

HON' BLE SRI JUSTICE Dr. B. SIVA SANKARA RAO

WRIT PETITION Nos.35176 and 41746 of 2017

COMMON ORDER:

These Writ Petitions are filed by the respective petitioners, under Article 226 of the Constitution of India, seeking the following reliefs:

W.P.No.35176 of 2017:

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- i) ... to declare the proceedings issued by the third respondent vide Proceedings No.1216/ M/ 99 dated 5.7.2001 granting mining lease operations in favour of the seventh respondent for exploration of Quartz in Sy.No.521, Shakapur (Y) village, Pebbair Mandal, Wanaparthi District for a period of twenty years commencing from 05.07.2001 to 04.07.2021 and for restarting the mining operations as the seventh respondent failed to start the mining operations since from the date of grant of mining lease through Memo No.7966/ M.11(1)/ 2014-2 DATED 25.3.2015 ignoring the fact that the mining operations if conducted by the seventh respondent will cause air and water pollution apart from causing damage to the crops, hazards to the safety of villagers and damages to the houses and the consequential proceedings issued by the second respondent vide Memo No.6700/ R2-3/ 2016 dated 23.02.2017 holding that there will be no damage apprehended to the village structures of Shakapur village, water tank, road and agricultural fields due to mining activity as illegal, arbitrary, unjust apart from violative of principles of natural justice and against the factual position and the proceedings issued by the sixth respondent wherein he has clearly concluded that the mining area is 10 meters from the assigned lands, 110 meters from water tank –Voora Cheruvu, 122 meters to the patta lands, 600 meters to the village and 90 meters to another tank namely Katwa Cheruvu; and
 - ii) To consequently set aside the same by directing the respondents to cancel the lease granted in favour of the seventh respondent; and
 - iii) Pass such other order or orders as this Hon'ble Court deems fit...”

W.P.No.41746 of 2017:

“...to issue an appropriate Writ, order or direction more particularly one in the nature of *Writ Of Mandamus* declaring the action of the Respondents in not permitting the Petitioner to do its business of mining of quartz mineral in Survey No.521 in an extent of Ac.39-00 Gts., of Shakapur Village, Pebbair Mandal, Mahaburnagar District now Wanaparthi District, without there being an order of restraint as illegal, null, void and arbitrary and to pass such other order or orders as this Hon'ble Court may deem fit and proper in the interests of justice.”

2. The petitioner in W.P.No.35176 of 2017 is Shakapur (Y) Gram Panchayat, Pebbair Mandal, Wanaparthy District, represented by its Sarpanch Smt.S.Laxmi, W/o S.Venkataiah, maintained the writ petition against seven respondents, viz.,

1. The State of Telanagana, Mines and Geology Department, represented by its Principal Secretary, 2. The Director, Mines and Geology Department, 3. The Assistant Director, Mines and Geology Department, 4. The District Collector, Wanaparthy District, 5. The Revenue Divisional Officer, Wanaparthy, 6. The Tahsildar, Pebbair Mandal and 7. M/s.SVR Minerals, Khammam.

3. The petitioner in W.P.No.41746 of 2017 is M/s.S.V.R.Minerals, Kahammam, maintained the writ petition against eight respondents viz., 1. The State of Telangana, Mines and Geology, represented by its Secretary, 2. Director of Mines and Geology, 3. Assistant Director of Mines and Geology, 4. The District Collector, Wanaparthy District, 5. Superintendent of Police, Wanaparthy District, 6. Revenue Divisional Officer, Wanaparthy, 7. Circle Inspector of Police, Kothakota, Wanaparthy District and 8. Tahsildar, Pebbair Mandal.

4. The supporting averments of the affidavit filed in support of W.P.No.35176 of 2017 are that the Grampanchayat is interested in the welfare of the villagers and in relation to the mining license granted to M/s.SVR Minerals, Khammam, the

Grampanchayat has taken up the issue from its likely to cause pollution and damage from the mining activities and entire villagers unanimously resolved that the mining activities granted in favour of M/s.SVR Minerals previously caused air pollution and contaminated the water of Voora Cheruvu tank located in Sy.No.521 is from the hillocks located in survey number wherefrom the water falls and damaged the houses. If the mining operation is taken place in the said survey number of the village, the source for falling of water in Voora Cheruvu will be blocked. If the mining operations are allowed to continue, the water will be contaminated and due to heavy blasts, not only the entire area water is polluted but heavy stones will fall in the lake and its surroundings of agricultural lands and if the mining lease is granted i.e., it starts from ten meters and continues upto village and there is another lake known as Katwa Cheruvu that is also affected which is approximately 90 meters away from mining area. Though the mining lease was granted way back in the year 2001 for 20 years till 04.07.2021, for the mining operations in the land in Sy.No.521, the operations were not conducted in full-fledged manner by M/s.SVR Minerals and now and then taken up the operations from which it is causing pollution of air and water and damage to the crops and because of the blastings, houses in the village also damaged and hence M/s.SVR Minerals was

