

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

WRIT PETITION No.23704 of 2018

ORDER:

Heard learned counsel for the petitioner and the learned Government Pleader for Mines and Geology.

The alleged inaction on the part of the Assistant Director, Mines and Geology, Sangareddy-first respondent herein, in executing Transfer deed and issuing work order for balance period i.e. till 26.04.2021, pursuant to the proceedings No.1336/TQL/2011, dated 14.05.2018, of the Deputy Director of Mines and Geology, Nizamabad-second respondent herein, is under challenge in the present Writ Petition.

Vide proceedings No.1336/TQL/2011, dated 11.08.2011, the second respondent herein accorded permission for transfer of quarry lease held by M/s Sri Datta Enterprises over an extent of 10.000 Hectares in Sy.No.174 of Sultanpur, Ameenpur Mandal, Sanga Reddy District for unexpired portion i.e. till 26.04.2011 in favour of M/s Ultratech Cements Limited. On 20.04.2018 the Ultratech Cements Limited made an application for transfer in favour of M/s Shivam Shankaram Metals. Vide proceedings No.1336/TQL/2011, dated 14.05.2018, second respondent herein accorded permission for transfer under Rule 31 (ix) of the Telangana State Mines and Minerals Concession Rules,

1966 (for brevity, 'the Rules'). As per Condition No.5 of the above proceedings, the transferee should execute lease deed before the first respondent herein within sixty days from the date of the above orders.

In the above background, the case of the petitioner herein is that execution of lease deed before the Assistant Director of Mines and Geology-first respondent herein and issuance of work order by the first respondent are only ministerial acts and the first respondent is bound to complete the said formalities, strictly in accordance with law.

Vide Memo No.13461/R3/2017, dated 15.05.2018, the Director of Mines and Geology-second respondent herein forwarded the representation of TSIIC to the Assistant Director of Mines and Geology and Deputy Director of Mines and Geology and asked them to examine the representation and submit a detailed proposal under Rule 31 (XVIII) of the Rules. Vide Letter No.2244/Q/2011, dated 22.05.2018 the Assistant Director of Mines and Geology sent a proposal to the Deputy Director of Mines and Geology to take action for cancellation under the said Rule. Vide Lr.No.1136/TQL/2011, dated 28.05.2018, the Deputy Director of Mines and Geology requested the Director of Mines and Geology to take action for obtaining permission of the Government for determination, in public interest, under Rule 31 (XVIII) of the Rules. Vide Lr.No.1334/TQL/2018, dated 23.06.2018, the Assistant

Director of Mines and Geology requested the Director of Mines and Geology to issue clarification on transfer proceedings. Vide Memo No.13641/R3/2017, dated 29.06.2018, the Director of Mines and Geology informed the Deputy Director of Mines and Geology that the State Government, vide Memo No.3184/MI (2)/2018, dated 26.06.2018, granted permission for cancellation and, by way of Memo, dated 29.06.2018, the Director of Mines and Geology directed the Deputy Director of Mines and Geology to cancel the lease, under Rule 11 (a) of the Rules, in public interest.

It is the further submission of the learned counsel for the petitioner that, under the guise of proposal for cancellation of lease, in public interest, in future, respondents cannot delay the execution of Transfer deed and issuance of work order and it is always open for the authorities to take appropriate action.

A counter-affidavit, deposed by the Assistant Director of Mines and Geology-first respondent, on behalf of the respondents herein, is filed wherein there is no denial of the order passed by the Deputy Director of Mines and Geology-second respondent herein, according permission for transfer, vide proceedings No.1336/TQL/2011, dated 14.05.2018. It is further stated, in the counter-affidavit, that, vide Lr.No.499/AMW/MD-Park/BSAVA Shakthi Foods/2017, dated 05.05.2018, TSIIC informed the Director of Mines and

Geology that they have procured lands in Sy.no.174 of Sulthanppur and S.No.70 of Dayara Villages of Ameenpur Mandal and initiated development for establishment of “FICCI Lady Women Entrepreneur Park” and “World Class Medical Devise Park” and that quarry operations and heavy vehicular movement in the area cause hindrance to development of infrastructure and requested to take action for cancellation of leases granted in favour of as many as 5 lease holders, including M/s Ultratech Cements Limited. It is further evident from the said counter-affidavit that the Deputy Director of Mines & Geology, issued a show cause notice, dated 02.07.2018, to M/s Ultratech Cements Limited, calling upon them to show cause as to why action should not be taken, under Rule 11 (a) of the Rules. It is further stated that the said show cause notice was sent to M/s Ultratech Cements Limited and acknowledgment is yet to be received. It is further averred in the counter-affidavit that a copy was received by the Deputy Manager of M/s Ultratech Cements Limited on 10.07.2018. It is also stated that, vide letter No.,1334/TQL/2018, dated 03.07.2018, the Assistant Director of Mines and Geology informed the petitioner about the proposals and that the lease cannot be executed in view of the Memo, dated 29.06.2018.

As observed supra, there is absolutely no denial of the reality that the Deputy Director of Mines & Geology-second

respondent herein, vide proceedings No.1336/TQL/2011, dated 14.05.2018, accorded permission for transfer of the lease for the unexpired portion in favour of the petitioner herein. Therefore, in the considered opinion of this Court, petitioner herein is also entitled to be heard before taking further action in the matter.

For the aforesaid reasons, keeping in view the pendency of the proceedings, pursuant to the show cause notice, dated 02.07.2018, this Court deems it appropriate to dispose of the Writ Petition, keeping it open for the petitioner herein to submit an explanation, in response to the show cause notice, dated 02.07.2018, which is enclosed to the counter-affidavit in the present Writ Petition, within a period of three weeks from the date of receipt of a copy of this order, and, if any such explanation is filed, the same be considered and appropriate final orders be passed, strictly in accordance with law, within a period of two months thereafter. Till final orders are passed, *status quo*, as on today, with regard to the subject lease, shall be maintained. There shall be no order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

A.V.SESHA SAI, J

06th August, 2018.
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