

IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI
(Special Original Jurisdiction)



WEDNESDAY, THE TWENTY SEVENTH DAY OF APRIL
TWO THOUSAND AND TWENTY TWO

:PRESENT:

THE HONOURABLE SRI JUSTICE R RAGHUNANDAN RAO
WRIT PETITION NO: 10310 OF 2022

Between:

L. Dastagiri Reddy, S/o Dastagiri Reddy, Aged about 53 years, Rio Settivaripalli Village, Mydukur Mandal, YSR Kadapa District represented by his GPA holder Kopparthi Madhusudhan Reddy, S/o Kopparthi Ramasubba Reddy, R/o Settivaripalli Village, Mydukur Mandal, YSR Kadapa District

Petitioner

AND

1. The State of Andhra Pradesh, represented by its Secretary, Industries and Commerce Department Secretariat Buildings,, Velagapudi, Guntur District.
2. Director of Mines and Geology, Andhra Pradesh, Ibrahimpatnam, Vijayawada, Krishna District.
3. Deputy Director of Mines and Geology, Government of Andhra Pradesh, Kadapa, YSR Kadapa District
4. The Assistant Director of Mines and Geology, Kadapa, YSR Kadapa District
5. Principal Chief Conservator of Forests, Andhra Pradesh, Vijayawada, Krishna District.
6. Divisional Forest Officer (WL), Proddatur, YSR Kadapa District.

.... Respondents

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue a Writ, Order or Direction, more particularly one in the nature of Writ of Mandamus declaring the action of the respondents in not issuing despatch permits and not considering the renewal quarry lease application submitted by the petitioner over an extent of 4.149 hectares in Sy.No.2267 (old Sy.No.1910) situated at Nandyalammmapeta Village, Mydukur Mandal, YSR Kadapa District is wholly illegal, arbitrary and violative of Articles 14, 19 and 21 of the Constitution of India and consequently declare that the petitioner is entitled for issuance of dispatch permits and also for consideration of his application for extension of quarry lease.

IA NO: 1 OF 2022

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to direct the Respondents to issue dispatch permits to the petitioner over an extent of 4.149 hectares in Sy.No.2267 (old Sy.No.1910) situated at Nandyalammmapeta Village, Mydukur Mandal, YSR Kadapa District, Pending disposal of WP 10310 of 2022, on the file of the High Court.

The petition coming on for hearing, upon perusing the Petition and the affidavit filed in support thereof and upon hearing the arguments of Sri RAVI KONDAVEETI Advocate for the Petitioner and GP FOR INDUSTRIES COMMERCE Advocate for the Respondent Nos.1 to 6, the Court made the following.

ORDER:

"The petitioner was granted quarry lease for Road Metal and Building Stone over an extent of 4.149 hectares in Sy.No.2267 (old Sy.No.1910) of Nandyalammmapeta Village, Mydukur Mandal, Kapada District for a period of 10 years. This lease expired on 17.11.2021. The petitioner had filed an application for renewal of the lease which is

pending. The proviso under the Sub-Rule (2) of Rule 13 of the Andhra Pradesh Minor Mineral Concession Rules, 1966, stipulates that where an application for renewal of quarry lease is filed within the stipulated time and is not disposed of before the expiry of the period of quarry lease, then it shall be deemed to have been extended till the renewal application is disposed of by the Deputy Director. In the present case the application has remained pending even after the expiry of the lease and the deeming provision of the said proviso is applicable.

The petitioner has now approached this Court by way of the present writ petition being aggrieved by the refusal of the mines department in releasing transit permits to the petitioner for transporting the Road Metal and Building Stone quarried in the lease area.

The learned Government Pleader for Mines & Geology, on instructions, submits that there are various deficiencies in the case of the petitioner which precludes the grant of such permits. Firstly, the petitioner has not obtained an Environment Clearance Certificate for being permitted to continue with the lease. Secondly, the quarry area of the petitioner falls within the 500 meters of the Forest boundary and as such quarrying in the land is not permitted. Thirdly, the petitioner had not applied for grant of transit permits for the last four years and as such is not entitled for such permits being issued now.

