IN THE HIGH COURT OF ANDHRA PRADESH: AMARAVATI

HON'BLE MR. JUSTICE DHIRAJ SINGH THAKUR, CHIEF JUSTICE

&

HON'BLE MR. JUSTICE R. RAGHUNANDAN RAO

W.P.Nos.19459,14827, 14886, 15023, 16392, 17073, 18504, 18509, 18526, 18535, 18538, 21359, 21361, 21362, 23304, 24520, 31569, 37577, 38643, 38659,17328, 17347, 17358, 17520, 18036, 18406, 18595, 18612, 18647, 18824, 18831, 18834, 20148, 21272, 21419, 21590, 21599, 22118, 39743, 40525, 40529 of 2022, 2836, 2528 of 2023, 2691, 5924 of 2024

W.P.No.19459/2022

Federation of Minor Minerals Industry
(femm) and Others.

....Petitioner(s)

Vs.

The State of AP and Others.

.... Respondent(s)

Advocate for Petitioner: Mr. Hari Sreedhar

Advocate for Respondents: Learned Advocate General for State
GP for Mines and Geology

ORDER

Dt: 20.03.2025

(per Hon'ble Sri Justice R.Raghunandan Rao)

Heard Sri Hari Sreedhar, learned counsel appearing for the petitioners, learned Advocate General appearing for the State and

learned G.P. for Mines and Geology appearing for the other respondents.

2. The exploitation of mineral resources, in India, including development and regulation of mines and minerals, is regulated by the Mines and Minerals (Development and Regulation) Act, 1957 (for short 'the 1957 Act'). For the purpose of this Act, minerals have been segregated into minerals, notified minerals and minor minerals. Minor minerals have been defined under Section 3(e) in the following manner.

> "3(e) "minor minerals" means building stones, gravel, ordinary clay, ordinary sand other than sand used for prescribed purposes, and any other mineral which the Central Government may, by notification in the Official Gazette, declare to be a minor mineral;"

3. Section 15 of the 1957 Act empowers the State Government to make Rules for regulating the grant of quarry leases, mining leases or other mineral concessions in respect of minor minerals and for the purposes connected therewith. The State of Andhra Pradesh, in exercise of the powers conferred under Section 15(1) of the 1957 Act, had made the A.P. Minor Mineral

Concession Rules, 1966 (for short 'the 1966 Rules') issued under G.O.Ms.No.1172, Industries (B-I), dated 04.09.1967. These Rules have been amended from time to time. In the present batch of cases, amendments, made to these Rules by G.O.Ms.No.13, Industries and Commerce (Mines-III) Department, dated 14.03.2022 and G.O.Ms.No.14, Industries and Commerce (Mines-III) Department, dated 14.03.2022, are under Challenge.

4. G.O.Ms.No.13, dated 14.03.2022, amended Rules 4, 7-A, 9, 10 to 12, 14 to 16, 18, 19, 28, 31 and 33 of the Rules. G.O.Ms.No.14 dated 14.03.2022, amended Rule 12(2) and 12(5)(d) of the Rules, apart from making the Andhra Pradesh Minor Mineral Auction Rules, 2022.

5. The regulatory mechanism, under the rules, prior to these amendments, was as follows:

A. Minor Minerals, for purposes of grant of quarry leases, were slotted in two categories. The first category consisted of Sand, Granite, Marble and 31 minerals which had been declared as minor minerals, by the central government, on 10/02/2015. The second category were all the other minor minerals.

B. The grant of leases for the second category, under Rule 9 (i), would be by the concerned deputy director, while the grant of lease for Sand, would be under Rule 9C-1; all other leases, in the first category, under rule 12 (5) [a] (i), would be by the Director of Mines and Geology.

C. Rule 9 (i) stipulated the procedure for grant of quarry lease of a minor minerals, in the second category. Rule 12 set out the procedure for grant of leases for the first category. The applications were divided into four categories. The first category was the applications from the Government departments, Corporations and companies. The second category was the applications of labor, contract and cooperative societies, the third category was applications of unemployed persons who possess recognized qualifications and the fourth category was the applications by any of the persons, who do not fall into the above three categories. The applications of the first three categories were to be given priority, above that of the fourth category. In the present case, we are concerned with fourth category. The 5th proviso to Rule 12(2) stated that when more than one application is received under Category-4, preference is to be given to the applications, according to the date of their receipt, unless the

director, for reasons to be recorded in writing, prefers the application of a subsequent applicant. Rule 12 (5) (b), stipulated that the applications, for grant of lease, of the minor minerals, in the second category would be disposed of in order of receipt of applications, with discretion being conferred on the director to grant a lease to an application which is later in point of time. However, such exercise of discretion being subject to the approval of the government and for special reasons to be recorded.

