IN THE HIGH COURT OF TELANGANA AT HYDERABAD

W.P. No. 4961 of 2022

Between:

M/s Penna Cement Industries Limited

... Petitioner

And

Union of India and others

... Respondents

JUDGMENT PRONOUNCED ON: 26.02.2024

THE HON'BLE MRS JUSTICE SUREPALLI NANDA

1. Whether Reporters of Local newspapers may be allowed to see the Judgment? : Yes

2. Whether the copies of judgment may be marked to Law Reporters/Journals? : Yes

3. Whether Their Lordships wish to see the fair copy of the Judgment? : Yes

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SUREPALLI NANDA, J

THE HON'BLE MRS JUSTICE SUREPALLI NANDA

W.P. No. 4961 of 2022

% 26.02.2024

Between:

M/s Penna Cement Industries Limited

..... Petitioner

And

$ Union of India and others

... Respondents

< Gist:

> Head Note:

!Counsel for the Petitioner: Mr V.V.N.K.Sarath Saran
^ Standing Counsel for Respondents: Mr B.Jithender,
Central Govt. Counsel

? Cases Referred:

1. (2010) 9 SCC 496
2. (2001) 5 SCC 664
3. (1951) SCC 1088

HON'BLE MRS JUSTICE SUREPALLI NANDA

W.P. No. 4961 of 2022

ORDER:

Heard Mr V.V.N.K. Sarath Saran, learned counsel appearing on behalf of the petitioner and Mr B.Jithender, learned Central Government Counsel appearing on behalf of respondents.

2. This Writ Petition is filed to issue a Writ of Mandamus, declaring that the action of the 3rd respondent in passing the order No. AP/KNL/MP/Lst-146/Hyd, dated 01.04.2021 refusing to process mining lease Application submitted by the petitioner company dated 15.02.2021 in respect of Kowlapalli limestone mine over an extent of 556.938 Hectares in Sy No 124 & 152 of Kowlapalli Village, Peapully Mandal, Kurnool District, Andhra Pradesh, under section 10 A (2) (b) of the Mines and Minerals (Development & Regulation) Amendment Act 2021 which came into force on 28.03.2021, by misapplication of the said provision as unlawful, arbitrary and violative of Articles 14 and 19(1) (g) of the Indian Constitution and consequently set-aside the same by directing

the 3rd respondent to process the application in accordance with law as per MMDR Amendment Act 2015.

3. The case of the Petitioner in brief, as per the averments made by the petitioner in the affidavit filed by the petitioner in support of the present writ petition is as follows:

a) The Petitioner company is engaged in the business of manufacture of cement having an installed capacity of 10 Million tons per annum at it factories and achieved a turnover of Rs.3448 Crores in the financial year 2020-2021, by sales of 5.48 Million MTs of cement manufactured and marketed under its own brand name “PENNA” Cement.

b) On 13.07.2000, the Petitioner Company has submitted an application for the grant of Prospecting License in the mining of Limestone to an extent of Ac. 622.93 gts in Sy. No. 1 to 124 and 152, Kowlapalli Village, Peapully Mandal, Kurnool District. The Government of Andhra Pradesh, has scrutinized the Application filed by the Petitioner and has granted the prospecting license through G.O.Ms.NO. 193, dated 20.07.2007 for a period of 2 years.

c) On 14.09.2007, the Government of Andhra Pradesh has permitted the Petitioner Company to commence the Prospecting Operations and a Lease dated 14.09.2007 was also executed. On 02.06.2007, the Petitioner Company has also submitted another Application for Prospecting License for the mining of Limestone to an extent of Ac. 800.00 Gts in Sy. Nos. 151, 153 to 189, 233 to 304, 310, 316 to 352, 356, 359 to 363, 368 to 394 Kowlapalli Village, Peapully Mandal, Kurnool District and the Prospecting License was granted through GO MS NO. 91 dated 29.03.2008.

d) On 30.04.2008, the government of AP has issued the Proceedings permitting the Petitioner Company to commence the prospecting Operations and a Lease Deed was also executed to that effect. Having conducted prospecting operations, the Petitioner company submitted the Prospecting Reports and made a combined mining lease application for both Prospecting Lease areas on 02.09.2009 in Form-I and filed the FORM-D with the Government of A.P, Dept. of mines, through letter No. 7541/M4/2009 dated 10-09-2009.

