

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD****R/SPECIAL CIVIL APPLICATION NO. 18353 of 2018**

VADRAJ CEMENT LIMITED THROUGH MANAGING DIRECTOR VIJAY
PRAKASH SHARMA
Versus
UNION OF INDIA

Appearance:

MR VIKRAM NANKANI Senior Advocate with MR HARDIK P MODH(5344) for
the PETITIONER(s) No. 1,2
for the RESPONDENT(s) No. 1
MR CHINTAN DAVE AGP for the RESPONDENT(s) No. 2

CORAM: **HONOURABLE THE ACTING CHIEF JUSTICE ANANT S. DAVE**
and
HONOURABLE MR.JUSTICE A.J. SHASTRI

Date : 04/12/2018

ORAL ORDER

(PER : HONOURABLE THE ACTING CHIEF JUSTICE ANANT S. DAVE)

1 Heard Mr. Vikram Nankani, learned Senior Advocate with Mr. Hardik Modh, learned advocate for the petitioners.

2 Our attention is invited to Section 10A, which came to be inserted with effect from 12.01.2015 pertaining to rights of existing concession holders and applicants. The Deputy Secretary, Industries and Mines Department, Government of Gujarat in exercise of powers conferred by Section 8(A) and 10 of the Mines and Minerals [Development and Regulation] Act, 1957 to grant mining lease for lime stone mineral in favour of ABG Cement Ltd. for its captive



consumption for a period of 50 years in respect of area so mentioned in the order itself. Further correspondence/communication was undertaken by the petitioners for execution of lease deed and completion of all formalities as required as per terms and conditions of the order.

3 The Ministry of Mines, Government of India by order dated 17.11.2017 clarified with regard to the issue of execution of mining lease deed in favour of M/s. ABG Cement Ltd. for lime stone mineral over the subject area that after 11.01.2017, the mining cease applications covered by Section 10A(2)(c) which have not been granted, have become ineligible, including the said application of M/s. ABG Cement Ltd. The above authority relied on Rule 8(4) of MOAHCEM Concession Rules, 2016 and the requirement of execution of lease deed to be registered on or before 11.01.2017.

4 Learned Senior Advocate for the petitioner would contend that Rule 8(4) of MOAHCEM Concession Rules, 2016 and Section 10A(2) (c) of the Mines & Minerals [Development Regulation] Act, 1957 are manifestly arbitrary, unreasonable, discriminatory, and therefore, violative of Articles 14, 19, 21 of the Constitution of India and emphasized the word 'grant' so appeared in sub-clause [c] of Clause



(2) of Section 10A and so reflected in order dated 08.01.2017 passed by the Department of Industries of Mines, State of Gujarat.

5 Learned Senior Advocate appearing for the petitioners further submits that the petitioners have availed financial assistance to the tune of Rs.3400 Crores from consortium of banks for development of infrastructure. It is further submitted that the petitioners have genuine apprehension of consequential action by the authorities, including that of likelihood of cancellation of order of grant of mining lease in favour of the petitioners, and therefore, interim relief, as prayed for may be granted.

6 At this stage, upon prima facie consideration of submissions made by learned Senior Advocate appearing for the petitioners and a careful perusal of the record, more particularly, relevant sections and rules governing subject writ petition vis-a-vis clarification sought for by the State authorities and information given by Ministry of Mines of Government of India vide order dated 17.11.2007 and the requirement of consideration of contentions raised qua challenge to the vires in this petition in detail along with interpretation of word 'grant' so reflected, at this stage, we are inclined to issue notice to the respondents returnable on 26.12.2018.



8 In the meanwhile, status quo qua subject lease land granted in favour of the petitioners vide order dated 08.01.2017 passed by Department of Industries of Mines, State of Gujarat to be maintained by the parties.

9 Issue notice to the learned Attorney General of India.

Direct service is permitted.

(ANANT S. DAVE, ACJ)

(A.J. SHASTRI, J)

P. SUBRAHMANYAM