THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.23530 of 2008

O R D E R:

Questioning the rejection of her application, dated 16.04.2004, for grant of lease for extraction of the iron ore over an extent of land admeasuring Acs.99.00 in Survey No.634, situated at Narasapuram Village, Veldurthy Mandal, Kurnool District, the petitioner filed the present writ petition.

Learned counsel for the petitioner submits that in similar circumstances, this Court disposed of W.P.Nos.23693 and 23694 of 2009 *vide* order dated 03.07.2014 and W.P.No.27261 of 2008 *vide* order, dated 23.02.2016, directing the respondents therein to reconsider the applications of the petitioners therein and pass appropriate orders in accordance with law in view of the common order, dated 05.12.2012, passed by this Court in W.P.No.23985 of 2008 and batch. She further submits that though the respondents stated that show cause notice, dated 15.09.2004, was issued to her, she never received the same and even assuming that such notice was issued, the respondents had not passed any order, and therefore, prays for issuance of a direction to the respondents to pass orders pursuant to the show cause notice.

Though the writ petition is of the year 2008, no counter-affidavit is filed by the respondents till today. However, learned Government Pleader for Mines & Geology placed before this

Court, the instructions received from the Assistant Director of Mines & Geology, Kurnool, dated 29.08.2018, wherein it is stated that on an earlier occasion, this Court vide order, dated 07.03.2008, disposed of W.P.No.5694 of 2008 filed by the petitioner, directing the respondents to dispose of her application, dated 29.04.2004, within a period of eight weeks from the date of receipt of the order. Thereafter, the Government of Andhra Pradesh issued Memo, dated 19.05.2008, directing respondent No.3-Director of Mines & Geology, Hyderabad, not to process any application for reconnaissance permit/ prospecting licence/mining lease for iron ore in Kadapa and Kurnool Districts and the Government has decided to reserve the iron ore-bearing areas in the said Districts to the Andhra Pradesh Mineral Development Corporation Limited, a Public Sector Undertaking, as such, the application of the petitioner was rejected *vide* Memo, dated 20.09.2008. It is further stated that as per the common order, dated 03.07.2014, passed by this Court in W.P.Nos.23693 and 23694 of 2009, respondent No.2-Government of Andhra Pradesh, Industries and Commerce Department, Hyderabad, issued a show cause notice vide Memo, dated 15.09.2014, to the petitioner directing her to submit explanation within 15 days from the date of receipt thereof, failing which, it would be construed that she had no explanation/representation to offer and further action would be taken based on the material available with the Government and following the directions issued by this Court. However, the petitioner had not submitted any explanation. It is also stated that

as per the provisions of the Mines & Minerals (Development and Regulation) Amendment Act, 2015 (for short 'the Amendment Act'), the application of the petitioner cannot be considered.

Learned Government Pleader for Mines & Geology submits that as per Section 10A(1) of the Act, all the applications received prior to the date of commencement of the Amendment shall become ineligible and there is no previous approval of the Letter of Intent under Section 5(1) of the Mines & Minerals (Development and Regulation) Act, 1957.

It is not in dispute that the earlier application filed by the petitioner came to be rejected on the ground that the area was exclusively reserved for exploitation by the Andhra Pradesh Mineral Development Corporation Limited. Thereafter, the petitioner filed W.P.No.5694 of 2008 and this Court disposed of the same on 07.03.2008 directing the respondents to dispose of her application, dated 29.04.2004, within a period of eight weeks from the date of receipt of a copy of that order. While so, the Government of Andhra Pradesh issued Memo, dated 19.05.2008, directing respondent No.3 not to process any application for reconnaissance permit/ prospecting licence/mining lease for iron ore in Kadapa and Kurnool Districts. Further, by order, dated 03.07.2004, this Court while disposing of W.P.Nos.23693 and 23694 of 2009, directed the respondents to pass fresh orders after giving an opportunity to the petitioners therein to place material/their contention why there is exclusive reservation

provided for exploitation of iron ore to the Andhra Pradesh Mineral Development Corporation Limited. However, the application of the petitioner is pending.

In normal circumstances, the present writ petition would be disposed of as per the common order, dated 05.12.2012 passed in W.P.No.23985 of 2008 and batch. However, now, the question which falls for consideration in this writ petition is whether the present writ petition is required to be disposed of in terms of the order passed in W.P.No.23985 of 2008 by ignoring the statutory amendments, which had come into force with effect from 12.01.2015, by the Amendment Act. Section 10-A thereof reads as under:

> "10A. Rights of existing concession holders and applicants.—(1) All applications received prior to the date of commencement of the Mines and Minerals (Development and Regulation) Amendment Act, 2015, shall become ineligible.
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> (2) Without prejudice to sub-section (1), the following shall remain eligible on and from the date of commencement of the Mines and Minerals (Development and Regulation) Amendment Act, 2015:—
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> (a) applications received under section 11A of this Act;
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> (b) where before the commencement of the Mines and Minerals (Development and Regulation) Amendment Act, 2015 a reconnaissance permit or prospecting licence has been granted in respect of any land for any mineral, the permit holder or the licensee shall have a right for obtaining a prospecting licence followed by a mining lease, or a mining lease, as the case may be, in respect of that mineral in that land, if the State Government is satisfied that the permit holder or the licensee, as the case may be,—
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> (i) has undertaken reconnaissance operations or prospecting operations, as the case may be, to establish the existence of

mineral contents in such land in accordance with such parameters as may be prescribed by the Central Government;

(ii) has not committed any breach of the terms and conditions of the reconnaissance permit or the prospecting licence;

(iii) has not become ineligible under the provisions of this Act; and

(iv) has not failed to apply for grant of prospecting licence or mining lease, as the case may be, within a period of three months after the expiry of reconnaissance permit or prospecting licence, as the case may be, or within such further period not exceeding six months as may be extended by the State Government;

(c) where the Central Government has communicated previous approval as required under sub-section (1) of section 5 for grant of a mining lease, or if a letter of intent (by whatever name called) has been issued by the State Government to grant a mining lease, before the commencement of the Mines and Minerals (Development and Regulation) Amendment Act, 2015, the mining lease shall be granted subject to fulfilment of the conditions of the previous approval or of the letter of intent with in a period of two years from the date of commencement of the said Act:

Provided that in respect of any mineral specified in the First Schedule, no prospecting licence or mining lease shall be granted under clause (b) of this subsection except with the previous approval of the Central Government."

It is the specific assertion of the respondents that there is no Letter of Intent under Section 5(1) of the of the Mines & Minerals (Development and Regulation) Act, 1957 in favour of the petitioner. In other words, the proviso to Section 10 (2)(c) is not in favour of the petitioner. Hence, no useful purpose would be served in issuing directions to the respondents to dispose of the application of the petitioner, and it is only a futile exercise.

In those circumstances, the relief claimed by the petitioner cannot be granted.

Hence, the writ petition is dismissed.

Miscellaneous Petitions, if any pending shall stand dismissed. There shall be no order as to costs.

CHALLA KODANDA RAM, J

Dt:12.10.2018
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