e) During the pendency of the petitioner's application, the Mines and Minerals (Development and Regulation) Act, 1987 (Hereinafter referred to as MIMDR Act) was amended through MMDR Amendment Act of 2015, wherein Section 10A was inserted and according to Section 10A(1) all applications received prior to the date of commencement of the Mines and Minerals (Development and Regulation) Amendment Act, 2015, shall become ineligible. However, the petitioners Prospecting Licences of the subject mines were covered and saved under Section 10(A)(2)(b) of the said Act.

f) Since the petitioner fulfils all the conditions prescribed under Section 10A(2)(b), the Petitioner's Mining Lease Application is saved and is entitled to get approval of the mining plan by the 3rd respondent under the 2015 Act and the mining rights of the petitioner company did not lapse and the same were extended till 2023.

g) The Petitioner Company has made substantial progress by investing financial resources, considerable time and efforts in conducting their prospective operations and upon being satisfied with the operations of the Petitioner Company, the Government of AP through Dept. of Industries &

Commerce (M-III),has issued Letter of Intent (Lol) through MemoNo.5417/M.III(1)/2018 on29.06.2018 granting in-principle approval for the grant of Mining Lease to the Petitioner Company for the combined area of556.938 Hectares, while requesting the Petitioner Company to submit the Approved Mining Plan (AMP) along with Environment Clearance (EC), Consent for Establishment (CFE) and Consent for Operations (CFO) within a period of six (6) months.

h) On 03.10.2018, the Petitioner Company has submitted two draft copies of the Mining Plan. The 3rd Respondent noted certain deficiencies to be complied and reported compliance to the Office of Department of Mines and Geology, State of A.P., which were duly complied with, through the letter No AP/KNL/MP/LST- 146/Hyd dated 29.10.2018.

i) Since there was a delay in inter-se communication between two departments, on 15.11.2018, the Petitioner Company has applied for extension of 2 years to submit the Approved Mining Plan (AMP) along with Environment Clearance (EC), Consent for Establishment (CFE) for the grant of Mining Lease.

j) The Director, Department of Mines and Geology, through a letter dated 17.04.2020, vide No. 37068/D10/2009 submitted remarks about the compliance of all the objections of the 3rd respondent and also sought clarification about the compliance to the penalty of Rs 5,00,000/- levied by the Department.

k) On 12.10.2020, the Petitioner re-submitted the draft mining plan and in response, the 3rdRespondent through its letter No. AP/KNL/MP/Lst-146/Hyd dated 05.11.2020 has again found certain deficiencies. On 27.04.2020, the petitioner company has again submitted a representation dated 27.04.2020 seeking extension of time to comply with terms of the LOI. In response to the above Representation, the Industries and Commerce Department & Department of Mines and Geology, State of Andhra Pradesh has issued Memo no. INCO1-MGOMAJM/24/2020-M-III wherein it was observed that the Petitioner Company was in continuous process of obtaining the approval of AMP from Indian Bureau of Mines and EC & CFE from MoEF&CC, GOI and A.P. Pollution Control Board.

l) Thus, the Petitioner Company was eligible for the grant of Mining Lease and after due consideration of the same, extension of time was granted till28.12.2020 to comply with terms and conditions of the original letter of intent dated 29.06.2018.

m) The Petitioner through letter no. PCIL/MINES/HO/2020-2021 dated 07.12.2020 submitted another request for extension of time for another 2 years and the same was approved by the Principal Secretary (Mines), Industries and Commerce Department, Government of AP through its Memo No. INCO1-MGOMAJM/24/2020-M-III dated 12.02.2021 whereby the period was extended up to 11.02.2023 for compliance of deficiencies.

n) Subsequently, the petitioner company has complied with all the deficiencies and submitted two draft copies of the Mining Plan to the 3rd respondent through vide Lr.No.PCIL/Mines/H.O./2020-2021 dated 15.02.2021.

o) However, in pursuance of the Amendment Act, 2021, the 3rd Respondent issued Lr. No. AP/KNL/MP/Lst-146/Hyd dated 01.04.2021 refusing to process the mining lease Application re-submitted by the petitioner, stating that,

consequent to notification of the Mines and Minerals (Development & Regulation) Amendment Act2021 which came in to force on 28.03.2021, the right to obtaining lease in respect of cases saved under section 10A (2)(b), ofMMDR Amendment Act, 2015 along with all the pending cases have now lapsed.

