

THE HONOURABLE SRI JUSTICE A.V.SESHA SAI

WRIT PETITION No.28109 of 2018

ORDER:-

Heard learned Counsel appearing for the petitioner and the learned Government Pleader for Mines and Geology for the State of Telangana.

2. Followed by a show cause notice bearing No.1254/QL/SRD/2018, dated 02.07.2018, issued under Rule 11 of the Telangana State Minor Mineral Concession Rules, 1966 (hereinafter, referred to, as 'the said Rules'), and submission of explanation, dated 20.07.2018, by the petitioner, the Deputy Director of Mines and Geology, Nizamabad Region, Nizamabad/R.1, vide proceedings No.1254/QL/SRD/2018, dated 28.07.2018, ordered cancellation of the quarry lease of the petitioner herein for stone and road metal over an extent of 5.00 Hectares in Sy.No.174 of Sulthanpur village of Ameenpur Mandal, Sangareddy District.

3. According to the learned Counsel for the petitioner, the impugned action on the part of the 1st respondent herein is highly illegal, arbitrary and violative of principles of natural justice. It is the further submission of the learned Counsel that the Order passed by the 1st respondent herein is also totally one without jurisdiction and opposed to the very spirit and object of the Rules.

4. Obviously, in the instant case, the respondent-authorities have resorted to the impugned action with the alleged public interest. The provision of Law, which enables the authorities to resort to cancel the lease on the ground of public interest, is Rule 11 of the said Rules, which reads as under:-

“Power of the Government and the Director:- (1)

Power of Government:- Government reserves the right –

- (a) to cancel the quarry lease granted and executed under these rules, if it is considered necessary to do so either due to change in the policy or in the public interest by giving previous notice;
- (b) to grant the leases for any minor minerals by duly exempting from the priorities fixed under different provisions under these rules on nomination or otherwise subject to certain specified conditions for any category of land in favour of any section of the society;
- (c) to waive the collection of seigniorage fee and dead rent at their discretion.

(2) The Director shall have the powers:-

- (a) to prohibit quarrying operations in part or in the whole of the area under lease or free-hold areas for the reasons recorded in consultation with the competent authority;
- (b) to impose any special conditions in quarry leases granted under these rules;
- (c) to close any quarry or prohibit quarrying operations or reserve the land for being worked by any particular department of the Government or a

local authority and to regulate quarrying operations according to the law in force;

(d) to regulate the quarrying operations by issuing temporary permits for any minor mineral during the transmission period whenever there is a proposal to change the policy by the Government for the grant of the leases.”

5. A reading of the above provision of Law, in clear and vivid terms, discloses that the State Government is empowered to cancel the quarry lease under two circumstances i.e., a) change in the policy, or, b) in the public interest preceded by a notice.

6. In the instant case, on the instructions, pursuant to the memo, dated 26.06.2018, of the State Government according permission to the Director of Mines and Geology, Hyderabad, for cancellation of all the existing leases, the Deputy Director of Mines and Geology/R.1 issued the show cause notice and after submission of the explanation by the petitioner herein, passed the impugned Order, dated 28.07.2018.

7. As mentioned supra, Rule 11 of the said Rules enables and empowers the State Government alone to cancel the leases in the public interest and no provision of Law could be brought to the notice of this Court, which enables the Deputy Director of Mines and Geology/R.1 to resort to the impugned action in the name of public interest. On that ground alone, the present Writ Petition has to succeed.

8. For the aforesaid reasons, the Writ Petition is allowed, setting aside the impugned Order passed by the Deputy Director of Mines and Geology/R.1 issued vide proceedings No.1254/QL/SRD/2018, dated 28.07.2018. However, it is open for the State Government to initiate action and to pass appropriate orders, if they are so advised to do so, in accordance with the provisions of Rule 11 of the said Rules.

Miscellaneous petitions, if any, shall stand closed. There shall be no order as to costs.

16th August, 2018.
smr



A.V.SESHA SAI