D. The applications were to be processed and a decision was to be taken for grant of lease or rejection of the application. In the event of the competent authority, deciding to grant a quarry lease, the same would be intimated to the successful applicant, under a letter of intent, and he would be called upon to submit necessary documents such as a Mining plan, environment clearances, consent for establishment from the pollution board etc., Apart from this, the applicant would also be called upon to remit the annual dead rent for the first year and to furnish a security deposit. Upon successful submission of all the required documents and clearances, a lease deed, in the prescribed format would be executed. The lease holder, during the operation of the lease, would be required to pay dead rent or royalty, if the royalty

payable, for that year, exceeds the dead rent. The said dead rent or royalty being calculated on the basis of the dead rent and rates of royalty, contained in schedule I and II , in rule 10 of the 1966 Rules.

6. The Government, initially issued G.O.Ms.No.65, dated 04.08.2021, amending the 1966 Rules. Under this amendment, the applicants, upon issue of letter of intent, were required to pay ten times the annual dead rent, as a premium. Apart from this the applicant was also required to deposit five times the annual dead rent as a security deposit. The existing lease holders were to pay the differential amounts. This G.O. was challenged by various persons, whose applications were pending. During the pendency of these writ petitions, G.O.Ms.No.13 and G.O.Ms.No.14, dated 14.03.2022, were issued. Under G.O.Ms.No.14, a new set of Rules known as the A.P. Minor Mineral Auction Rules, 2022 (for short 'the 2022 Rules') were brought into force. Under These Rules, quarry leases would be auctioned and the highest bidder would be given the quarry lease, subject to compliance of all other requirements under these Rules and the Minor Mineral Concession Rules. G.O.Ms. No. 13, amended/deleted some of the 1966 rules. Though the impugned Government Orders have made substantial changes to

various rules, the changes, which are under challenge, can be summarized in the following manner:

i. The system of first come first serve, in the 4th category, was abandoned and it was stipulated that the quarry leases would be granted by way of an auction, under the 2022 Rules, where the bidder, offering the highest premium, would be granted the lease.

ii. Where, such auctions could not be conducted, the competent authority, would follow the old system for grant of leases. However, the premium would be fixed, on the basis of the premium which came to be offered in the auctions conducted in the district for the same mineral.

iii. All pending applications, filed for grant of leases, except those applications, in which letters of intent had already been issued, by 14.03.2022, were rendered ineligible.

iv. The successful applicant/bidder is required to deposit security deposit of three times the annual dead rent.

7. The petitioners herein are applicants, whose applications are pending and stood rejected, on account of these amendments to the Rules. The details of the writ petitioners, who

have challenged G.O.Ms.No.13, and the writ petitioners who have challenged both G.O.Ms.No.13 and 14, are given below:

Details of the Writ Petitioners who have challenged G.O.Ms.No.13:

Sl.No.	Writ Petition No.	Name of the petitioner
1.	19459 of 2022	Federation of Minor Minerals Industry (FEMMI) and others
2.	14827 of 2022	M/s.Rohith Minerals
3.	2691 of 2024	Federation of Minor Minerals Industry (FEMMI)
4.	15023 of 2022	M/s.Hemankari Minerals
5.	21362 of 2022	M/s. PMD Minerals
6.	21361 of 2022	Chekuri Appala Raju
7.	24520 of 2022	M/s. Srinivasa Stone Crusher
8.	31569 of 2022	M/s. Simhadri Enterprises
9.	21359 of 2022	Kanchipati Gouri Ratnam
10.	38643 of 2022	P. Guna Shekar Naidu
11.	5924 of 2024	M/s. Tirumala Granites
12.	14886 of 2022	M/s. Rohith Minerals
13.	16392 of 2022	Chinmayi Granites
14.	17073 of 2022	V. Narada Reddy
15.	18509 of 2022	A. Nagaraju Gowda
16.	18526 of 2022	R. Shiva Shankar
17.	18535 of 2022	S.K. Thammaiah
18.	18538 of 2022	S.A. Muniraju
19.	37577 of 2022	Ch. Venkateswarlu
20.	23304 of 2022	M/s.C.S.K.Export
21.	38659 of 2022	G. Ravi
22.	18504 of 2022	S.K. Nagarajan

