

THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

WRIT PETITION No.5057 of 2018

ORDER:

In this Writ Petition, the petitioner has assailed the orders dt.13-07-2017 passed in appeal under Rule 35 of the Andhra Pradesh Minor Mineral Concession Rules, 1966 by the 1st respondent allowing the appeal by 5th respondent challenging the determination of its quarry lease on 19-09-2016, to which petitioner is also an applicant.

2. Learned counsel for petitioner contends that in the show cause notice issued to the 5th respondent by 2nd respondent, three grounds i.e. non-payment of Advance Dead rent, non-filing of Quarterly and Annual Returns and discontinuance of quarry operations for more than six months, were mentioned on the basis of which the quarry lease of 5th respondent was proposed to be cancelled, on the ground of non-filing explanation thereto by 5th respondent, the 5th respondent's lease was determined by 2nd respondent on 19-09-2016; that when 5th respondent preferred appeal to the 1st respondent, the 1st respondent confined himself only to first ground, ignored the other two grounds, and set aside the order passed by 2nd respondent determining the lease of the petitioner on 19-09-2016; and that this order therefore cannot be sustained.

3. A reading of the impugned order passed in the appeal by 1st respondent on 13-07-2017 discloses that this contention of the counsel for petitioner is correct and that 1st respondent had considered

only one of the grounds shown in the show cause notice and ignored the other two grounds.

4. No doubt, learned counsel for 5th respondent states that in the appeal, the 5th respondent had given satisfactory reasons why the determination of the lease of the 5th respondent on the two grounds is also not valid, but the fact remains that those grounds and reasons have not been considered by 1st respondent while passing the impugned order.

5. Therefore, the Writ Petition is allowed; the order dt.13-07-2017 of the 1st respondent is set aside; and the matter is remitted back to the 1st respondent to consider all the three grounds mentioned in the show cause notice dt.30-08-2016 given by 2nd respondent to the 5th respondent, and also the explanation of the 5th respondent thereto as mentioned in the grounds of appeal filed by 5th respondent; and then pass a reasoned order in four (04) weeks and communicate it to both parties. No costs.

6. *Status quo* prevailing as on today shall be maintained by both parties till disposal of the appeal afresh by 1st respondent.

7. As a sequel, the miscellaneous petitions, if any pending, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 09-04-2018
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