p) The 3rdRespondent has issued a circular 11011/1/ IBM-M-A-MP/2012-CCOM-Vol-II dated 07.06.2021, subsequent to the enactment of the MIMDR (Amendment) Act, 2021, wherein para B(b)(1) contemplates that documents which are submitted and are in various stages of processing shall be continued to be processed and disposed as per existing system of appraisal of Mining Plan Document.

q) Thereafter, the Petitioner company has submitted representations dated 10.12.2021 and 20.12.2021 requesting the 3rd respondent to reconsider their impugned order dated 01.04.2021. However, the 3rd respondent failed to consider the representation. Hence this Writ Petition.

4. The learned counsel appearing on behalf of the petitioner mainly puts forth the following contentions:

i) The 3rd Respondent ought to have seen that as on 15.02.2021, the law applicable to process the mining plans for approval by the 3rdrespondent is MMDR Amendment Act, 2015 and the Application filed by the petitioner company is in complete compliance with the same. The Mines and Minerals (Development and Regulation) Act 2021 came into force w.e.f. 28.03.2021 after being published in the gazette CG-DL-E-28032021-226207 and therefore, the same cannot have retrospective effect as such it cannot be applied to the pending Applications.

ii) The 3rd respondent has erroneously applied the inapplicable amended proviso to section 10A(2)(b) of the Mines and Minerals (Development and Regulation) Amendment Act 2021 to the pending application dated 15.02.2021 and declined to process without assigning any reasons and approve the mining plan of the petitioner company.

iii) The 3rd Respondent ought to have considered the circular R-11011/ЛЛВМ-M-A-MP/2012-CCOM-Vol-II dated 07.06.2021 issued subsequent to the amendment which contemplates that documents which are submitted and are in various stages of

processing shall be continued to be processed and disposed as per existing system of appraisal of Mining Plan Document and ought to have been processed since the Application dated 13.07.2000 had been submitted before the commencement of the Amendment Act 2021 the same is pending for consideration at the end of the Respondents.

iv) The 3rd Respondent failed to appreciate Section 6 of the General Clauses Act which protects a right that is accrued prior to the change of law as that right is a vested right and cannot be taken away by a subsequent amendment.

v) The 3rd Respondent has erroneously applied the proviso appended to Section 10A(2)(b) to the Application submitted by the Petitioner. The 3rd Respondent has failed to appreciate the golden rule to read the whole section inclusive of proviso, in such a manner that they mutually throw light on each other and result in a harmonious construction. A proviso is not a separate and independent enactment but must be read and considered in relation to the principal Section to which it is a proviso. A proviso cannot be used to cut down the language of the main enactment where such language is clear, or to exclude the implication what the main enactment clearly

states. Therefore, if the interpretation given by the 3rd Respondent is assumed to be correct, then the proviso virtually invalidates and nullifies the entire Section 10A(2)(b) which is illegal, invalid and unconstitutional.

vi) The 3rd Respondent ought to have seen that proviso appended to Section 10A(2)(b) contemplates for the lapse of "right" to obtain but not obtaining per se of the prospecting license followed by a mining lease or a mining lease as the case may be. In the instant case, the Petitioner has already accrued the right by virtue of the LoI and subsequent GOs wherein the Petitioner was considered to be eligible for the mining lease and in-principle approval was already accorded to the Petitioner. Therefore, the proviso to Section 10A(2)(b) is not applicable to the case of the Petitioner. The 3rd Respondent ought to have seen that the petitioner company has made huge efforts and investment in prospecting and identifying the mines and has pursued to get mining lease relentlessly. Therefore, the erroneous retrospective application of law to the pending application has subjected the petitioner company to huge losses and heavy injustice.

vii) The 3rd Respondent ought to have seen that procedural formalities connected with the grant of mining lease also commenced immediately after the Respondents issued the letter for demarcation of mining boundaries in furtherance of Petitioner's substantive rights for grant of mining lease. In this regard inference may be drawn from Rule 33 of the Mining Concession Rules 1960 read with Rule 55 of the Minerals (Other than Atomic and Hydro Carbons Energy Minerals) Concession Rules, 2016 as it presupposes the grant of mining lease for commencement of demarcation of mining boundaries.