Details of the Writ Petitioners who have challenged G.O.Ms.No.13 & G.O.Ms.No.14:

Sl.No.	Writ Petition No.	Name of the Writ Petitioner
1.	2836 of 2023	M/s. Sri Sai R Sand & M Sand
2.	17347 of 2022	M/s.Global Mines & Minerals
3.	2528 of 2023	Sri S. Srikanth Reddy
4.	17328 of 2022	M/s.Global Mines & Minerals
5.	17358 of 2022	M/s.Global Mines & Minerals
6.	17520 of 2022	M/s.Global Mines & Minerals
7.	18036 of 2022	M/s.S.S. Crusher
8.	18406 of 2022	M/s.Varasiddi Vinayaka Minerals
9.	18595 of 2022	M/s. Varasiddi Vinayaka Minerals
10.	18612 of 2022	Smt. C. Jayanthi
11.	18647 of 2022	Smt. C. Jayanthi
12.	18824 of 2022	C. Reddy Bhaskar
13.	18831 of 2022	M/s. Vaaraahi Minerals
14.	18834 of 2022	M/s. Varasiddi Vinayaka Minerals
15.	20148 of 2022	Saradhi Minerals and Processors
16.	21272 of 2022	C. Reddy Bhaskar
17.	21419 of 2022	Y. Srikanth Reddy
18.	21590 of 2022	Y. Srikanth Reddy
19.	21599 of 2022	Sri Sai Venkateswara Stone Crushers
20.	22118 of 2022	K. Sreekanth
21.	39743 of 2022	M/s. Priyanka Minerals
22.	40525 of 2022	M/s.The Aishwarya Tribal Labour Contract Mutually Aided Co-operative Society Limited
23.	40529 of 2022	M/s. Lakshmi ST Mining and Leasing Labour Contract Mutually Aided Co-operative Society Limited.

8. The contentions of the petitioners, in this batch of cases, are as follows:

a) The 1957 Act does not provide for grant of quarry leases by way of auction. Section 15, of the 1957 Act, under which the power of regulating grant of leases, of minor minerals, is conferred on the state, does not empower the state to change the system of grant of leases, much less by way of auction.

b) In 2014, the 1957 Act was amended, by parliament, for grant of mining or quarry leases through the auction process in relation to minerals, other than minor minerals. These amendments did not provide for quarry leases of minor minerals, to be granted through an auction process. In such a case, providing for an auction process, by amendment of the 1966 Rules, would amount to expansion of the scope of the power of the State, beyond what is provided under the 1957 Act.

c) Rendering all pending applications ineligible, and returning the deposits made by the applicants, by virtue of the amendments, would mean that these amendments are retrospective in nature. The Hon'ble Supreme Court in the case of Federation of

Indian Mineral Industries and Ors., vs. Union of India and Ors.,[1], in paragraph-28, had held that Section 15 of the 1957 Act empowers the State Government to make Rules for regulating grant of leases in respect of minor minerals, but such provision does not empower the State Government to frame any Rule with retrospective effect. Consequently, substitution of Rule 12(2) of the 1966 Rules, with retrospective effect, is beyond the power granted under Section 15 of the 1957 Act.

d) Un-amended Rule 12(5) emphasizes that the applicants have a vested right for grant of mining lease, once their application is in order. Voiding such a vested right, would amount to retrospective legislation which is not permissible in view of the above mentioned judgment of the Hon'ble Supreme Court.

e) The Minor Mineral (Auction) Rules, 2015 (for short 'the 2015 Rules') framed under Section 13 of the 1957 Act protects the vested rights of the applicants for major minerals where they have completed reconnaissance and prospecting operations as per Section 10-A(2) of the 1957 Act. A similar amendment would be necessary for minor minerals. As no such provision is available,

[1] **(2017) 16 SCC 186**

saving the applications of persons, whose leases have been recommended, renders the amendment invalid.

