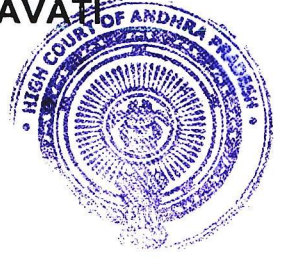


**IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI
(SPECIAL ORIGINAL JURISDICTION)**

**WEDNESDAY, THE EIGHTH DAY OF APRIL
TWO THOUSAND AND TWENTY SIX**



:PRESENT:

HONOURABLE THE CHIEF JUSTICE DHIRAJ SINGH THAKUR

AND

THE HONOURABLE SRI JUSTICE CHALLA GUNARANJAN

WP (PIL) NO: 192 OF 2025

Between:

Ponnekanti Mallikarjuna Rao, S/o. P.Hari Babu aged about 33 years,
Occ. Advocate, R/o. D.No.41, Near Satyanandam Market, Piduguralla
Village and Mandal, Palnadu District, Andhra Pradesh - 522 413,
AadharNo.7214 9953 2299, PAN NO.BURPP8778C, Bank
A/c.No.044710100077896, Union Bank of India, Piduguralla Branch,
Ph.No.9032903285, Email ID. mallikariunaraoponnekanti@gmail.com.

Petitioner

AND

1. The Union of India, Rep. by its Secretary, Ministry of Mines, Government of India, Shastri Bhavan, Dr.Rajendra Prasad Road, New Delhi - 110 001.
2. The Secretary, Ministry of Environment, Forest and Climate Change, Indira Paryavaran Bhawan, Jorbagh Road, New Delhi- 110 003.
3. The Secretary, Department of Atomic Energy, Govt, of India, CSM Marg, Mumbai - 400 001.
4. The Member Secretary, Andhra Pradesh Coastal Zone Management Authority, Government of Andhra Pradesh, D.No. 33-26-14 D/2, Near Sunrise Hospital, Pushpa Hotel Centre, Chalamvari Street, Kasturibaipet, Vijayawada - 520 010.
5. The State of Andhra Pradesh, Rep. by its Principal Secretary, Mines and Geology, Department of Industries and Commerce, Velagapudi, Secretariat, 2nd Block, Tulluru Mandal, Guntur District-522 237.
6. The Director of Mines and Geology, Door No.7-104, 5th floor, Sri Anjaneya Towers, D-Block, Ibrahimpatnam - 521456, Krishna District, A.P.

7. Andhra Pradesh Mineral Development Corporation Ltd., Rep. by its Vice Chairman and Managing Director, D.NO.294/294/MD, 100ft. Road, Kanuru, Vijayawada - 521 137, Andhra Pradesh.
8. M/s. Alluvial Heavy Minerals Limited, A company incorporated under the Companies Act Dt.13-04-2022 bearing Identity No.U26999 AP 22PLC 121352, having its Regd. office at AOB Building, 1st floor. Near Gangavaram Port Main Gate, Pedagantyada, Visakhapatnam, Andhra Pradesh, Rep. by its Managing Director.
9. Harsha Vardhana Prasad T, Harsha Vardhana Prasad T, S/o Late Nageswara Rao, aged about 62 years, Occ Social Activist, R/o.D.No.7-10-43, Aishwarya Aavaas, Old Gajuwaka, Visakhapatnam, AP -530026. (Respondent No.9 was impleaded as per c.o.dt.8/4/2026 vide I.A.No.1 of 2026 in WP (PIL).No.192 of 2025.)

Respondents

Petition Under Article 226 of Constitution of India is filed 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 or any other appropriate writ

a) declaring the Beach Sand Mineral which represents a suite of seven economic heavy, critical and strategic minerals i.e., Ilminite, Leucoxene, Rutile, Zircon, Monozite, Garnet and Sillimanite completely vests with the State or State owned entities in accordance with the policy enunciated by the Government of India.

b) declaring that the bid document No. APMDC/HMBS/PDO/ 2023-24/001, dated 14.12.2023 prepared by the 7th Respondent, which contains a mineral sharing clause at the ratio of 92% and 8% (92 % for the successful bidder and 8% for the owner) 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 is void and non-est under the law as the same is against the policy enunciated by the Government of India

c) to declare the selection of 8th respondent as the successful bidder for 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 on the mineral sharing ratio of 90% for the 8th respondent and 10% for the 7th respondent as illegal, arbitrary and against the statutory provisions as contained in Sec.4, 5 (1) and (2) of Mines and Minerals (Development and Regulation Act 1957) and against Mineral Concession Rules, 2016.

IA NO: 1 OF 2025

Petition under Section 151 CPC is filed praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to suspend the operation of impugned bid document vide document No. APMDC/HMBS/PDO/2023-24/001, dated '14.12.2023 for Selection of Project Developer-cum-Operator (PDO) for Planning, Engineering, Financing, Construction, Development, Operation-cum-Maintenance of an Integrated BSM Project relating to Gara and Bheemunipatnam in Andhra Pradesh, Pending disposal of WP(PIL) 192 of 2025, on the file of the High Court.

IA NO: 2 OF 2025

Petition under Section 151 CPC is filed praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to suspend the selection of the 8th respondent as 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, Pending disposal of WP(PIL) 192 of 2025, on the file of the High Court.

IA NO: 2 OF 2026

Petition under Section 151 CPC is filed praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to receive the documents as material papers for the proper and effective adjudication of pending disposal of WP(PIL) 192 of 2025, on the file of the High Court.

The petition/Appeal coming on for hearing, upon perusing the Petition and the affidavit filed in support thereof and upon hearing the arguments of SRI KOGANTI NAGESWARA RAO Advocate for the Petitioner, Additional Solicitor General of India for Respondent No.1& 2, GP for Mines and Geology

Department for Respondent Nos.5 & 6, Sri N.Jeevan Kumar, Standing Counsel for Respondent Nos.7 and the Court made the following.

ORDER

“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. Technical Criteria:

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. **(a) Technical Criteria (Mining):** 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) Technical Criteria (Processing of minerals): 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.

.....

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

at 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.

.....”

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 intervenor 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 intervenor.

8. List on 27.04.2026”

Sd/- U.SRIDEVI
DEPUTY REGISTRAR

//TRUE COPY//


SECTION OFFICER

To,

1. Two CCs to GP FOR Mines & Geology, High Court Of Andhra Pradesh at Amaravati. [OUT]
2. One CC to Sri N. Jeevan Kumar, Standing Counsel for ZPPS, MPPS and Gram Panchayat, High Court Of Andhra Pradesh. [OUT]
3. Two CC's to SRI. ADDITIONAL SOLICITOR GENERAL OF INDIA, High Court of India, at Amaravati [OUT]
4. Two CC's to SRI. THE ADVOCATE GENERAL Advocate [OPUC]
5. One CC to SRI. KOGANTI NAGESWARA RAO Advocate [OPUC]
6. One spare copy

TVSR

HIGH COURT

DST,J

&

CGR,J

DATED: 08/04/2026

LIST ON 27.04.2026

ORDER

WP(PIL).No.192 of 2025



DIRECTION