

HON' BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No.30675 of 2018

ORDER:

1) Heard learned counsel appearing for the petitioner, Government Pleader for Mines and Geology and Government Pleader for Revenue and also perused the record. With the consent of all the parties, the writ petition is disposed of at the stage of admission.

2) The present writ petition came to be filed seeking issuance of writ of mandamus declaring the action of the second respondent in not considering the application of the petitioner firm dated 26.02.2015 for grant of Quarry Lease under the deemed sanction of approval for grant of "no objection certificate" as no action taken by the fifth respondent within 30 days from the date of receipt of letter from the second respondent in terms of G.O.Ms.No.4, dated 19.01.2015 and the impugned proceedings of rejection vide Pc.No.C/ 62/ 2016 dated 15.02.2017 and Pc.No.C/ 62/ 2016 dated 16.04.2018 issued by the third respondent as illegal and without jurisdiction.

3) The averments in the affidavit filed in support of the writ petition would show that the petitioner is the absolute owner and possessor of patta land to an extent of Ac.10.00 in

Sy.No.355/ 1 of Gram Shivar of Mallampally Village, Mulugu Mandal, Jayashankar Bhupalpally District, having purchased the same through registered sale deed document No.941/ 2010 dated 19.02.2010. After due verification, the fifth respondent issued proceeding dated 30.07.2013 and accordingly, his name has been mutated in the revenue records. The petitioner firm was registered with the Registrar of Firms on 02.02.2015. Thereafter, 27.02.2015 he made an application in the name of the petitioner firm to the second respondent seeking permission to carry out quarrying work for a period of 25 years in the patta land to an extent of 4.00 hectares in Sy.No.355/ 1 in Gram Shivar of Mallampally Village. The 2<sup>nd</sup> respondent requested the Tahsildar to verify and issue No Objection Certificate, vide its letter dated 21.05.2015. The fifth respondent has submitted a report to the fourth respondent on 10.05.2016, stating that the total hill extent in Sy.No.355/ 1 is about 150 acres, in which the name of Mohammad Omar Khan is shown as pattadar in records and other side hill parts of metal lease belonging to Challa Dharma Reddy, Sreedhar Dalmia of Madhucon Granites and one Vasudev Stone Crushers. Pursuant to the report of the Tahsildar, the District Collector accorded permission to run stone crusher vide his letter Rc.No.J/ 707/ 2016 dated 28.05.2016. While things stood thus, the third respondent addressed a letter dated 15.02.2017, rejecting the permission

for grant of quarry lease to the petitioner firm, referring to the instructions issued by Joint Collector, Warangal, dated 08.06.2015. The petitioner made representation to the third respondent on 05.03.2018 and to the second respondent on 14.03.2018 and 21.03.2018. Finally the third respondent is said to have issued the impugned Memo without verifying the ownership or classification of land and simply referred to the earlier order of rejection dated 15.02.2017 and the instructions of the Joint Collector dated 08.06.2015. Challenging the same, the present Writ Petition came to be filed.

4) A counter came to be filed by the second respondent i.e., Assistant Director (Mines and Geology), Jayashankar Bhupalapally, stating that without classification of land this respondent is not in a position to process the application of the petitioner, in view of the fact that as per the report of the Tahsildar, dated 10.05.2016, in Sy.No.355/ 1 only 5 acres of land is available for quarry and adjacent to that forest land is available. It is further stated that even if it is processed further, it will create more problems on the site having regard to the proximity of Forest, Tank, Lake, Irrigation, Agriculture and human habitation.

5) The grievance of the petitioner is that the respondent-authorities are not considering the application for grant of

quarry lease on the ground that no objection certificate as required, has not been furnished/ enclosed.

6) It is to be noted here that though the petitioner herein made an application on 26.02.2015, to the second respondent for grant of quarry lease in the land admeasuring Ac.4.00 hectares in Sy.No.355/ 1 of Gram Shivar of Mallampally Village, the second respondent, requested the Tahsildar to verify and issue No Objection Certificate, vide his letter dated 21.05.2016. The Tahsildar, submitted his report to the fourth respondent vide R.C.No.A/ 845/ 2015, dated 10.05.2016 stating that the total hill extent in Sy.No.355/ 1 is about 150 acres in which the name of Mohammed Omar Khan is shown as pattadar and otherside hill parts of metal lease belong to Challa Dharma Reddy, Seedhar Dalmia of Madhucon Granites and one Vasudev Stone Crushers.

7) Relying upon G.O.Ms.No.4, dated 19.01.2015, the learned counsel for the petitioner contended that within 30 days from the date of receipt of letter from the second respondent, approval is deemed to have been sanctioned, if no action is taken within 30 days. As seen from the record, the Tahsildar, sent a report to the fourth respondent on 10.05.2016, without taking any action, which is beyond the period of 30 days.

8) Apart from that though the fourth respondent in his letter states that the lands are in the name of Mohammed Omar Khan, but *prima facie* the material on record would show that the name of the petitioner was mutated, pahanies reflect the names of petitioner and pattadar pass book and title deed were also issued in favour of the petitioner.

9) Further, the counter filed by the second respondent shows that the Assistant Director of Mines and Geology, has requested issuance of necessary permission for grant of quarry lease stating that as per the report of Tahsildar, Mulugu, Sy.No.355/ 1 is coming into the Teka Number 61 to an extent of 5.00 hectares, which is not notified. But however, he stated that the land available is only Ac.5.00 instead of 5.00 hectares.

10) At this stage, it is to be noted that on 08.06.2015 itself, the Joint Collector, Warangal, wrote a letter to the Revenue Divisional Officer, Mulugu, directing that all mining operations should be stopped till the final notification of revision survey and similarly no new mining NOC should be issued. Having regard to the above, the Joint Collector, Warangal, rejected the permission for grant of Quarry lease to the petitioner vide Memo No.C/ 62/ 2016, dated 16.04.2018.

11) The learned counsel for the petitioner placed on record the letters of the Tahsildar, Mulugu, dated 20.08.2018 and

25.08.2018 addressed to the Assistant Director of Mines, to show that in the very same survey number, No Objection Certificates has been granted by the Tahsildar, for conducting mining operations, which are not even disputed and no time is sought for filing counter disputing the same. From the above, it is clear that in spite of order passed by the Collector, permissions came to be granted subsequently to various persons including the No Objection Certificate for conducting mining operations in the very same survey number.

12) Having regard to the above, the respondent-authorities shall re-consider the application of the petitioner by taking into consideration all the factors stated above, as early as possible, preferably, within a period of four (04) weeks from the date of receipt of a copy of the order.

13) With the above direction, the writ petition is disposed of. Consequently, miscellaneous petitions, if any, pending in this Writ Petition shall stand closed. There shall be no order as to costs.

JUSTICE C. PRAVEEN KUMAR

15.11.2018  
gkv