f) In the normal course, it is the applicants, who pay the cost and effort for identification of areas, which have minerals, and thereafter apply for grant of quarry lease. This fact was acknowledged in the un-amended Rules as quarry leases would be given to those persons, who had approached at the earliest point of time. The impugned amendment takes away this cushion and would amount to an arbitrary denial of cost and effort put in by the applicants.

g) The grant of leases in respect of the granite is now governed by Granite Conservation and Development Rules (GCD Rules), 1999. These Rules override the 1966 Rules and as such auction of granite leases, without complying with Rule 3(h) of GCD Rules 1999, is illegal. Similarly, auction of marble leases, would face the same defect of violating the Marble Development and Conservation Rules, 2002.

h) The exclusion of Mutually Aided Cooperative Societies from participating in the auction process under the Auction Rules,

2022, issued under G.O.Ms.No.14 dated 14.03.2022, is without any rationale and such exclusion is discriminatory and unconstitutional.

i) The requirement of furnishing a security deposit of three times the annual dead rent, in cash, is not reasonable and would have to be struck down as an arbitrary action. The purpose of a security deposit is to enforce the conditions of the lease and the provisions of the 1957 Act and the rules made thereunder. For such purposes, furnishing a bank guarantee or fixed deposit receipts would be sufficient.

j) The implementation of the amended Rules shows that there are various lacunae and giving un-canalized power to the officers, which is being misused. In such circumstances, the said Rules require to be set aside.

9. The State has filed a counter affidavit in W.P.No.14827 of 2022 and the same counter is adopted by the respondents in all other writ petitions. The contentions of the respondents are as follows:

a) The auction Rules, 2022 are procedural in nature and do not affect the rights of the existing lease holders. The Rules aim to auction mining areas that were not leased out earlier, and as such,

the existing applications can be made ineligible in as much as the applicants do not have a vested right for grant of quarry lease.

b) The applicants, whose applications, has now been rendered ineligible, do not have any vested right for grant of lease. In fact, no consideration has been paid nor any vested right was conferred on the applicants. As such, the rejection of applications, does not affect the vested rights of any applicant to approach this Court.

c) The Auction Rules, 2022 do not, in any manner, contradict any provision of the 1957 Act. Section 15 of the 1957 Act grants authority to the State Government to issue necessary Rules for regulation of grant of quarry leases. The policy decision of the State Government to grant quarry leases only by way of auction would fall squarely within the authority granted to the State Government under Section 15 of the 1957 Act.

Consideration of the Court:

10. The challenge to G.O.Ms.No.13 and G.O.Ms.No.14 falls into two categories. Firstly, the power to change the system of grant of leases, for minor minerals, from first-cum-first basis, to

an auction basis is beyond the power granted to the States, under Section 15 of the 1957 Act. Secondly, rendering all pending applications, for grant of leases, would make the amendments retrospective in nature and same is not permissible in view of the Judgment of the Federation of Indian Mineral Industries and Ors., vs. Union of India and Ors.

11. The petitioners contend that the 1957 Act stipulates the procedure for obtaining mineral concessions, in respect of any land, under Section 10 of the 1957 Act. “Mineral Concession” has been defined, under Section 3-A to 3-E to include mining leases. This provision stipulates that on receipt of an application, under Section 10 of the 1957 Act, the State Government may, having regard to the provisions of the 1957 Act and any Rules made there under, grant or refuse to grant the concession. The 1957 Act was amended in 2015, with effect from 12.11.2015, whereby Section 10-A to Section 10-C, were inserted. However, Section 10-C of 1957 Act was repealed by the subsequent amendment by Act 16 of 2021. Section 10-B(5) of the 1957 Act stipulates that the Central Government can prescribe terms and conditions of the procedure for conduct of auction for selection of the lessee. Section 10(B)(7)

also stipulated that the State Government would grant a mining lease to an applicant who would be selected in accordance with Section 10-B. This effectively means that all minerals, except cases falling under Section 17-A or minerals specified in Part-A and Part-B of first schedule, subject to some conditions shall not be granted except by way of auction. Section 10-B(1) renders all pending applications ineligible all applications pending at the time when the amendment Act 10 of 2015 came into effect.