viii) The 3rd Respondent ought to have seen that once substantive rights are created and the Respondent No.2 through its officials having acted in furtherance thereof, cannot turn around and refuse to process the Mining Plan that too when the Application is submitted before the commencement of Amendment Act, 2021 and the delay in approval was solely attributable to the 3rd Respondent.

ix) The 3rd respondent ought to have seen that the petitioner has fulfilled all the requisites on its part for grant of mining lease. The purport of the Amendment Act, 2021 cannot

take away the conclusive and vested rights created under the Amendment Act, 2015. Therefore, the impugned action of the respondents is arbitrary, illegal and unreasonable.

x) The provisions of the Amendment Act, 2021 would not apply to the Application submitted by the petitioner and the petitioner is entitled for grant of mining lease.

xi) The 3rd Respondent ought to have seen that the letter of intent issued by the State government to obtain mining plan approved and to obtain mining lease is valid until 11.02.2023 and non- approval of the mining plan by the 3rd respondent, despite submission of the duly complied with and complete mining plan by the petitioner company, much before the enactment of the Amended Act, 2021 is illegal, arbitrary, harsh, unjust by which the 3rd respondent penalised the petitioner company for the inordinate delay attributable solely to the 3rd respondent. The impugned order passed by the 3rd respondent violates principles of legitimate expectation, particularly since the petitioner had altered their position by making huge investments, both in acquiring vast lands and in updating their plant and machinery, thus denying his lawful right by the 3rd respondent is in violation of article 14,

19(1)(g) and 300A of the Indian Constitution and the same is liable to be set aside.

5. The 1st respondent and respondents 2 and 3 filed their respective counter affidavits and also made submissions.

6. Dealing with identical issue pertaining to Section 10(A)(2)(b) of Mines and Minerals (Development and Regulations) Act, as amended on 28.03.2021, the Division Bench of High Court of Karnataka at Bengaluru vide its detailed order dated 27.05.2022 in W.P.No.1920 of 2021 and batch dealt with various aspects and observed at paras 35 to 42 as under:

> **"35. The intention of the legislature not to cover all cases covered by Section 10A(2)(b) can also be deduced from sub-clause (d) inserted in Section 10A(2) by the very same amending Act. The said sub-clause reads as under:**
>
> > "(d) in cases where right to obtain licence or lease has lapsed under, clauses (b) and (c), such areas shall be put up for auction as per the provisions of this Act:"
> >
> > The use of the phrase "in cases where right to obtain licence or lease has lapsed .....such areas" clearly shows that the right does not lapse in all cases covered by Section 10A(2)(b) and that certain cases would be saved from the proviso. Otherwise, the legislature would have simply stated that the "areas in cases covered by clause

> (b) and (c) shall be put up for auction as per the provisions of this Act :"

36. This brings us to the next logical question as to which cases would be covered under the term "pending cases". The answer to the said question is also in the language of Section 10A(2)(b) which provides that a person shall have a right for obtaining the mining lease on satisfaction of the State Government of the conditions mentioned in clause (i) to (iv). The relevant extract of the Section reads as under :

> "(b) where before the commencement of the Mines and Minerals (Development and Regulation) Amendment Act, 2015 a reconnaissance permit or prospecting license has been granted in respect of any land for any mineral, the permit holder or the licensee shall have a right for obtaining a prospecting license followed by a mining lease, or a mining lease, as the case may be, in respect of that mineral in that land, if the State Government is satisfied that the permit holder or the licensee, as the case may be- "

Therefore, where the satisfaction of the State Government has been arrived at, the State is rendered functus officio and the right stands crystallized. The proviso seems to have an effect of lapsing the right to obtain, which could only be referable to cases where the satisfaction is not yet/yet to be arrived at and not to cases where satisfaction is already arrived at by the State Government.

