

THE HON'BLE THE CHIEF JUSTICE SRI THOTTATHIL B. RADHAKRISHNAN
AND
THE HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN

WRIT APPEAL Nos.1096 AND 1123 OF 2016

COMMON JUDGMENT: (Per the Hon'ble Sri Justice V.Ramasubramanian)

These Writ Appeals arise out of the orders of learned single Judge setting aside the resolutions passed by the appellant Zilla Praja Parishad not to grant a 'No Objection Certificate' to the first respondent in these Writ Appeals for the continuance of the mining lease granted to them.

2. Heard Sri Seshadri, learned Standing Counsel appearing for the appellant, learned Government Pleader for Mines and Geology (AP) appearing for respondents 2 to 5 and learned counsel Sri Prasada Rao and Smt.Rachna, appearing for the first respondent in these Appeals.

3. As the subject matter in these two Appeals is similar, the facts in Writ Appeal No.1123 of 2016 are referred to in this Judgment.

4. By the proceedings, dated 18.10.2002, the Deputy Director of Mines and Geology, Guntur, decided to grant quarry lease for mining road metal in favour of the first respondent. The Deputy Director of Mines and Geology, Guntur, thereafter issued amending orders, dated 25.02.2005, reducing the area from Acs.32.08 cents to Acs.7.57 cents. The lease was granted for a period of fifteen years commencing from 02.04.2005 and ending on 01.04.2020 subject to the condition that the first

respondent should produce 'No Objection Certificate' for a period of five years from Vijayawada-Guntur-Tenali-Mangalagiri Urban Development Authority (VGTMUDA) and a 'No Objection Certificate' for a period of three years from the Zilla Praja Parishad, Guntur. It is relevant to note that grant of mining lease was for the purpose of a project in Mangalagiri coming under the authority, namely, VGTMUDA.

5. All of a sudden, by a resolution, dated 15.05.2015, passed by the appellant - Zilla Praja Parishad, it resolved to refuse the request for renewal. Challenging the said resolution, dated 15.05.2015, the first respondent filed Writ Petition. The Writ Petition was allowed by the learned single Judge, aggrieved by which, the Zilla Praja Parishad is on appeal.

6. As rightly pointed out by the learned single Judge, the Zilla Praja Parishad has got a very limited role to play, and that too traceable only to Rule 24 of the Andhra Pradesh Minor Mineral Concessions Rules, 1966 (the Rules, for brevity). Rule 24 of the Rules reads as follows.

“24. Removal of minor minerals from sources vested in Zilla Parishads, Municipalities, Panchayat Samithis & Gram Panchayats:- The Assistant Director may, subject to the provisions of Rule 12, grant lease for the removal of any minor mineral from any sources of water supply vested in any Zilla Parishad, Municipality, Panchayat Samithi or Gram Panchayat, after consulting it.”

7. The contention of Sri Seshadri, learned counsel for the appellant - Zilla Praja Parishad, is that, since the land in question belongs to Zilla Praja Parishad, it was open to the Zilla

Praja Parishad to refuse to grant 'No Objection Certificate' whenever sought for. But, that contention proceeds on a misconception. We have already extracted Rule 24 of the Rules. Rule 24 obliges the Assistant Director to make only a consultation with the Zilla Praja Parishad before granting lease for the removal of any minor mineral. The consultation had taken place in the year 2002-03 before the mining lease was granted for a period of fifteen years. Therefore, the Zilla Praja Parishad cannot arrogate to itself more power than what is ordained under the Rules.

8. It is next contended by Sri Seshadri, learned standing counsel for the appellant - Zilla Praja Parishad, that there is a statutory remedy of appeal available to the first respondent in these Writ Appeals as against the impugned resolutions, dated 15.05.2015, and that without availing the alternative remedy, the first respondent approached the writ Court.

9. But the said contention has also to be rejected for the simple reason that the first respondent was questioning the very jurisdiction of the Zilla Praja Parishad to pass such resolutions. When the jurisdiction of the Zilla Praja Parishad to pass resolution was not traceable to any provisions of the Mines and Minerals (Development and Regulation) Act, 1957, or to the Andhra Pradesh Minor Mineral Concessions Rules, 1966, it is not necessary for the first respondent in these Writ Appeals to have gone before the Government by way of an Appeal.

10. As the learned single Judge has rightly pointed out, after the grant of mining lease for a period of fifteen years commencing from 01.04.2005 and ending on 31.03.2020, the first respondent in both these Writ Appeals have altered their positions to their disadvantage.

11. Therefore, it was not open to the appellant - Zilla Praja Parishad, which had no role to play under the Rules to call the final shot and decide to withdraw the 'No Objection Certificate' granted earlier. We find no error of jurisdiction in the orders of the learned single Judge warranting our interference under Clause 15 of the Letters Patent.

12. The Writ Appeals are, therefore, dismissed. Miscellaneous petitions pending in these Writ Appeals, if any, shall stand closed. There shall be no order as to costs.

THOTTATHIL B. RADHAKRISHNAN, CJ

V.RAMASUBRAMANIAN, J

25.07.2018
Pln/vs