not allowed to continue the operations and stopped the same. As per Section 4(A)(4) of the Mines and Minerals (Development Regulation) Act, 1957 (for short 'the Act'), when the holder of mining lease fails to undertake mining operations for a period of two years after the date of execution of the lease, or having commenced mining operations, has discontinued the same for a period of two years, the lease shall lapse. In the instant case, though license has been lapsed, through Memo No.6700/R2-3/2016 dated 23.02.2017, the authorities permitted respondent No.7 to proceed with the lease. The proviso to Section 4(A)(4) of the Act speaks that unless the licensee seeks permission within six months before expiry of two years period when the mining operations are stopped due to the circumstances beyond his control, the permission can be granted. However, without any such request, the authorities for the reasons best known extended the benefit to respondent No.7, contrary to the said provision. One Avula Bahujana Satyam Sagarudu @ A.B. Satyam Sagar and two others earlier filed P.I.L.No.33 of 2016 and the same was disposed of by this Court on 04.04.2016 with directions allowing them to make representations to the authorities within a period of two weeks there from by submitting copy of the P.I.L. judgment to the Director of Mines within said two weeks in filing the representation pursuant thereto and there from the Director of Mines to consider the

representations within two weeks from the date of presentation and pass appropriate orders after giving opportunity of being heard to them and respondent No.7, without going into merits by left open the respective contentions of the parties. However, while the same is pending, once again, in May, 2016, M/s.SVR Minerals tried to start the mining operations with the help of Police as well as Nayeem Gang, for which villagers taken objections and resisted and reported the matter to the Superintendent of Police and the operations were there from stopped. The letter addressed by respondent No.2-Director of Mines and Geology dated 23.02.2017 supplied to the petitioner under the Right to Information Act, shows that on the basis of the alleged inspection, said to have been conducted by respondent No.3-Assistant Director of Mines and Geology stating that the agricultural lands are about 100 meters away from the foot hills of the quarry lease area and the quarry lease area is more than one kilometer away from the village and the blasting may not affect the village and the nearest house to the quarry lease area is about 1200 meters and there will be no damage to the Shakhapur village structures, water tank, road, agricultural fields from the mining operations of M/s.SVR Minerals. The Grampanchayat Village map particulars were furnished by the Tahsildar on 06.10.2017 to the writ petitioner wherefrom it

shows the blasting area is about 10 meters away from the assigned lands, 110 meters away from Voora Cheruvu and patta lands are 122 meters away from the blasting area and village is 600 meters away and another tank is located at a distance of 90 meters from the blasting site, which clearly show the blasting area is near to the village, agricultural lands, crops and tanks apart from causing water and air pollution and the same was experienced earlier. The findings of respondent No.2 based on the report of respondent No.3 of not affecting, particularly, proceedings dated 23.02.2017 are incorrect factually. The respondents are neither conducted Gramasabha nor obtained any opinion of villagers before granting of license or its confirmation, thereby, the petitioner, in the interest of the village is constrained to file the present writ petition.

5. The counter-affidavit filed by the Assistant Director of Mines and Geology on behalf of the official respondents while denying the writ petition affidavit averments are that as per the G.O.Ms.No.250, Industries & Commerce (M.I) Department, dated 10.08.1999, the mining lease for Quartz granted in favour of M/ s.SVR Minerals for an extent of Ac.39.00 cents in Sy.No.521 of Shakapur village, for a period of 20 years and the Assistant Director of Mines, Mahabubnagar, based on the Government orders dated 05.07.2001 executed the mining lease and issued work orders in favour of M/ s.SVR Minerals till

