



W.P.(MD)No.14676 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 04.01.2023

Pronounced on : 31.01.2023

CORAM

THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

W.P.(MD)No.14676 of 2018

and

W.M.P(MD) No.13236 of 2018

Sri Venkateswara Industries,
Rep by its Proprietrix Tmt.R.Sasi,
No.182, Rajagopalapuram Housing Units,
Pudukkottai-622 001.

... Petitioner

Vs

1.The Secretary to Government,
Government of India,
Ministry of Mines,
Shastri Bhawan,
Dr.Rajendra Prasad Road,
New Delhi.

2.The Secretary to Government,
Government of Tamil Nadu,
Industries Department,
Fort St.George,
Chennai-600 009.



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3.The District Collector,
Tiruchirapalli District,
Tiruchirapalli-620 001.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus, calling for the records of the first respondent in Revision Application File No.27(03)/2013-RC-II, dated 17.11.2017 and quash the same and direct the respondents to execute the leased deed in furtherance of the G.O.3(D)No.76, Industries (MMA.II) Department, dated 08.08.2000 within the time frame fixed by this Court.

For Petitioner : Mr.S.I.Muthiah

For R1 : Mr.S.Ragaventhre
Central Government Standing Counsel

For R2 & R3 : Mr.A.Sivanu Pandian
Government Advocate

ORDER

The instant writ petition has been filed challenging the order of the first respondent dated 17.11.2017, wherein the first respondent had



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rejected the claim of the petitioner challenging the revocation of mining lease granted to the petitioner and for consequential direction to grant mining lease in favour of the petitioner.

2.Heard Mr.S.I.Muthiah, learned counsel for the petitioner, Mr.S.Ragaventhre, learned Central Government Standing Counsel for the first respondent and Mr.A.Sivanu Pandian, learned Government Advocate for the respondents 2 and 3.

3.The learned counsel for the petitioner would submit that the petitioner had applied for grant of mining lease for limestone over an extent of 2.06.5 hectares of patta and poramboke lands in Survey Nos.169/1 and 169/2 in Thatchankurichi Village, Lalgudi Taluk, Tirchy District, for a period of 30 years. Upon scrutiny of the application, the third respondent herein had recommended the petitioner for grant of mining lease by his proceedings, dated 01.10.1999. The second respondent, on the strength of the recommendation made by the District Collector, had issued G.O.3(D) No.76, Industries (MMA-II) Department, dated 08.08.2000, had accorded



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mining lease to the petitioner to mine limestone for a period of 20 years.

Pursuant to the same, the petitioner will have to submit draft lease deed and that it had submitted the same on 10.01.2001 to the third respondent herein.

The third respondent, upon receiving the draft lease deed, did not take any steps for execution of the same. Whenever the petitioner had contacted the third respondent, the third respondent has been assigning one reason or other for execution of the lease deed. While that being so, the office of the third respondent had advised the petitioner to seek extension of time to execute the lease deed. Believing the advice bone-fidely, the petitioner through his representation dated 06.06.2001 had sought time to execute the lease deed. The said request of the petitioner dated 06.06.2001, was forwarded by the third respondent to the second respondent vide his communication in Na.Ka.No.587/97, dated 14.06.2001. Even thereafter, the petitioner did not hear anything. Hence, the petitioner was constrained to move this Court in seeking for a mandamus to direct the second respondent to consider the representation in WP(MD) No.12636 of 2009. By order, dated 17.09.2009, this Court had directed the second respondent herein to consider the representation of the petitioner within a period of four weeks



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from the date of receipt of the order. The said order was not complied with. But however, on 13.08.2013, the second respondent vide G.O(D)No.151, Industries (MMA.I) Department, had revoked the mining lease granted to the petitioner on 08.08.2000 on the premise that the petitioner had not executed a lease deed within a period of six months as stipulated in Rule 31 of the Mineral Concession Rules, 1960. Being aggrieved against the said order, the petitioner had preferred a revision before the first respondent and the first respondent had also rejected the case of the petitioner.

