayed for.

There shall be no order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

M.SEETHARAMA MURTI, J

27.12.2017
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