04.07.2021, for a period of 20 years. The Government by memo dated 10.09.2014 issued show cause notice to M/s.SVR Minerals for explanation on the proposed auction of lapsing of the minerals under Rule 28 (1) of the A.P.Mineral Concession Rules, 1960 (for short 'the Rules') for not working and boundary pillars were not found around the lease area, lessee discontinued the mining operations for more than two years since 01.07.2010 and the reply submitted by M/s.SVR Minerals is with a say of due to some local and financial problems, they could not operate the mine from September, 2010 and they are having good orders for local and export and erected boundary pillars and submitted documents such is bank guarantee and approved mining plan paid advance dead rent for the year 2014-15 by challan as required by Rule 28A(1) of the Rules and thereby sought for dropping of the show cause notice by permitting them to continue the operation and by memo dated 25.03.2015 dropped further action and revived the mining lease in the interest of the mineral development/ revenue and as the lease holder paid all mineral revenue dues and rectified the lapses and power is vested under Section 4(A)(4) of the Act with the Government to revive the lease. P.I.L.No.33 of 2016 filed by one Sri A.B.Satyam Sagar and two others before this Court to terminate the mining lease held by M/s.SVR Minerals in Sy.No.521 supra and this Court disposed of the same on

04.04.2016 as referred supra and as per the orders of this Court, the petitioners therein, the Sarpanch of Shakapur Village and other villagers filed representations before the Director of Mines and Geology, who forwarded the same to the Assistant Director of Mines and Geology for examination and submission of report and the Assistant Director, after examination of the representations and after inspection of the mining lease area of M/s.SVR Minerals, submitted a report to the Director on 30.06.2016 and 2.08.2016 and the Director, after examination of the enquiry report dropped further action on the representations seeking to cancel the mining lease, for nothing to cancel and directed consequently the Assistant Director to issue dispatch permit as the lease holder, M/s.SVR Minerals is having all statutory licences and permissions to conduct quarry operations and the Director further directed to refer the issue to the Mines Safety Department to ascertain the affect of the blasting operations and submit report. The information furnished by the petitioner herein with regard to the distances from the mine to the assigned lands, patta lands, two cheruvus and village, from the Tahsildar is not considered as the distances referred are within the stipulated safety distances as per Regulation 127 and 109 of Metalliferous Mines Regulation, 1961 (for short 'M.M.Regulation, 1961') As per Regulation 127 supra, no workings shall be made in any mine vertically below

any spot lying within a horizontal distance of 15 meters from either bank or river or canal or from boundary of a lake, tank or other service reservoir. Whereas, in the case on hand, two tanks mentioned in the writ petition are located more than the stipulated safety distance from the actual mining extraction area. Even as per Regulation 109 of M.M.Regulation, 1961, no workings shall be made and no work of stopping or extraction shall be conducted at or extended to any point within 45 metres of any Railway or public works or public road or buildings or other permanent structure not belonging to the owner of the mine without the prior permission of Chief Inspector (Director of Mines Safety, Hyderabad) and in the case on hand, the village buildings are located more than the stipulated safety distance from the actual mining extraction area and there is no safety distance stipulated in M.M.Regulation, 1961 from the mine site to the assigned lands and patta lands and the safety parameters were already checked by the Director of Mines Safety, Hyderabad, and the officials of Mines and Geology Department and there are no violations reported for cancellation of the mining lease. It is further stated in the counter-affidavit that after formation of Wanaparthy District, several petitions were received from Smt.S.Laxmi, Sarpanch of Shakapur village, ZPTC and other villagers of Shakapur (Y) Village demanding stoppage of mining

operations of M/s.SVR Minerals citing the same problems and the District Collector, Wanaparthi, by letter, dated 01.11.2016 requested the Director of Mines Safety, Hyderabad, to conduct inspection of the mining lease area and examine the same for any lapses and the Director there from by letter dated 16.11.2016 informed the District Collector during inspection of the mine and by scientific evaluation of blast conducted on 10.11.2016, it was observed that the houses of Shakapur (V) and water tank are situated outside the danger zone of blasting, which is 300 meters distance from the blasting site and blasting vibrations induced from the blast was also within the permissible limit defined under DGMS technical circular No.7/97 at 50 mts. distance from the blasting site. Flying fragments were also limited upto 50 metres distance from blasting site. Hence it can be concluded that there will be no damage apprehended to Shakapur village structures, water tank, road and agricultural fields due to mining activity at the said mine. However, the management has been directed to observe strictly certain precautions during blasting operations at the mine. M/s.SVR Minerals is having mining lease for a total extent of Ac.39.00 cents and opened up two quarry pits on top of the hillock where the quartz mineral is exposed in limited area of less than Ac.5.00 and there is no quarrying activity in the balance area. With regard to air and water

