

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

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VADRAJ CEMENT LIMITED THROUGH MANAGING DIRECTOR VIJAY
PRAKASH SHARMA & 1 other(s)
Versus
UNION OF INDIA & 1 other(s)

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Appearance:

MR HARDIK P MODH(5344) for the Petitioner(s) No. 1,2
MR KM ANTANI ASSISTANT GOVERNMENT PLEADER for the
Respondent(s) No. 2
MR DEVANG VYAS(2794) for the Respondent(s) No. 1

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***CORAM:HONOURABLE THE CHIEF JUSTICE MR. JUSTICE ARAVIND KUMAR
and
HONOURABLE MR. JUSTICE ASHUTOSH J. SHASTRI***

Date : 19/10/2022**ORAL ORDER*****(PER : HONOURABLE THE CHIEF JUSTICE MR. JUSTICE ARAVIND KUMAR)***

Petitioner, which is a Company registered under the Companies Act, 1956 has filed this petition challenging the vires of Rule 8(4) of "The Minerals (Other than Atomic and Hydro Carbon Energy Minerals) Concession Rules 2016" and Section 10(A)(2)(c) of the Mines and Minerals (Development and Regulation) Act, 1957 as ultra vires of the Constitution and violative of Articles 14, 19 and 21 of the Constitution of India.

2. The said Company has been visited with an order dated



23rd August, 2018 passed by the High Court of Judicature at Bombay in Company Petition 863 of 2015 and Official Liquidator attached to the High Court at Bombay was appointed as liquidator of the said Company and appeal filed challenging said order in Appeal (Filing) No. 402 of 2018 came to be dismissed on 10.09.2018. Subsequently, a draft amendment was filed in this Special Civil Application on 09.05.2019 to carry out amendment in the cause title of the present petition for replacement of petitioner no. 1 pursuant to appointment of Official Liquidator and it is said to be pending. Without expressing any opinion as to its maintainability, we deem it proper to take note of Section 446 of the Companies Act, 1956 which would indicate that when winding up order has been made or the Official Liquidator has been appointed, no suit or other legal proceedings can be commenced or if pending at the date of the winding up order, can be proceeded with, except by leave of the Company Court and subject to such terms as the Company Court may impose. In that view of the matter, we are of the considered view, continuance of the present proceedings in the absence of express permission granted by the Company



Court, the present proceedings initiated by a Company which has been ordered to be wound up cannot be continued, and it stands closed. However, petitioner would be at liberty to seek revival of this petition on an order being passed by the Company Court granting leave under sub-section (1) of Section 446 of the Companies Act, 1956 to prosecute this petition through Official Liquidator or on such terms as may be fixed by Company Court.

Pending applications if any, stands consigned to records.

(ARAVIND KUMAR,CJ)

(ASHUTOSH J. SHASTRI, J)

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