12. The case of the petitioners is that, parliament had to undertake an elaborative exercise to amend the provisions of the 1957 Act to bring in a regime of auctioning the mineral concessions. However, no such provision was made, by an amendment to the 1957 Act, for grant of mineral concessions/leases for minor minerals. This would mean that, no change in the system of grant of lease was contemplated by parliament, as far as minor minerals are concerned. Consequently changing the system of grant of leases, by way of amendment of the rules, is not permissible.

13. These contentions are not supported by any of the provisions of the 1957 Act. In fact, these contentions run contrary

to the provisions of the 1957 Act. Section 14 of the 1957 Act, extracted here, explicitly excludes the provisions of Section 4 to 13, in relation to minor minerals. Section 14 reads as follows:

> Section 14:
>
> "Within six months from the date of receipt of the geological report from the holder of the exploration licence, the Central Government or the State Government shall initiate the auction process for grant of one or more separate mining leases under section 10B or section 11 or section 11D, as the case may be, in respect of the area where existence of mineral content is established and shall select the preferred bidder for grant of such mining leases within one year from the date of receipt of the geological report:
>
> Provided that in case the preferred bidder is not selected within the period so specified, the State Government shall pay to the person who was the holder of exploration licence such amount, and in such manner, as may be prescribed."

14. The Hon'ble Supreme Court, in D.K. Trivedi and Sons Vs. State of Gujarat,[2] while dealing with Section 15 of the 1957 Act and the Rules made thereunder had held as follows:

> 32. There is no substance in the contention that no guidelines are provided in the 1957 Act for the exercise of the rule-making power of the State Governments under Section 15(1). As mentioned earlier, Section 15(1) is in *pari materia* with Section 13(1). Section 13, however, contains sub-section (2) which sets out the particular matters with respect to which the Central Government may make rules "In particular, and without

[2] 1986 (Supp) SCC 20

prejudice to the generality of the foregoing power", that is, the rule-making power conferred by sub-section (1). It is well settled that where a statute confers particular powers without prejudice to the generality of a general power already conferred, the particular powers are only illustrative of the general power and do not in any way restrict the general power. Section 2 of the Defence of India Act, 1939, as amended by Section 2 of the Defence of India (Amendment) Act, 1940, conferred upon the Central Government the power to make such rules as appeared to it "to be necessary or expedient for securing the defence of British India, the public safety, the maintenance of public order or the efficient prosecution of war, or for maintaining supplies and services essential to the life of the community". Sub-section (2) of Section 2 conferred upon the Central Government the power to provide by rules or to empower any authority to make orders providing for various matters set out in the said sub-section. This power was expressed by the opening words of the said sub-section (2) to be "Without prejudice to the generality of the powers conferred by sub-section (1)". In *King Emperor* v. *Sibnath Banerji* [AIR 1945 PC 156, 160 : (1944-1945) 72 IA 241] the Judicial Committee of the Privy Council held (at pp. 258-59):

"In the opinion of Their Lordships, the function of sub-section (2) is merely an illustrative one; the rule-making power is conferred by subsection (1), and 'the rules' which are referred to in the opening sentence of sub-section (2) are the rules which are authorized by, and made under, sub-section (1); the provisions of sub-section (2) are not restrictive of sub-section (1), as, indeed, is expressly stated by the words 'without prejudice to the generality of the powers conferred by sub-section (1)."

The above proposition of law has been approved and accepted by this Court in *Om Prakash* v. *Union of India* [(1970) 3 SCC

942, 944-5] and *Shiv Kirpal Singh* v. *V.V. Giri*. [(1970) 2 SCC 567 : AIR 1970 SC 2097 : (1971) 2 SCR 197, 224-5]