37. Further the term "lapse" as used in the proviso to Section 10A(2)(b)is generally used for reverting .of a right from a party which has failed to fulfill its obligations or conditions under which such right was given. The said term "lapse" is also used in Section 4A(4) of the MMDR Act where again the right lapses on failure of the lessee to start mining operations. Parliament has employed the said term also in the Land Acquisition Act, 1894 and the Right to Fair Compensation and Transparency in Land Acquisition,

Rehabilitation and Resettlement Act, 2013 whereunder on the failure of the statutory authority to compete the acquisition process within the statutorily prescribed time period, the acquisition proceedings lapse. The said term is defined in Black's Law Dictionary (8th edn, 2004) as under:-

> "the termination of a right or privilege because of failure. to exercise it within some time limit or because the contingency has occurred or not occurred"

38. Therefore, keeping in view the aforesaid principles and the use of specific terms, it is evident that the legislature was desirous of applying the proviso to only a certain class of persons within Section 10A(2)(b) viz ., those who had either till date not completed the reconnaissance or prospecting operations despite 5 years from 2015, which was the outer limit provided by the Act under unamended Section 7 or those whose applications were yet to be processed and the State had not arrived at the satisfaction. Any other interpretation would do violence to the language and intention of the legislature . It would never have been the intention of the legislature to punish a party who had complied with the law or to allow the executive to defeat the rights of parties by delaying performing their duties.

39. We are also persuaded to interpret the proviso as aforesaid on the well recognized principles of effects of proviso as propounded in a recent constitutional bench judgment of the Hon'ble Supreme Court in Indore Development Authority v. Manoharlal:

> "192. A proviso has to be construed as a part of the clause to which it is appended. A proviso is added to a principal provision to which it is attached. It does not enlarge the enactment. In case the provision is repugnant to the enacting part, the proviso cannot prevail ..... :
>
> 194....

> R. v. Dibdin {R. v. Dibdin, 1910 P 57 (CA)], held as under : (P p . 125) "The fallacy of the proposed method of interpretation is not far to seek. It sins against the fundamental rule of construction that a proviso must be considered with relation to the principal matter to which it stands as a proviso. It treats it as if it were an independent enacting clause instead of being dependent on the main enactment. The courts ... have refused to be led astray by arguments such as those which have been addressed to us, which depend solely on taking words absolutely in their strict literal sense, disregarding the fundamental consideration that they are appearing in the proviso."
>
> "198. In keeping with the ratio in the aforesaid decisions, this Court is of the considered view that the proviso cannot nullify the provision of Section 24{1){b) nor can it set at naught the real object of the enactment, but it can further by providing higher compensation, thus dealing with matters in Section 24 (2) ....."

40. If the legislature was desirous of revoking the said vested rights, the amendment would have been made to the main provision or the said provision could have been omitted with retrospective effect. Having not done so and rather having opted the legislative tool of a proviso being inserted to the main provision, the well settled principles of the object and purpose of a proviso would come into play. The Respondents have also relied on a large number of judgments with regard to effect of a proviso, however none of the said judgments support the view that the proviso can have the effect of nullifying the main provision itself, as such the present judgment is not being burdened with the said judgments which have otherwise been considered by the constitution bench in Indore Development (supra).

41. As the proviso does not take away vested rights with retrospective effect, the writ petition which has been filed by the petitioner claiming that the right under Section 10A(2)(b) of the Mines and Minerals

(Development and Regulation) Act, 1957 as already fructified and being a vested right, has to be proceeded with based on the law as it stood then and taken to its logical conclusion.

42. In view of the aforesaid facts and circumstances, we are of the considered opinion that the provisos to Section 10A(2)(b) of the MMDR Act, 1957 as inserted vide Amendment Act No.16 of 2021 w.e.f. 28.03.2021 are not applicable to the applications, claims etc., of the petitioners who are entitled to obtain mining leases and lease deeds from the State Government without reference to the said amendment or the proviso inserted thereby.

7. The Apex Court in the judgment reported in (2001) 5 SCC 664 in Tandon Brothers Vs. State of West Bengal & Others at para 34 observed as under :

> **"Governmental action must be based on utmost good faith, belief and ought to be supported with reason on the basis of the State of Law** – if the action is otherwise or runs counter to the same the action cannot be ascribed to be malafide and it would be a plain exercise of judicial power to countenance such action and set the same aside for the purpose of equity, good conscience and justice. Justice of the situation demands action clothed with bonafide reason and necessities of the situation in accordance with the law."

8. The Apex Court in the judgment reported in (2010) 9 SCC 496 in Kranti Associates Private Limited &

<u>Another v. Masood Ahmed Khan & Others</u> at para 47 observed as under :

Para 47 : *Summarising the above discussion, this Court holds:*

(a) In India the judicial trend has always been to record reasons, even in administrative decisions, if such decisions affect anyone prejudicially.

