

HON' BLE SRI JUSTICE Dr. B. SIVA SANKARA RAO

WRIT PETITION Nos.2935 and 2968 of 2018

COMMON ORDER:

These writ petitions are filed under Article 226 of the Constitution of India, seeking the following relief:

W.P.No.2935 of 2018:

“to issue such appropriate writ, order or direction, more so particularly one in the nature of Mandamus declaring the inaction of the second respondent in issuing the despatch permits to the petitioner for dispatching minor mineral from the quarry lease area admeasuring 2.50 hectares in Survey No.67 of Kondakindam Village, Bondampally Mandal, Vizianagaram District, during subsistence of the lease period though similarly situated other lessees are issued dispatch permits, is not only discriminatory but also arbitrary and illegal and pass such other order

W.P.No.2968 of 2018:

“to issue such appropriate writ, order or direction, more so particularly one in the nature of Mandamus declaring the inaction of the second respondent in issuing the despatch permits to the petitioner for dispatching minor mineral from the quarry lease area admeasuring 1.50 hectares in Survey No.67 of Kondakindam Village, Bondampally Mandal, Vizianagaram District, during subsistence of the lease period though similarly situated other lessees are issued dispatch permits, is not only discriminatory but also arbitrary and illegal and pass such other order

2. Heard the learned counsel for the petitioner in both the petitions and the learned Government Pleader for Mines and Geology representing the respondents and perused the prayer in the respective writ petitions in relation to quarry lease of an

area of 1.50 hectares in Sy.No.67 of Kondakindam Village in W.P.No.2968 of 2018 and 2.50 hectares in W.P.No.2935 of 2018 respectively of the prayer is same in all other respects and the respective supporting affidavits vis-à-vis oral submissions.

3. The submissions of the learned counsel for the petitioners are that the withholding of permits in not granting the permits despite the lease is in subsistence by the action on the part of the respondents is illegal, that the e-mail sent on 12.12.2017 to the quarry lease holders of Vizianagaram District including to the petitioner to furnish the precautions taken by the lessees at the quarry lease as per the rules, for which the association approached the 2nd respondent-Assistant Director of Mines and Geology and requested to allow to continue the leases. The 2nd respondent informed the lessees that was in respect of two accidents taken place in the quarries, one on 10.12.2017 and the other on 12.12.2017 in saying instructions from the Government in this regard. In fact so far as M/s.Prakash Stone Crusher Industries among others dispatch permits are issued of similarly situated, by discrimination in so far as the petitioner is concerned, without reason, thereby, is untenable including the action is contrary to Section 20 Rule 34 of the A.P.Minor Mineral Concession Rules, 1966 (for short 'APMMC Rules') respectively, thereby, in seeking so to direct as prayed for.

4. The very written instructions submitted by the 2nd respondent on behalf of respondents are that there is an

adverse news item in Eenadu daily news paper of Vizianagaram District edition under caption 'Ralla Kinda Nalingina Bathukulu' for one person P.Adinarayana, aged about 45 years, died in the quarry lease for road metal and building stone in Sy.No.187/ 2 of Garudabilli Village, Bondapalli Mandal, Vizianagaram District held by M/s.Satya Stone Crusher on 11.12.2017 and the Assistant Director of Mines and Geology, Vizianagaram-2nd respondent inspected the area and noticed therein breaches committed by the lessee viz., violation of norms of Andhra Pradesh Pollution Control Board, lack of boundary pillars in violation of Rules 12(H)(V) and 28(2) and 31(iv) of APMMC Rules, 1966, there are no records, registers, returns, are maintained by the quarry lease holder at quarry site, which is also in violation of Rule 28(3) of APMMC Rules, there is no first aid box at the quarry site and there is no intimation of human death, which is also violation of Rule 31(viii) of APMMC Rules. The said quarry lease was granted by the Deputy Director of Mines and Geology, Visakhapatnam in favour of the petitioner on 21.01.2012 and the proceedings issued by the Assistant Director of Mines and Geology, Vizianagaram District, on 31.01.2012 which is valid upto 17.10.2026. There was a direction to stop the quarry operations until further orders issued by the 2nd respondent on 11.12.2017 by e-mail referred supra to the petitioner herein and in seeking explanation within seven days else recommend to the Deputy Director of Mines

and Geology for necessary action as per the Rules. The Deputy Director, Visakhapatnam also inspected on 16.12.2017 and noticed about the death of said P. Adinarayana and also noticed that there are no quarry operations therein. The lease holder also not obtaining permission/ clearance from Pollution Control Board and not erected the boundary pillars and other violations referred supra. The Directorate General of Mines Safety, Hyderabad region also inspected and issued the prohibitory orders under Section 22(3) of the Mines Act, 1952 and the reply given by the said M/s. Satya Stone Crusher is that they never committed any breach of the covenant conditions of lease deed willfully and there are no norms prescribed of obtaining clearance from Pollution Control Board for no pollution emission generated and boundary pillars of four corners are posted and in existence and matched with coordinates of the lease as per the mining plan with no any violations alleged and the records are available at the site office which is 800 metres from the quarry operations and the safety equipments like ropes, belts, helmets etc., provided and the managers are even insisting workers to use in quarry operation safety measures and first aid box already available and sought for dropping of the proposed action. Even from the instructions, what is stated there from is, there are six leases for the quarry operations among 22 quarry leases of road metal and building stone in Sy.No.187 of Garudabilli Village, Sy.Nos.67, 61 of Kondakindam

Village and 10 quarry leases are granted and executed in favour of M/s.Satya Constructions and their sister concerns and remaining that are of Ch.Veerawamy and others and the Satya Constructions sisters concerns details are M/s.Satya Granites for Sy.No.67 of Kondakindam Village, B.Sridhar for Sy.No.187/ 2 of Garudabilli Village, Sri M.Srinivasa Rao for Sy.No.67 of Kondakindam Village, Sri B.Sridhar for Sy.No.67 of Kondakindam Village, and M/s.Satya Stone Crusher for Sy.No.187/ 2 of Garudabilli Village. Even from this there are separate leases for operation in respect of the different survey numbers of the two villages.

5. So far as the present writ petitions are concerned, admittedly, they are not concerned with Sy.No.187/ 2 leases granted in favour of B.Sridhar and M/s.Satya Stone Crusher, but for, in saying they are the sister concerns. Once, they are independent concerns and not covered by composite leases in favour of even from the written instructions withholding of the permits to the others, but for, if at all at best for Sy.No.187/ 2 relating to M/s.Satya Stone Crusher, including by any proceedings Directorate General of Mines and Safety, is hereby unsustainable. Leave it apart from the fact that from obtaining affidavits or undertakings from M/s.Prakash Stone Crusher Industries and others and the very instructions mentioned about 102 quarries already permitted by obtaining undertakings once admitted there is no rationale indiscrimination of others

other than one concerned with the place of accident in Sy.No.187/ 2, merely, because one of the lessees is related to the other lessee under the respective respondents, when they are independent leases for independent periods under independent terms. Thus, the blanket order of prohibition if at all issued by the Director General of Mines is unsustainable and quashing the same. Consequently, the respondents shall consider by obtaining similar affidavits subject to the compliance with the other norms and requirements in giving permits to the petitioner, leave about any action if at all to be taken in relation to M/s.Satya Stone Crusher for Sy.No.187/ 2 of Garudabilli Village concerned.

6. Accordingly, both the revisions are disposed of.

7. Consequently, miscellaneous petitions, if any shall stand closed. No order as to costs.

JUSTICE Dr. B.SIVA SANKARA RAO

Date: 02.02.2018
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