33. A provision similar to sub-section (2) of Section 13, however, does not find place in Section 15. In our opinion, this makes no difference. What sub-section (2) of Section 13 does is to give illustrations of the matters in respect of which the Central Government can make rules for "regulating the grant of prospecting licences and mining leases in respect of minerals and for purposes connected therewith". The opening clause of sub-section (2) of Section 13, namely, "In particular, and without prejudice to the generality of the foregoing power", makes it clear that the topics set out in that sub-section are already included in the general power conferred by sub-section (1) but are being listed to particularize them and to focus attention on them. The particular matters in respect of which the Central Government can make rules under sub-section (2) of Section 13 are, therefore, also matters with respect to which under sub-section (1) of Section 15 the State Governments can make rules for "regulating the grant of quarry leases, mining leases or other mineral concessions in respect of minor minerals and for purposes connected therewith". When Section 14 directs that "The provisions of Sections 4 to 13 (inclusive) shall not apply to quarry leases, mining leases or other mineral concessions in respect of minor minerals", what is intended is that the matters contained in those sections, so far as they concern minor minerals, will not be controlled by the Central Government but by the concerned State Government by exercising its rule-making power as a delegate of the Central Government. Sections 4 to 12 form a group of sections under the heading "General restrictions on undertaking prospecting and mining operations". The exclusion of the application of these sections to minor minerals means that these restrictions will not apply to minor minerals but that it is left to the State Governments to prescribe such restrictions as they think fit by rules made under Section 15(1). The reason for treating minor minerals differently from minerals other than minor minerals

> is obvious. As seen from the definition of minor minerals given in clause (*e*) of Section 3, they are minerals which are mostly used in local areas and for local purposes while minerals other than minor minerals are those which are necessary for industrial development on a national scale and for the economy of the country. That is why matters relating to minor minerals have been left by Parliament to the State Governments while reserving matters relating to minerals other than minor minerals to the Central Government. Sections 13, 14 and 15 fall in the group of sections which is headed "Rules for regulating the grant of prospecting licences and mining leases". These three sections have to be read together. In providing that Section 13 will not apply to quarry leases, mining leases or other mineral concessions in respect of minor minerals what was done was to take away from the Central Government the power to make rules in respect of minor minerals and to confer that power by Section 15(1) upon the State Governments. The ambit of the power under Section 13 and under Section 15 is, however, the same, the only difference being that in one case it is the Central Government which exercises the power in respect of minerals other than minor minerals while in the other case it is the State Governments which do so in respect of minor minerals. Sub-section (2) of Section 13 which is illustrative of the general power conferred by Section 13(1) contains sufficient guidelines for the State Governments to follow in framing the rules under Section 15(1), and in the same way, the State Governments have before them the restrictions and other matters provided for in Sections 4 to 12 while framing their own rules under Section 15(1).

15. The aforesaid view of the Hon'ble Supreme Court, fortifies the view of this court, that the State Government has the

power, under Section 15 of the 1957 Act, to change the method of grant of leases, in relation to minor minerals.

16. Even if the provisions of Section 10-A to 10-C are to be taken into account, it would not affect the outcome of these writ petitions. The 1957 Act, did not provide for any particular method or system for granting mineral concessions for minor minerals. The method of granting mineral concessions for minor minerals, on a first-cum-first serve basis was not stipulated under the provisions of the 1957 Act. This system was brought into effect under the 1966 Rules. Once, it has been accepted that the State Government, by way of Rules, made under Section 15 of 1957 Act, could establish a system of first-cum-first serve basis, for grant of leases and a system of priority among the four categories mentioned above, it cannot be said that the State does not have any further power to change a system which was brought in, by way of the very same rules. The petitioners, except stating that the State does not have power to change the system of grant of mineral concessions, for minor minerals, have not placed any material before this Court, in support of such a contention. The petitioners, rely upon the change in the manner of grant of mineral concessions

to the minerals specified in Section 10-A to 10-C to contend that, that is the only method in which the system of grant of mineral concessions can be changed. This Court for the aforesaid reasons, rejects this contention.

17. The second ground of the petitioners is that the Rules would have to be treated to be retrospective as they affect pending vested rights of the petitioners. The said vested right being the right to being granted a lease, by virtue of the applications made by the petitioners.

18. The Hon'ble Supreme Court in the case of Federation of Indian Mineral Industries and Ors., vs. Union of India and Ors., had in paragraph 28 , held that the provisions of Section 15 of the 1957 Act do not empower State Governments to frame rules with retrospective effect, in the following manner:

> 28. On the facts before us, it is clear that Section 15 of the MMDR Act empowers the State Government to make rules for regulating the grant of quarry leases, mining leases or other mineral concessions in respect of minor minerals and for purposes connected therewith. This section does not specifically or by necessary implication empower the State Government to frame any rule with retrospective effect. Also, the MMDR Act does not confer any specific power on the State Government to fictionally create the DMF deeming it to be in existence from a date earlier than the date of the notification establishing the DMF. Therefore, it must follow that under the provisions of the MMDR Act that we are concerned with, no State Government has the power to

> frame a rule with retrospective effect or to create a deeming fiction, either specifically or by necessary intendment.

