APHC010537612025

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI

Bench Sr.No:-32 [3552]

WP(PIL) NO: 192 of 2025

Ponnekanti Mallikarjuna Rao ...Petitioner

Vs.

The Union of India and others ...Respondents

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Advocate for Petitioner	:	Mr. Koganti Nageswara Rao
		Mr. Sudhakara Rao Ambati
Advocates for Respondents	:	The Advocate General

CORAM : THE CHIEF JUSTICE DHIRAJ SINGH THAKUR
SRI JUSTICE CHALLA GUNARANJAN

DATE : 8th April 2026

P C :

I.A.No.1 of 2026

For the reasons mentioned in the application and those as were urged at the time of hearing, this application is allowed and Mr. T. Harsha Vardhana Prasad is permitted to intervene in the matter.

W.P.(PIL) No.192 of 2025

In the earlier round of litigation, a petition came to be filed *vide* W.P.(PIL) No.5 of 2024, in which the petitioner had challenged the action of the Andhra Pradesh Mineral Development Corporation (in short, 'the APMDC') in inviting bids *vide* document No.APMDC/HMBS/PDO/2023-24/001, dated 14.12.2023, for selection of Project Developer-cum-Operator for planning, engineering, financing, construction, development, operation-cum-maintenance of an integrated BSM Project relating to Gara and Bheemunipatnam in Andhra Pradesh as being illegal, arbitrary and against the statutory provisions as contained under Section 5(1) and (2) of the Mines and Minerals (Development and Regulation) Act, 1957, as also against Schedule-A (Item 12) of the Atomic Minerals Concession Rules, 2016, (in short, 'the Rules, 2016') apart from being contrary to the circular, dated 11.04.2019, issued by the Secretary, Ministry of Environment, Forest and Climate Change, as well as against the order, dated 01.03.2019, issued by the Union of India.

2. The issue highlighted in the said W.P.(PIL) No.5 of 2024 was that mining was permissible only by a Government Company or a Corporation owned or controlled by the Government and that the action of the APMDC in inviting bids was contrary to Rule 5 of the Rules, 2016. The stand of the APMDC in the said PIL was that there was no sub-lease created in favour of any third party in any manner and that the lease would remain with the APMDC and that the third parties were appointed only for purposes of efficient mining and mineral processing which require specialized technical expertise and financing. It is also the stand of the APMDC that all activities would be done by the project developer-cum-operator i.e. the third party, which was

being invited by virtue of the advertisement notification and that the work would be executed under the supervision of the APMDC.

3. The stand of the Union of India was that the entire operational control would be maintained by the APMDC and, therefore, the apprehension expressed by the petitioner was without any basis. It was, in that context, that the counsel for the petitioner, being satisfied, did not wish to proceed further with the W.P.(PIL) No.5 of 2024, which was accordingly closed by virtue of an order, dated 23.07.2025.

4. This is the second round of litigation in which the petitioner challenges *inter alia* the RFP notification, dated 14.12.2023, issued by the APMDC inviting proposals for the selection of a Project Developer-cum-Operator for the planning, engineering, financing, construction, development, operation-cum-maintenance of an integrated BSM project relating to Gara and Bheemunipatnam in Andhra Pradesh.

5. Two issues have been highlighted in the present petition, one, on the proportion in which the revenue generated has to be shared between the Project Developer and the APMDC; and the other with regard to the eligibility of respondent No.8, who, it is stated, is not qualified to be selected as a project developer inasmuch as it did not possess seven years' experience in mineral exploration as per Clauses 6.5 and 6.6, which are reproduced hereunder:

*“**6.5. <u>Technical Criteria</u>:***

6.5.1. The Bidder shall fulfill the Technical Criteria as mentioned below. In case of a Bidding Consortium, the lead member of the consortium must have relevant credentials and satisfactory completion of the similar nature of works (i.e., as mentioned in the eligibility criteria (Clause 6.5) of this RFP) of completion of minimum 50% value of qualifying quantity. The Bidder shall submit the details required for Technical Criteria as per Clause 6.5.

*6.5.2. **<u>(a) Technical Criteria (Mining)</u>:***

The Bidder should have, in the preceding 7 (seven) Financial Years ending as on 31st March 2023, successfully developed and operated a mine allotted to a Central/State Government Company in India having reserves of at least 100 million tonnes & annual capacity of at least 10.00 MTPA and excavated ROM of any of the 'Considered Mineral' from such single mechanised opencast mine at an annual average volume of not less than 7.5 (seven point five) million tonnes per annum during 4 (four) consecutive financial years within the 7 (seven) financial years i.e., FY 2016-17, FY 2017-18, FY 2018-19, FY 2019-20, FY 2020-21, FY 2021-22 and FY 2022-23.

**Mechanized opencast mine means excavating & transporting the 'considered mineral through mechanized means’.*

(b) <u>Technical Criteria (Processing of minerals)</u>:

The Bidder should have, in the preceding 7 (seven) Financial Years ending as on 31st March 2023, successfully operated an ore/mineral processing plant and processed ROM of any of the 'Considered Mineral' from such single mechanized opencast mine at an annual average volume of not less than 7.5 (seven point five) MTPA during any 4 (four) consecutive financial years within the 7 (seven) financial years i.e., FY 2016-17, FY 2017-18, FY 2018-19, FY 2019-20, FY 2020-21, FY 2021-22 and FY 2022-23.

**Mineral Processing means any processing of Considered Mineral Sizing/Comminution/Crushing/Screening or Gravity/Magnetic Separation or Grinding/Floatation and Dewatering.*

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*6.6. **Financial Qualification Criteria:***

The Bidder shall fulfill the Financial Criteria as mentioned below. In the case of a Bidding Consortium, the Lead Member must fulfill minimum 50% of Financial Criteria on its own. The Bidder shall submit the details required for Financial Criteria as per Clause 6.6.

A. Turnover:

The average annual turnover of the Bidder, excluding turnover from trading activities, in any 4 (four) Financial Years out of the last 7 (Seven) immediately preceding audited Financial Years i.e., 2016-17, 2017-18, 2018-19, 2019-20, 2020-21, 2021-22 and 2022-23, should be at least, INR 500,00,00,000/- (Rupees Five Hundred Crore).

B. Cash Accrual:

The average annual cash accrual of the Bidder should be at least INR 100,00,00,000/-(Rupees One Hundred Crore) in any 4 (four) consecutive Financial Years out of the last 7 (Seven) audited Financial Years i.e., 2016-17, 2017-18, 2018-19, 2019-20, 2020-21, 2021-22 and 2022-23.

C. Net Worth:

The net worth of the Bidder should be at least INR 300,00,00,000/- (Rupees Three Hundred crore) as on the last date of Financial Year 2022-23 and the net worth should also be equal to or more than 100% of its paid-up share capital. Further, Bidder shall have positive net worth as on last date of the last 7 (Seven) audited

Financial Years, i.e., 2016-17, 2017-18, 2018-19, 2019-20, 2020-21, 2021-22 and 2022-23.

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6. In the counter affidavit filed by the Corporation, the Mineral Share Model was sought to be justified, however, it appears that, in the interregnum, the respondent No.8 has since been selected as a project developer, and an agreement is also stated to have been executed in that regard, which is not to the knowledge of either the petitioner or the intervener in the present case.

7. We direct the learned Advocate General to produce the aforementioned documents with advance copies to the learned counsel for the petitioner as also learned counsel for the intervener.

8. List on 27.04.2026.

DHIRAJ SINGH THAKUR, CJ

CHALLA GUNARANJAN, J

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