(b) A quasi-judicial authority must record reasons in support of its conclusions.

(c) Insistence on recording of reasons is meant to serve the wider principle of justice that justice must not only be done it must also appear to be done as well.

*(d) Recording of reasons also operates as a valid restraint on any * possible arbitrary exercise of judicial and quasi-judicial or even administrative power.*

(e) Reasons reassure that discretion has been exercised by the decision-maker on relevant grounds and by disregarding extraneous considerations.

(f) Reasons have virtually become as indispensable a component of a decision-making process as observing principles of natural justice by judicial, quasi-judicial and even by administrative bodies.

(g) Reasons facilitate the process of judicial review by superior courts.

(h) The ongoing judicial trend in all countries committed to rule of law and constitutional governance is in favour of reasoned decisions based on relevant

facts. This is virtually the lifeblood of judicial decision-making justifying the principle that reason is the soul of justice.

(i) Judicial or even quasi-judicial opinions these days can be as different as the judges and authorities who deliver them. All these decisions serve one common purpose which is to demonstrate by reason that the relevant factors have been objectively considered. This is important for sustaining the litigants' faith in the justice delivery system.

(j) Insistence on reason is a requirement for both judicial accountability and transparency.

(k) If a judge or a quasi-judicial authority is not candid enough about his/her decision-making process then it is impossible to know whether the person deciding is faithful to the doctrine of precedent or to principles of incrementalism.

(l) Reasons in support of decisions must be cogent, clear and succinct. A pretence of reasons or "rubber-stamp reasons" is not to be equated with a valid decision-making process.

(m) It cannot be doubted that transparency is the sine qua non of restraint on abuse of judicial powers. Transparency in decision-making not only makes the judges and decision-makers less prone to errors but also makes them subject to broader scrutiny.

(n) Since the requirement to record reasons emanates from the broad doctrine of fairness in decision-making,

(o) In all common law jurisdictions judgments play a vital role in setting up precedents for the future. Therefore, for development of law, requirement of giving reasons, for the decision is of the essence and is virtually a part of "due process".

9. The Supreme Court in case of <u>Commissioner of Police, Bombay Vs. Gordhandas Bhanji</u> reported in (1951) SCC 1088 observed as under :

"We are clear that the public orders, publicly made, in exercise of a statutory authority cannot be construed in the light of explanations subsequently given by the Officer making the order of what he meant, or of what was in his mind, or what he intended to do. Public orders made by public authorities are meant to have public effect and are intended to effect the acting's and conduct of those to whom they are addressed and must be construed objectively with reference to the language used in the order itself.

10. A bare perusal of the order impugned dated 01.04.2021 VIDE No.AP/KNL/NP/Lst-146/Hyd of the 3rd respondent indicates that the same is passed without providing an opportunity of hearing to the petitioner and

without assigning any reasons, this Court opines that when an order affecting rights of an individual is passed, the individual concerned is entitled for an opportunity of personal hearing which admittedly did not take place in the present case nor the order impugned indicates any reasons except stating that consequent upon notification of Mines and Minerals (Development and Regulation) Amendment Act, 2021 on 28.03.2021, the right to obtain mining lease in respect of cases saved under 10A (2) (b) of MMDR Amendment Act, 2015 along with all the pending cases are now lapsed. The principle that justice must not only be done, but it must eminently appear to be done as well is equally applicable to quasi judicial proceeding if such a proceeding has to inspire confidence in the mind of those, who are subject to it as observed by the Apex Court in Judgment reported in (2010) 9 SCC 496 in Kranti Associates (P) Ltd Vs. Masood Ahmed Khan. In the said judgment at para 47 certain principles had been formulated and set out as under :

> "47 a. In India the judicial trend has always been to record reasons, even in administrative decisions, if such decisions affect anyone prejudicially.
>
> **b. A quasi-judicial authority must record reasons in support of its conclusions.**

c. Insistence on recording of reasons is meant to serve the wider principle of justice that justice must not only be done it must also appear to be done as well.

d. Recording of reasons also operates as a valid restraint on any possible arbitrary exercise of judicial and quasi-judicial or even administrative power.

e. Reasons reassure that discretion has been exercised by the decision maker on relevant grounds and by disregarding extraneous considerations.

f. Reasons have virtually become as indispensable a component of a decision making process as observing principles of natural justice by judicial, quasi-judicial and even by administrative bodies.