19. The question that now remains before this Court is whether the Rules would become retrospective, by virtue of rendering the pending applications of the petitioners ineligible.

20. The petitioners contend that the Rules clearly stipulate that the State Government, under these Rules, has no choice except to grant a mineral concessions, to the application, who is first in line, if the application of the applicant, meets all the requirements. The petitioners contend that in view of the language of the Rule, the applicants have a vested right of grant of the mineral concession.

21. Section 10(1) reads as follows:

> "10. [Application for mineral concession.]—
>
> (1) An application for a [mineral concession]] in respect of any land in which the minerals vest in the Government shall be made to the State Government concerned in the prescribed form and shall be accompanied by the prescribed fee.
>
> (2) Where an application is received under sub-section (1), there shall be sent to the applicant an acknowledgment of its receipt within the prescribed time and in the prescribed form.
>
> (3) On receipt of an application under this section, the State Government may, having regard to the provisions of this Act and

any rules made thereunder, grant or refuse to grant the [permit, licence or lease].

(4) Notwithstanding anything contained in this section, no person shall be eligible to make an application under this section unless—

(a) he has been selected in accordance with the procedure specified under 3[sections 10B, 10BA, 11, 11A, 11B or 11D];

(b) he has been selected under the Coal Mines (Special) Provisions Act, 2015 (11 of 2015); or

(c) an area has been reserved in his favour under section 17A.]"

22. Section 10(3) of 1957 Act gives discretion to the State Government to grant or refuse to grant the mineral concession, having regard to the provisions of the Act and the rules made there under. The word "may" is sufficient to hold that the discretion of the State Government to grant or refuse a mineral concession, to an applicant, is wide enough to empower the State Government to reject applications for any reasons including the non compliance of the provisions of the Act and Rules. In view of the aforesaid provision, the applicant does not have any vested right for a grant of a mineral concession on the ground that he had made an application which meets the requirements of the 1957 Act and the Rules made there under.

23. The Hon'ble Supreme Court while dealing with a similar situation, had held in State of Rajasthan and Others Vs. Sharwan Kumar Kumawat,[3] in paragraph 17, as follows:

> 17. It is far too settled that there is no right vested over an application made which is pending seeking lease of a Government land or over the minerals beneath the soil in any type of land over which the Government has a vested right and regulatory control. In other words, a mere filing of an application ipso facto does not create any right. The power of the Government to amend, being an independent one, pending applications do not come in the way. For a right to be vested there has to be a statutory recognition. Such a right has to accrue and any decision will have to create the resultant injury. When a decision is taken by a competent authority in public interest by evolving a better process such as auction, a right, if any, to an applicant seeking lease over a Government land evaporates on its own. An applicant cannot have an exclusive right in seeking a grant of license of a mineral unless facilitated accordingly by a statute. State of Tamil Nadu v. Hind Stone & Others, (1981) 2 SCC 205 : -
>
> > "13. Another submission of the learned counsel in connection with the consideration of applications for renewal was that applications made sixty days or more before the date of G.O.Ms No. 1312 (December 2, 1977) should be dealt with as if Rule 8-C had not come into force. It was also contended that even applications for grant of leases made long before the date of G.O.Ms No. 1312 should be dealt with as if Rule 8-C had not come into force. The submission was that it was not open to the government to keep applications for the grant of leases and applications for renewal pending for a long time and then to reject them on the basis of Rule 8-C notwithstanding the fact that the applications had been made long prior to the date on which Rule 8-C came into force. While it is true that such applications should be dealt with within a reasonable time, it cannot on that account be said that the right to have an application disposed of in a reasonable time clothes an applicant for a lease with a right to have the application

[3] 2023 SCC Online 898

> disposed of on the basis of the rules in force at the time of the making of the application. No one has a vested right to the grant or renewal of a lease and none can claim a vested right to have an application for the grant or renewal of a lease dealt with in a particular way, by applying particular provisions. In the absence of any vested rights in anyone, an application for a lease has necessarily to be dealt with according to the rules in force on the date of the disposal of the application despite the fact that there is a long delay since the making of the application. We are, therefore, unable to accept the submission of the learned counsel that applications for the grant of renewal of leases made long prior to the date of G.O.Ms No. 1312 should be dealt with as if Rule 8- C did not exist."