On the first issue, the learned counsel for the petitioner would rely upon the G.O.Ms.No.53 of 27.02.2019, issued by the Government of Andhra Pradesh, amending Rule-7A of the Andhra Pradesh Minor Mineral Concession Rules, 1966 to include Clause-5 in Rule-7A. The said Clause-5 stipulates that after application for grant of lease is filed, the Deputy Director concerned shall take a decision as to the precise area for which grant of license can be given and communicate the same to the applicant with a copy of a surveyed sketch. On this basis the applicant is to prepare a mining plan approved by the Competent Authority and also submit an Environmental Clearance issued by the Competent Authority and consent for establishment issued by the Andhra Pradesh Pollution Control Board within one year, for proposed lease areas upto 25.00 hectares.

In the present case the extent of land is less than 5 hectares. In view of the amended rule, time has been granted to the petitioner for a period of one year after the Deputy Director specifies the precise area in which the quarrying is to be carried out.

In the circumstances, it cannot be said that the petitioner cannot conduct quarrying operations on the ground that there is no Environmental Clearances available at this point of time. It must be

further noted that it is the case of the petitioner that the Deputy Director has not specified the area till date.

The learned Government Pleader would submit that Clause-5 has been further amended and there is now a requirement for the petitioner to pay a premium amount before any further steps can be taken to process the application of the petitioner.

On the Second issue of the quarry area falling within 500 meters of the Forest area, the petitioner has, placed before this Court, a certification issued by the Divisional Forest Officer on 22.01.2011 that the quarry lease area does not fall within the boundaries of the reserved Forest. The question of whether the quarry area falls within the prohibited 500 meters or whether it falls outside the 500 meters limit is a question of fact which needs to be ascertained with the assistance of the Forest Officials. Nothing has been placed before this Court to show that the quarry area falls within 500 meters limit.

On the third issue raised by the learned Government Pleader is that dispatch permits had not been obtained by the petitioner for the past four years and as such he is not entitled to grant of such permits now. The learned Government Pleader could not point out any rule which prohibits grant of dispatch permits on that ground.

In view of the foregoing discussion, the only issue that remains is whether the petitioner is permitted to continue quarrying operations and is entitled for grant of dispatch permits even if the premium required to be paid has not been paid. As the said amendment came into effect on 04.08.2021, before the filing of the application by the petitioner, there shall be an interim direction to the respondents to grant transit permits to the petitioner on the payment of the premium amount specified in the Clause-5 of Rule-7A.

Post on 20.06.2022."

//TRUE COPY//

For

Sd/- M. SRINIVAS
ASSISATNT REGISTRAR

SECTION OFFICER

To,

1. The Secretary, Industries and Commerce Department Secretariat Buildings, Velagapudi, State of Andhra Pradesh, Guntur District.
2. Director of Mines and Geology, Andhra Pradesh, Ibrahimpatnam, Vijayawada, Krishna District.
3. Deputy Director of Mines and Geology, Government of Andhra Pradesh, Kadapa, YSR Kadapa District
4. The Assistant Director of Mines and Geology, Kadapa, YSR Kadapa District
5. Principal Chief Conservator of Forests, Andhra Pradesh, Vijayawada, Krishna District.
6. Divisional Forest Officer (WL), Proddatur, YSR Kadapa District. (1 to 6 by RPAD)
7. One CC to SRI. RAVI KONDAVEETI Advocate [OPUC]
8. Two CCs to GP FOR INDUSTRIES COMMERCE, High Court Of Andhra Pradesh. [OUT]
9. **One spare copy**

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HIGH COURT

RRRJ

DATED:27/04/2022

POST ON 20.06.2022

ORDER

WP.No.10310 of 2022

INTERIM DIRECTION