4. The learned counsel for the petitioner would further submit that on receipt of grant of mining lease on 08.08.2000, the petitioner had preferred a draft lease deed and that the petitioner submitted the same for approval with the third respondent and the third respondent had not considered the request of the petitioner. He would further submit that this fact has been completely overlooked both by the second and third respondents, while passing the order impugned. The learned counsel for the petitioner would vehemently contend that it is the duty of the third respondent to initiate necessary action for execution of the lease deed.



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When the third respondent has failed in his duty, the petitioner cannot be blamed for non-execution of the lease deed within the stipulated time, that too, when the petitioner had submitted a draft lease deed as early as on 10.01.2001. The first and second respondents have also failed to note that the petitioner by his communication dated 06.06.2001 had sought extension of time for submitting the lease deed. The said representation also went unattended forcing this petitioner to approach this Court seeking for a mandamus to direct the respondents to consider his representation. Even after a positive direction has been issued, nothing had been heard of and after a period four years from the issuance of direction, the mining lease was revoked.

5. The learned counsel for the petitioner would further submit that such an exercise by the second respondent is arbitrary and colourable exercise of power. When the petitioner had already submitted the draft lease deed, the impugned order passed by the second and third respondents, is very much silent about it. On that ground alone he would contend that the order impugned in this writ petition, is liable to be set aside. He would also



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further submit that the further reasoning assigned by the respondents that in the present day, the mining lease would only be granted by way of an auction, is also erroneous. During the relevant point of time, when the mining lease was granted with the petitioner, the law was not that it should be given only by way of an auction. The Mines and Minerals (Development and Regulation) Act, 1957 came to be amended in the year 2015 and only from there, in view of insertion of provision of Section 10-B(4) of the Act, mining could be granted by the State Government only by way of auction through competitive bidding. Hence, the respondents cannot retrospectively apply the said Rule to the mining lease already granted to the petitioner. Hence, he would contend that the order impugned in the writ petition suffers from arbitrariness, colourable exercise of power and therefore, requires to be set aside.

6. Countering his arguments, the learned Government Advocate appearing for the respondents 2 and 3 would submit that the petitioner's application for grant of mining lease of limestone was considered and recommendation were made by the third respondent. Based on the



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recommendation of the third respondent, the second respondent had issued Government Order granting mining lease to the petitioner as early as on 08.08.2000. As per Rule 31(1) of Mineral Concession Rules, 1960, the lease deed should be executed within six months from the date of issuance of the order granting the mining lease. In the present case, the mining lease should have been executed on or before 07.02.2001. The petitioner had not submitted any draft lease deed as claimed by him. He would further submit that only on 06.06.2001, the petitioner had sought for extension of time to execute the lease deed. He would further submit that as per Rule 22-D of the Mineral Concession Rules, 1960, the minimum area of grant of lease should not be less than four hectares. In this case, the lease had been wrongly granted for lesser extent.

7. The learned Government Advocate would further submit that the allegation of the petitioner that he had submitted a draft lease deed on 10.01.2001 is utter falsehood and fertile imagination. The petitioner had not provided any document to substantiate that he had submitted the draft lease deed on 10.01.2001. He would further rely upon the communication of the



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petitioner dated 06.06.2001, under which, he had sought for extension of time to execute the lease deed and submit that even in the said representation he has not made any statement to the effect that he had already submitted a draft lease deed on 10.01.2001. Countering the argument of the learned counsel for the petitioner that the representation dated 06.06.2001 was given under the dictate of the office of the third respondent, he would submit that even assuming that it has been given under the dictate, had the petitioner submitted the draft deed as claimed by him on 10.01.2001, knowing that the six months period for execution of the lease deed would be over by 07.02.2001, the petitioner ought to have approached the second and third respondents seeking to execute the draft lease deed submitted by him on 10.01.2001. This itself would show that the petitioner has been making this allegation to substantiate his case. Hence, he would submit that since the lease deed has not been executed in compliance of Rule 31(1) of the Mineral Concession Rule 1960, the lease that was accorded as early as on 08.08.2000, would automatically lapsed. Hence, he would pray this Court to dismiss the writ petition.



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8. I have considered rival submissions made by the learned counsel appearing on either side.