24. It may also be noted that the amended Rule 9, while rendering pending applications ineligible, had also saved those applications which have been accepted in-principle. The language of Rule 9 places applications into two categories. The first category is that those applications which are processed and accepted, in-principle, subject to furnishing necessary clearances, documentation and dead rent/security deposit. The second category is that all those applications which do not fall into the first category. It is only the first category of applications, that can claim a vested right in as much as the competent authority had taken an in principle decision of grant of mineral concession. Since the amended Rule 9, saves all applications which have reached the stage of issuance of letter of intent, it cannot be said that the amended Rule 9 is retrospective.

25. In the aforesaid circumstances, it must be held that the Rule, making pending applications ineligible, is not retrospective but only prospective.

26. The petitioners also contend that the Granite Conservation Development Rules (Granite Rules), 1999 and the Marble Development and Conservations Rules (Marble Rules), 2002 issued by the Central Government, have precedence over the 1966 Rules and in the event of any conflict between 1966 Rules and these two rules, it would be the 1966 rules which would have to give way. It is contended that the Granite Rules and the Marble Rules occupy the entire field of regulation of granting mineral concessions for these two minerals, and as such, the amended 1966 Rules would not apply.

27. The issue of conflict between the Rules would arise only when these Rules are not able to operate together. Neither the Granite Rules nor the Marble Rules provide the manner in which leases are to be granted. These rules deal with the manner in which the mining or excavation activity is to be carried out and leaves the area of regulation of grant of leases for these minerals, to the rules, under section 15 of the 1957Act. In the circumstances,

there is no conflict between the Granite Rules and Marble Rules on one hand and the 1966 rules on the other hand. In the absence of such a conflict, the 1966 rules would continue to operate, even in relation to regulation of grant of mineral concessions for granite and marble.

28. Some of the petitioners have contended that the Mutually Aided Cooperative Societies have been excluded, from participating, for grant of mineral concessions, under the Auction Rules, 2015. A reading of G.O.Ms.No.14 does not make out any such case. The auction rules infact, gives additional benefits to Local Societies. The definition of Local Society, contained in rule 2(h) of A.P. Minor Mineral Rules, 2022 includes Mutually Aided Co-operative Societies. In such circumstances, the said contention is bereft of merit and is accordingly rejected.

29. Apart from the above, the petitioners contend that the requirement of furnishing three times the annual dead rent, in cash, as security deposit, is not only arbitrary but also violative of Section 9A of the 1957 Act which stipulates that dead rent/royalty cannot be increased more than once in a three year term.

30. The petitioners have not placed any material before the Court to demonstrate that there was increase in the dead rent/royalty in the three years before the issuance of G.O.Ms.No.13 or G.O.Ms.No.14. In the absence of any such material, it cannot be said that the increase of security deposit, to three years dead rent, would amount to an increase of premium. The question of what would be a reasonable amount as security deposit and what would be the form of security deposit are matters of policy which would have to be left to the discretion of the competent authority. It would not be appropriate for this Court, to substitute its judgment for determining, what would be a reasonable security deposit.

31. The petitioners contend that the amended rules are being misused by the officials and should be set aside. The possibility of misuse or even actual misuse cannot be a ground for setting aside a statutory Rule. Even otherwise the petitioners have not shown any specific instance of such misuse. Accordingly, this contention has to be rejected.

32. For all the aforesaid reasons, the present batch of Writ Petitions are dismissed. There shall be no order as to costs.

As a sequel, pending miscellaneous petitions, if any, shall stand closed.

DHIRAJ SINGH THAKUR, CJ R. RAGHUNANDAN RAO, J

JS/RJS.

HON'BLE MR. JUSTICE DHIRAJ SINGH THAKUR, CHIEF JUSTICE

&

HON'BLE MR. JUSTICE R. RAGHUNANDAN RAO

W.P.No.19459 of 2022 & Batch

(per Hon'ble Sri Justice R.Raghunandan Rao)

20.03. 2025

JS/RJS