

THE HON'BLE SRI JUSTICE A.V.SESHA SAI

WRIT PETITION No.19711 of 2018

ORDER:

Heard learned counsel for the petitioner and the learned Government Pleader for Industries and Commerce (Mines) and Sri Ch.Ramesh Babu, learned counsel, appearing for the respondents, apart from perusing the material available before the Court.

The order, passed by the first respondent-State Government vide Memo No.11523/M.I(2)/2017-2, dated 24.05.2018, is under challenge in the present Writ Petition. The Director of Mines and Geology, Ibrahimpatnam-second respondent herein, vide proceedings No.19977/R2-2/2012, dated 18.01.2013, ordered determination of the quarry lease, granted earlier in favour of the fourth respondent for Black Granite in respect of an extent of 2.500 Hectares in Sy.No.73/8 of Tekkelapadu village, Jaggayyapeta Mandal, Krishna District. As against the said order of determination, passed by the second respondent herein, the fourth respondent herein filed a revision before the State Government-first respondent herein under Rule 35-A of the A.P.Minor Mineral Concession Rules, 1966 (for brevity, 'the Rules'). In the said revision the writ petitioner herein, who made an application in respect of the self-same area

in the year, 2012, filed an application seeking his impleadment as respondent. The first respondent-revisional authority, vide the impugned Memo No.11523/M.I(2)/2017-2, dated 24.05.2018, allowed the revision filed by the fourth respondent herein, setting aside the order of determination passed by the second respondent herein. This Writ Petition challenges the validity and legal sustainability of the said order, dated 24.05.2018, passed by the revisional authority.

It is contended by the learned counsel for the petitioner that the questioned order is highly illegal, arbitrary, unreasonable and violative of the principles of natural justice and contrary to the provisions of the Rules. In elaboration, it is further submitted by the learned counsel that, though the petitioner herein filed an application for impleadment in the revision, filed by the fourth respondent herein, the revisional authority, without issuing any notice and without affording any opportunity of being heard to the petitioner herein, passed the impugned order.

On the other hand, it is contended by the learned Government Pleader so also the learned counsel for the fourth respondent that there is no illegality nor there exists any procedural infirmity in the impugned action and, in the absence

of the same, the Writ Petition is not maintainable and the petitioner herein is not entitled for any relief under Article 226 of the Constitution of India. It is also the submission of the learned counsel for the fourth respondent that, after the orders of the State Government, the fourth respondent herein paid the amounts towards Advance Dead rent also.

On the other hand, it is submitted by the learned counsel for the petitioner that the petitioner herein paid the application fee, development charges and infrastructure fee also and that the Commissioner, Capital Region Development Authority, Vijayawada has also given 'No Objection Certificate' in favour of the petitioner herein. The statements of the petitioner herein, with regard to non-issuance of notices and failure on the part of the first respondent in affording opportunity of being heard to the writ petitioner, are not disputed by the official respondents.

As per the provisions of Rule 35-A of the Rules, no order, adversely affecting any person, shall be passed under the said Rule unless opportunity is afforded.

A perusal of the impugned order clearly discloses that the Director of Mines and Geology made a request to the revisional authority to dispose of the pending revision and the implead

application. Apart from violation of the above provision of law, the impugned action is also in total violation of the principles of natural justice.

For the aforesaid reasons, the Writ Petition is allowed, setting aside the order passed by the first respondent, vide Memo No.11523/M.I(2)/2017-2, dated 24.05.2018, and the matter is remanded to the first respondent herein for fresh consideration, in accordance with law and after giving opportunity to all the stakeholders, as expeditiously as possible. Till the said exercise attains finality, *status quo*, as on today, with regard to subject lease, shall be maintained. There shall be no order as to costs.

As a sequel thereto, miscellaneous petitions, if any, shall stand closed.

A.V.SESHA SAI,J

29th June, 2018
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