

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

WRIT PETITION Nos.7915, 7919 and 7988 OF 2018

COMMON ORDER:

The petitioner in W.P.No.7915 and 7919 of 2018 is the proprietor of the proprietary concern, which is the petitioner in W.P.No.7988 of 2018.

2. He has been granted quarry lease for road metal and building stone under ten separate mining leases for ten different extents of lands in Urudabilli Village of Bondapalli Mandal, Vizianagaram District.

3. In one particular mine covered by proceedings No.743/Q/2011, which relates to 1.00 Hectar in survey No.187/2 of said village, an accident occurred and a worker died. The Directorate General of Mining Safety, Hyderabad stepped in and issued prohibitory order prohibiting engaging of workers in the quarry in which accident took place except for forming benches on the sides of said leased area through proceedings dt.18.12.2017.

4. Thereafter, the petitioner complied with the requirement in the said order and on 15.03.2016 the Director of Mines Safety, Hyderabad, himself withdrew the prohibitory order and permitted working of the mine with a condition that work shall be done from top to downwards and also a fencing is to be made at the bottom of the high wall. He specifically stated that even in the said mine where the accident had occurred, he had no objection to issue dispatch permits for the stone produced from the top benches.

5. Yet, the petitioner contends that respondents are not issuing dispatch permits for dispatching mineral from the other quarry lease areas covered by other leases though the leases are subsisting and the respondents are acting in an arbitrary and illegal manner.

6. Counter affidavits have been filed in these writ petitions by the respondents admitting that even in the mine where accident occurred, the prohibitory order had been lifted on 15.03.2016. But it is contended that the Director of Mine Safety, Hyderabad had inspected the quarry leases held nearer to the accident prone leased area and instructed not to allow quarrying operations till all the lease holders take precautionary measures under the provisions of Minor Mineral Regulations, 1961.

7. But, the Government Pleader for Industries is unable to produce the said instructions. He however admitted that the office of the 2nd respondent has issued dispatch permits to all other quarry leases in Vizianagaram District by merely obtaining an affidavit/undertaking incorporating certain conditions specified in para 5(viii) of the counter affidavit.

8. Why the 2nd respondent is discriminating against the petitioner by denying dispatch permits, while other lease holders are being allowed to transport the mineral by issuance of dispatch permits by filing a mere undertaking, is not at all explained in the counter affidavit.

9. The Government Pleader for Industries contends that since an accident occurred in one of the mines for which quarry lease

had been granted to the petitioner, to ensure that the petitioner carries his quarry operations more carefully, dispatch permits are denied to the petitioner.

10. In my considered opinion, this is not a valid reason at all, since every person holding a quarry lease including the petitioner have to take adequate precautionary measures; and petitioner also assures that what ever affidavit or undertaking is required, he is willing to file it and on furnishing the same, petitioner should also be permitted to transport the mineral by using dispatch permits issued by the 2nd respondent.

11. Therefore, the action of the 2nd respondent in denying dispatch permits on the pretext of a nonexistent instruction of the Directorate General of Mining Safety, Hyderabad is clearly illegal, arbitrary and violative of article 14, 300A of the Constitution of India; and it is clear that the 2nd respondent has clearly discriminated against the petitioner in the matter of issuance of dispatch permits and has not treated the petitioner on par with other holders of quarry lease in Vizianagaram District.

12. Accordingly, these three Writ Petitions are allowed with costs of Rs.2,000/- in each of the Writ Petition, which shall be paid by the 1st respondent to the petitioner in the Writ Petitions, which shall be recovered from the 2nd respondent; petitioner shall give an affidavit/undertaking, as mentioned in para 5(viii) of the counter affidavit filed in the Writ Petitions, before the 2nd respondent, and within three (03) weeks of receipt of such affidavit/undertaking, the 2nd respondent shall issue dispatch permits to the petitioner.

13. Consequently, miscellaneous petitions pending, if any, shall stand dismissed.

M.S.RAMACHANDRA RAO, J

20th April, 2018.
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