pollution, damage to crops, safety of villagers and damage to the houses referred in the writ petition affidavit, the State Level Environment Impact Assessment Authority (SEIAA), State of Telangana vide order dated 26.10.2015 issued environmental clearance to M/s.SVR Minerals, which is valid upto 25.10.2019 and the Telangana State Pollution Control Board (TSPCB), Hyderabad, also issued consent for mining operations after due inspection of mining lease area. M/s.SVR Minerals has not conducted operations in full-fledged manner. It is due to unnecessary obstructions/interference in the mining affairs by the petitioner and villagers and they are not allowing the lease holder to transport the quartz mineral available from the stocks at the mine site. The dispatch terms issued by the Assistant Director, Wanaparthi, could not be utilized due to non-transportation of the mineral and unless the unwarranted interference of some villages is curbed it is difficult for the lease holder to conduct peaceful quarrying operations. M/s.SVR Minerals, on 11.07.2017, filed police complaint before the Station House Officer, Pebbair against some of the villagers for unloading the mineral at the quarry site covered by F.I.R.No.139 of 2017. The Government, by memo, dated 25.03.2015, dropped further action on the determination proposals under Rule 28(1) of the Mineral Concession Rules, 1960 and revived the mining lease in the interest of mineral

development revenue, as the lease holder paid all mineral revenue dues and rectified lapses and Section 4(A)(4) of the Act enables the State Government to revive the lease. The High Court in P.I.L.No.33 of 2016 filed by one A.B.Satyam Sagar and others, by order dated 04.04.2016 even disposed of with a direction to the petitioners therein to file representation before the Director of Mines and Geology, Hyderabad and the present writ petitioner and other villagers of Shakapur Village also filed representation before the Director and after receiving the same forwarded to the Assistant Director, Mahabubnagar for enquiry and after enquiry from the report submitted by the Assistant Director on 27.08.2016, the Director issued proceedings dropping further action and directed the Assistant Director to issue dispatch permit to the lease holder, M/s.S.V.R.Minerals, and directed to refer the issue to the Mines Safety Dept to ascertain the affect of the blasting operations and submit report. After formation of Wanaparthi District, several petitions received again from the Sarpanch, Smt.S.Laxmi, the present writ petitioner demanding stoppage of mining operations of M/s.S.V.R.Minerals by citing same problems and the District Collector on 01.11.2016 requested the Director of Mines Safety, to conduct inspection and examine the same for any lapses and the Director on 16.11.2016, after inspection informed the District Collector

that the mining lease in safety zone and there is no damage apprehended to Shakapur Village structures or water tank or road and agricultural fields from the mining activity and management of the mining lessee also directed to observe strictly certain precautions during blast operations. The Sarpanch of Shakapur Village submitted representation dated 20.04.2016 to the Hon'ble Minister for Mines and Geology that was endorsed to the Director on 28.05.2016 and the Director, by letter, dated 23.02.2017, submitted a detailed compliance report to the Principal Secretary, Industries and Commerce Department and it is the said letter obtained by the petitioner under R.T.I.Act referred in her writ petition. The information obtained from Tashildar under R.T.I.Act concerned, it is not considered the distances referred are within the stipulated safety distances as per Regulation 127 and 109 of M.M.Regulation, 1961 as referred supra and the safety parameters were already checked by the Director and officials of the Mines and Geology and as per the instructions of the District Collector on 20.07.2017, the Revenue Divisional Officer, Assistant Director of Mines and Deputy Superintendent of Police, Wanaparthi, in the presence of Tahsildar, Pebbair, Circle Inspector and Sub-Inspector of Police conducted Gramasabha at Shakapur (Y) Village and appraised villagers that M/s.SVR Minerals is having by statutory permissions to

conduct quarrying operations in Sy.No.521 of Shakapur (Y) over an extent of Ac.39.00 cents and the officials briefed the inspection conducted and report dated 16.11.2016 submitted by the Director and final requested the villagers not to interfere in the mining operations in the interest of mineral revenue to the State Exchequer. The Government of Telangana fixed a target of Rs.1806.49 laks for the year 2017-2018 towards realization of mineral revenue in Wanaparthi District and the quarry lease held by M/s.SVR Minerals is not working due to unnecessary obstructions and interference in the mining affairs by the Sarpanch and other villagers and they are not allowing the lease holder to transport the quartz material available at the mining site. Therefore, the writ petition of Shakapur Sarpanch seeking to cancel the mining lease of M/s.SVR Minerals or to stop its operations are untenable and liable to be dismissed.

