

IN THE HIGH COURT OF ANDHRA PRADESH : AMARAVATI

THE HON'BLE SRI JUSTICE SUBBA REDDY SATTI

WRIT PETITION No.19837 OF 2023

Between:

D.Siva Prasad S/o D.Satyanarayana, Aged
about 39 years, Occ: Business,
H.No.9D/105, Revenue Colony,
Kalyanadurgam, Ananthapuramu District.

... Petitioner

Versus

1. The State of Andhra Pradesh represented
by its Principal Secretary, Industries and
Commerce Department, Secretariat,
Velagapudi, Amaravati, Guntur District and
four others.

... Respondents

Counsel for the petitioner : Ms. Gouthami Surapureddy

Counsel for respondent Nos.1 to 5 : GP for Mines and Geology

ORDER

The present writ petition is filed under Article 226 of the
Constitution of India seeking the following relief:

“...issue a writ in the nature of a writ of mandamus of any
other appropriate writ, order or direction more particularly
one in the nature of Writ of Mandamus declaring the action
3rd respondent in Proceedings No.6371/QL/RM/2017 dated
02.06.2023 in determining the Quarry Lease granted to the
petitioner over an extent of 1.070 hectares in Sy.No.185 of

Yatakallu Village, Setturu Mandal, Ananthapuramu District as arbitrary, illegal, unjust, unconstitutional and contrary to Mines and Minerals (Development & Regulation) Act, 1957 and A.P.Minor Mineral Concession Rules, 1966 and the rules made there under apart from being violation of Articles 14, 19(1)(g) and 300A of the Constitution of India and consequently call for records in the Proceedings No.6371/QL/RM/2017 dated 02.06.2023 and set aside the same and pass such other and further orders...”

2. Averments in affidavit, in brief, are that petitioner granted quarry lease for building stone and gravel over an extent of Ac.1.070 hectares in Sy.No.185 of Yatakallu Village, Setturu Mandal, Ananthapuramu District, for a period of 10 years *vide* proceedings No.771/QL-ATP/2020 dated 19.11.2020. Pursuant to grant of lease, lease deed was executed on 05.09.2022, for a period of 10 years, with effect from 05.09.2022 to 04.09.2032. Respondent No.5 issued notice No.6371/QL/RM/2017, dated 29.04.2023, pointing out breach of committed by petitioner. Later, respondent No.3 determined the lease by proceedings, impugned in the writ petition. Assailing the same, the above writ petition is filed.

3. Counter affidavit was filed on behalf of respondent Nos.1 to 5. Respondent No.3 deposed the counter affidavit. It was contended *inter-alia* that based on the complaint of Village

Revenue Officer, Yetakallu Village, technical staff of respondent No.5, inspected the subject area in Sy.No.185 of Yetakallu Village along with Head Constable and Village Revenue Officer. During the inspection, they noticed that no work has been taking place in the subject area. The Assistant Director of Mines and Geology, Anantapuram, executed quarry lease and issued work order *vide* proceedings dated 05.09.2022. Petitioner failed to comply with the conditions under 31 (iv) of Andhra Pradesh Minor Mineral Concession Rules, 1966 (for short “Rules”), by not paying annual dead rent for the year 2023-2024, even after completion of four months, from the stipulated date for payment of annual dead rent. Petitioner also failed to commence quarry operations within stipulated period of two months, in accordance with condition under 31 (vii) of Rules. Show-cause notice dated 29.04.2023, was issued by the Assistant Director of Mines and Geology and the same was dispatched on 01.05.2023. Petitioner failed to submit reply. In view of the same, respondent No.3 issued order determining the quarry lease, impugned in the writ petition. Eventually, prayed to dismiss the writ petition.

4. Heard Ms.Gouthami Surapureddy, learned counsel for the petitioner and learned Government Pleader for Mines and Geology appearing for the respondents.

5 Learned counsel for the petitioner would submit that after determination of lease, petitioner paid the annual dead rent *vide* challan dated 16.06.2023. Learned counsel also would submit that the show-cause notice dated 29.04.2023, was not served on the petitioner. Before determining the quarry lease, the Deputy Director of Mines and Geology, competent authority ought to have issued show-cause notice, as mandated under Rule 31(vi) of 1966. However, no notice was issued by the Deputy Director of Mines and Geology. While determining the lease, respondent No.3 relied upon the show-cause notice dated 29.04.2023, issued by the Assistant Director of Mines and Geology. Thus, contended that the determination of lease is liable to be set aside.

6. Learned Government Pleader for Mines and Geology, *per contra*, would contend that petitioner failed to pay the annual dead rent and, also the commencement of quarry operations within stipulated time. He would further submit that respondent

No.3 determined the lease by proceedings dated 02.06.2023, after issuance of show-cause notice.

7. The point for consideration is :

“Whether the proceedings No.6371/QL/RM/2017 dated 02.06.2023 issued by respondent No.3, are in consonance with Rule 31 of Andhra Pradesh Mines and Mineral Concession, 1966?”

8. As seen from the pleadings and material papers available on record, it is an undisputed fact that quarry lease was granted in favour of the petitioner over an extent of 1.070 hectares in Sy.No.185 of Yatakallu Village, Setturu Mandal, Ananthapuramu District, for a period of 10 years by the Deputy Director of Mines and Geology, Ananthapuram on 19.11.2020. Lease deed was executed on 05.09.2022, for a period of 10 years i.e. from 05.09.2022 to 04.09.2032.

9. Show-cause notice dated 29.04.2023, was issued by the Assistant Director of Mines and Geology, filed along with the counter affidavit, would indicate that petitioner committed breaches *qua* the quarry lease i.e. the lessee has not obtained dispatch permits within a period of two months and the lessee

has not paid the annual dead rent for the year 2023-2024. However, petitioner denied the receipt of show-cause notice dated 29.04.2023, issued by the Assistant Director of Mines and Geology.

10. Rule 31 (xvi) of Andhra Pradesh Minor Mineral Concession Rules, 1966, relevant is extracted here under:

“in case of breach on part of the lessee, the Deputy Director of Mines and Geology may after giving an opportunity, determine the lease and take possession of the premises under lease forfeit the security deposit.”

11. As seen from the proceedings impugned in the writ petition, 3rd reference is show-cause notice dated 29.04.2023 vide No.6371/QL/RM/2017. The said show-cause notice was issued by the Assistant Director of Mines and Geology, but not by the Deputy Director of Mines and Geology, as mandated under Rule 31(xvi) of 1966. Before determining the lease, as per the rule extracted *supra*, the Deputy Director of Mines and Geology, being the competent authority ought to have issued show-cause notice. However, the authority relied upon show cause notice issued by Assistant Director of Mines and geology,

not competent authority as per the rule. Hence, the show-cause notice issued by the Assistant Director of Mines and Geology cannot be considered as show-cause notice. Of course, petitioner is disputing receipt of such notice.

12. Since the determination of lease proceedings impugned in the writ petition, is not preceded by show-cause notice of the Deputy Director of Mines and Geology, as mandated under Rule 31(xvi) of 1966, this Court is of the opinion that the proceedings No.6371/QL/RM/2017 dated 02.06.2023 issued by the respondent No.3, is liable to be set aside.

13. Accordingly, the Writ Petition is allowed by setting aside the proceedings No.6371/QL/RM/2017 dated 02.06.2023. However, this order will not preclude the respondent Nos.3 and 4, to follow due procedure. There shall be no order as to costs.

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

JUSTICE SUBBA REDDY SATTI

Date : 29.09.2023
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