g. Reasons facilitate the process of judicial review by superior Courts.

h. The ongoing judicial trend in all countries committed to rule of law and constitutional governance is in favour of reasoned decisions based on relevant facts. This is virtually the life blood of judicial decision making justifying the principle that reason is the soul of justice.

i. Judicial or even quasi-judicial opinions these days can be as different as the judges and authorities who deliver them. All these decisions serve one common purpose which is to demonstrate by reason that the relevant factors have been objectively considered. This is important for sustaining the litigants' faith in the justice delivery system.

j. Insistence on reason is a requirement for both judicial accountability and transparency.

k. If a Judge or a quasi-judicial authority is not candid enough about his/her decision making process then it is impossible to know whether the person deciding is faithful to the doctrine of precedent or to principles of incrementalism.

l. Reasons in support of decisions must be cogent, clear and succinct. A pretence of reasons or `rubber-stamp reasons' is not to be equated with a valid decision making process.

m. It cannot be doubted that transparency is the sine qua non of restraint on abuse of judicial powers. Transparency in decision making not only makes the judges and decision makers less prone to errors but also makes them subject to broader scrutiny. (See David Shapiro in Defence of Judicial Candor (1987) 100 Harward Law Review 731-737).

n. Since the requirement to record reasons emanates from the broad doctrine of fairness in decision making, the said requirement is now virtually a component of human rights and was considered part of Strasbourg Jurisprudence. See (1994) 19 EHRR 553, at 562 para 29 and Anya vs. University of Oxford, 2001 EWCA Civ 405, wherein the Court referred to Article 6 of European Convention of Human Rights which requires, "adequate and intelligent reasons must be given for judicial decisions".

o. In all common law jurisdictions judgments play a vital role in setting up precedents for the future. Therefore, for development of law, requirement of giving reasons for the decision is of the essence and is virtually a part of "Due Process".

11. This Court taking into consideration the aforesaid facts and circumstances of the case and without going into the merits of the rival contentions put forth by learned counsel appearing on behalf of the petitioner and the respondents, and duly taking into consideration the view taken by the Apex Court in the judgments

(referred to and extracted above) and again enlisted hereunder:-

1. The Apex Court judgment in Tandon Brothers v State of West Bengal and others reported in (2001) 5 SCC 664.

2. The Apex Court judgment in Kranti Associates Private Limited and another v Masood Ahmed Khan and others reported in (2010) 9 SCC 496.

3. The Supreme Court judgment in Commissioner of Police, Bombay v Gordhandas Bhanji reported in (1951) SCC 1088.

Further duly considering the Division Bench order dated 27.05.2022 of High of Karnataka at Bengaluru in W.P.No.1920 of 2021 and batch passed under identical circumstances the present writ petition is disposed off directing the 3rd respondent to reconsider the order No.AP/KNL/MP/ Lst-146/Hyd dated 01.04.2021 of the 3rd respondent refusing to process mining lease application submitted by the petitioner company dated 15.02.2021 in respect of Kowlapalli limestone mine over an extent of 556.938 Hectares in Survey No.124 and 152 of Kowlapalli Village, Peapully Mandal, Kurnool District, Andhra Pradesh, under Section 10 A (2)(b) of the Mines and Minerals (Development & Regulation)

Amendment Act, 2021 which came into force on 28.03.2021 and further re-consider the request of the petitioner to process petitioner's mining lease application dated 15.02.2022 in accordance to MMDR Amendment Act, 2015, in accordance to law in conformity with principles of natural justice by giving opportunity of personal hearing to the petitioner duly taking into consideration the view taken by the Division Bench of High Court of Karnataka at Banguluru vide its detailed order dated 27.05.2022 in W.P.No.1920 of 2021 and batch, which dealt with an identical issue as in the present writ petition and pass appropriate reasoned order within a period of two weeks from the date of receipt of a copy of the order and duly communicate the decision to the petitioner. However, there shall be no order as to costs.

12. Enclose copy of order dated 27.05.2022 passed by the Division Bench of High of Karnataka at Bengaluru in W.P.No.1920 of 2021 and batch.

Miscellaneous petitions, if any, pending shall stand closed.

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SUREPALLI NANDA, J

Dated: 26.02.2024
Note: L.R. copy to be marked
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