6. Coming to the writ petition affidavit averments of M/s.SVR Minerals in W.P.No.41746 of 2017 reads that the self same averments of writ petition and counter-affidavit of Assistant Director of Mines respectively in W.P.No.35176 of 2017 saying subsequent to the orders of P.I.L.No.33 of 2016 from the representations, the Authorities considered by enquiry and found nothing to prevent the mining operations by M/s.SVR Minerals, who already paid necessary seigniorage fee for

export of quartz material in the months of June and October, 2017 and also paying a dead rent of Rs.4,00,000/- every year and for transportation of mineral from the site and permits for dispatch also obtained and the local people without any just cause for one or other reasons obstructing the transportation of mineral from quarry. As permits are lapsed, once again, the writ petitioner-M/s.SVR Minerals has to approach the authorities for grant of fresh permits and has to spend huge amounts for transportation engaging labour once again as material dumped in the site and to load the vehicle once again, they have to spend amounts for engaging vehicles for loading the same and permits issued were not utilized because of pendency of the writ petition and the obstruction from villagers and the authorities are also not given any written orders to stop transportation of mineral. However, if the mineral is not transported, it has to pay huge demurrage to the companies, where it was selling the quartz mineral for no mistake committed by it, but for, because of few villagers unnecessary interference in the attempts to extract money or to trouble it otherwise and for no other alternative remedy, constrained to file writ petition.

7. The Counter-affidavit filed by the Assistant Director of Mines is in support of the writ petition prayer of M/s.SVR Minerals in W.P.No.41746 of 2017 by reiteration of the

contentions in the counter-affidavit filed in opposing W.P.No.35176 of 2017 filed by the Sarpanch of the Shakapur village by saying the local people are unnecessarily interfering and creating hurdles for the safety mining operation to be conducted with which there will be no effective water bodies or buildings nor any pollution and those are located within the safe zone beyond the prescribed distance respectively.

8. From the above respective writ petitions and counter-affidavits for common disposal, heard at length and perused the material on record.

9. From the counter-affidavits of the official respondents, it is crystal clear that M/s.SVR Minerals is entitled to the quarry operations for the remaining period of lease by conducting the blast and also to transport the quartz, already available mineral and the villagers are unnecessarily causing obstruction without any justification.

10. Coming to W.P.No.35176 of 2017 filed by the Sarpanch, Smt Laxmi complaining about the mining operations cause pollution of water area and those operations cause damage to the residential houses etc., concerned, the counter-affidavit of the Assistant Director of Mines speaks that after conducting of the personal inspection and enquiry including after Gramasabha in finding the distances are as per the regulation 127 and 109 of the Metalliferous Mines Regulation, 1961 and not causing any

damage to any buildings or water body or pollution. Further, there were clearances by the State Level Environment Impact Assessment Authority and State Pollution Control Board, Telangana at Hyderabad and even earlier on behalf of the villagers, one Avula Bahujana Satyam Sagarudu @ A.B.Satyam Sagar and two others earlier filed P.I.L.No.33 of 2016 and the same was disposed of, after elaborate hearing to make representations to consider and same was considered pursuant to the representations including those given by the present writ petitioner Smt.Laxmi, Sarpanch of Shakapur Village and found the apprehensions are baseless and untenable and it is also explained of what is the information obtained under Right to Information Act from the Tahsildar is not correct from the field inspection with reference to the location and safety sessions defined therein including from Regulations 127 and 109 of M.M.Regulation, 1961.

11. Having regard to the above, there is no justification on the part of the Sarpanch or other villagers in causing obstruction to M/s.SVR Minerals in not permitting it to conduct the mining operations right from 2001 in one way or the other, by frequent obstructions of the mining lease subsisting till 2021 and even earlier any notice received for not conducting operations, the same was revived from the power of the State Government conferred by Rule 4(a)(4) of the Act from the non-

conducting of operations is by frequent obstructions and not because of their own laches. Once such is the case, the contentions of the said Sarpanch, Smt.Laxmi in her W.P.No.35176 of 2017 saying already for not conducting operations, the mining lease lapsed or notice to that effect issued and for reviving the same, there is no justification is also not tenable for the above reasons, as her very writ petition averments show villagers are frequently causing obstructions in conducting operations and for transporting including by forcible unloading the material load in preventing the transport. Thereby, W.P.No.35176 of 2017 is dismissed and W.P.No.41746 of 2017 is allowed.

12. Accordingly, W.P.No.35176 of 2017 is dismissed and W.P.No.41746 of 2017 is allowed by directing the local Police and officials of the Mines and Geology Department to render necessary assistance at the expenses of the mining lessee, M/ s. SVR Minerals, to conduct mining operations and to transport the quartz material pursuant to the mining lease in force.

13. Miscellaneous Petitions, if any, pending in this Writ Petition shall stand closed. There shall be no order as to costs.

JUSTICE Dr. B.SIVA SANKARA RAO

Date: 12 .03.2018
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