9. It is the admitted case that the lease has been granted to the petitioner vide G.O.3(D)No.76, Industries (MMA.II) Department, dated 08.08.2000. Pursuant to the same, under the provision of Rule 31(1) of the Mineral Concession Rules, a lease deed has to be executed within a period of six months from the date of the order or within such further period as the State Government may allow in this regard. In the present case, the petitioner claims to have submitted a draft lease deed before the third respondent on 10.01.2001. To substantiate the same, the petitioner had not submitted any acknowledgment given by the office of the third respondent. The petitioner was aware that such lease deed ought to have been executed on or before 07.02.2001. If the claim of the petitioner that he had submitted the draft lease deed on 10.01.2001, is true, he should have followed it up with the office of the third respondent. The petitioner had failed to do so nor there was any communication with the third respondent calling upon him to execute the draft lease deed submitted by the petitioner on



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10.01.2001. He had not made any complaint to the second respondent, about the inaction of the third respondent in executing the lease deed submitted by the petitioner. Even in communication dated 06.06.2001, he had only sought extension of time to execute the lease deed and there is no statement that the petitioner had submitted a draft lease deed as early as on 10.01.2001.

10. In view of the aforesaid facts, this Court is not inclined to accept the case of the petitioner that the petitioner had submitted a draft lease deed on 10.01.2001 with the office of the third respondent. Rule 31(1) of the Mineral Concession Rules, 1960, postulate that when on an application for grant of a mining lease, an order has been made for grant of such lease, a lease deed in the prescribed form should be executed within the period of six months from the date of order or within a further period as the state Government may allow. If no such lease deed is executed within the said period, due to any default on the part of the applicant, then the State Government has been vested with the power to revoke the order granting the lease and in that event, the application fee shall be forfeited by the



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Government. In the present case, as observed supra, the lease deed has not been executed within the time, namely, 07.02.2001. If the petitioner had submitted the draft lease deed as claimed by him on 10.01.2001, he ought to have called upon the respondents 2 and 3 to execute the same. Even if they failed to execute, he should have called upon them to extend the time to execute the lease deed based upon the alleged draft lease deed submitted by him on 10.01.2001. In this case, it is not the case of the petitioner that he had, subsequent to 10.01.2001, neither called upon the third respondent to execute the lease deed nor approached the second respondent to extend the time. The first communication of the petitioner is on 06.06.2001 seeking for extension of time to execute the lease deed. In the light of the aforesaid facts, it was always open to the State Government to revoke the mining lease granted to the petitioner.

11. This Court by order dated 27.09.2021 considering the allegations made by the petitioner that it is running a manufacturing unit of Soap, washing and white stone power etc., and for that purpose, it had entered into an agreement with one M/s.Blue Mountain Chemicals



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Machinery and the machinery of the said company is being utilized for running the petitioner industry to substantiate the claim that they are wanting to have this mining lease for their own use, has ordered an inspection to be carried out by the State Authority, namely, the respondents 2 and 3 with the technical team to verify whether the claim of the petitioner is correct and submit a report. Pursuant to the direction, a report has been submitted on 06.06.2022. A reading of the report would also suggest that there was no industrial activities that has been carried on by the petitioner.

12. In view of the aforesaid reasoning and finding, I find that Rule 31(1) of Mineral Concession Rules, 1960 has not been complied with and therefore, there is no infirmity in the order passed by the second respondent as confirmed by the first respondent in revoking the mining lease granted to the petitioner. In view of the aforesaid findings, I do not propose to traverse to the other reasonings assigned in the order impugned in this writ petition, assailed by the learned counsel for the petitioner.



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13.In fine, this Writ Petition is dismissed. However, no order as to costs. Consequently, connected miscellaneous petition is closed.

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NCC :Yes/No
Internet :Yes/No
Index :Yes/No
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To:

- 1.The Secretary to Government,
Government of India,
Ministry of Mines,
Shastri Bhawan,
Dr.Rajendra Prasad Road,
New Delhi.
- 2.The Secretary to Government,
Government of Tamil Nadu,
Industries Department,
Fort St.George,
Chennai-600 009.
- 3.The District Collector,
Tiruchirapalli District,
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K.KUMARESH BABU, J.

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