

HIGH COURT FOR THE STATE OF TELANGANA

Writ Petition No. 901 of 2023

Between:

M/s.Bhagyanagar Minerals, represented by its Managing Partner, Mandapati Venu, S/o.Mandapati Venkat Raju, Age:-- years, R/o.H.No.7-57/1, Ishapur Village, Patancheru Mandal, Sangareddy District.

... Petitioner

and

1. The State of Telangana, Represented by its Secretary, Industries and Commerce Department, Secretariat, Hyderabad.
2. The Director of Mines and Geology, Government of Telangana, Hyderabad.
3. The Deputy Director of Mines and Geology, Hyderabad.
4. The Assistant Director of Mines and Geology, Vikarabad.

... Respondents

DATE OF JUDGMENT PRONOUNCED: 10-01-2023

THE HONOURABLE SMT. JUSTICE LALITHA KANNEGANTI

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|---|--|--------|
| 1 | Whether Reporters of Local newspapers may be allowed to see the Judgments? | Yes/No |
| 2 | Whether the copies of judgment may be marked to Law Reports/Journals | Yes/No |
| 3 | Whether Their Ladyship/Lordship wish to see the fair copy of the Judgment? | Yes/No |

LALITHA KANNEGANTI, J

*** THE HONOURABLE SMT.JUSTICE LALITHA KANNEGANTI**

+ Writ Petition No. 901 of 2023

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M/s.Bhagyanagar Minerals, represented by its Managing Partner,
Mandapati Venu, S/o.Mandapati Venkat Raju, Age: years,
R/o.H.No.7-57/1, Ishapur Village, Patancheru Mandal, Sangareddy
District.

... Petitioner

Vs.

- \$ 1. The State of Telangana, Represented by its Secretary, Industries
and Commerce Department, Secretariat, Hyderabad.
2. The Director of Mines and Geology, Government of Telangana,
Hyderabad.
3. The Deputy Director of Mines and Geology, Hyderabad.
4. The Assistant Director of Mines and Geology, Vikarabad.

... Respondents

! Counsel for the Petitioner : Ms. P.Vijaya Lakshmi

Counsel for Respondents : Assistant Government Pleader
for Mines and Geology

< Gist:

> Head Note:

Cases referred: -Nil-

THE HONOURABLE SMT JUSTICE LALITHA KANNEGANTI**W.P.No.901 of 2023****ORDER**

This Writ Petition is with the following prayer;

“to issue writ, order or direction more particularly one in the nature of WRIT OF MANDAMUS declaring the action of the respondents in not passing orders granting quarry lease for Laterite on the application of the Petitioner dated 09-12-2016 over an extent of Acs.11-00 in Sy.No.100 (Part) Government Land, Vattimenapally Village, Nawabpet Mandal, Vikarabad District, as arbitrary, illegal, unjust and unconstitutional and in violation of Mines and Minerals (Development and Regulation) Act 1957 and T. S.Minor Mineral Concession Rules, 1966, and consequently direct the respondents to pass orders granting quarry lease for Laterite on the application of the Petitioner dated 09-12-2016 over an extent of Acs.11-00 in Sy.No.100 (Part) Government Land, Vattimenapally Village, Nawabpet Mandal, Vikarabad District”.

2. Learned counsel for the petitioner Smt P. Vijaya Laskhmi submits that the petitioner has submitted an application for grant of quarry lease for laterite over an extent of Acs.11-00 in Sy.No.100 (Part) (Government Land), Vattimenapally Village, Nawabpet Mandal, Vikarabad District, as per T.S.Minor Mineral Concession Rules, 1966, along with application fee, user charges, Mineral Due Clearance Certificate and Village Map on 09-12-2016 and the said application is received and acknowledged by the Assistant Director of Mines and Geology and forwarded to the Tahsildar for issuance of classification and availability report and No-objection Certificate for grant of quarry lease. Learned counsel submits that the Tahsildar after enquiry has issued No-objection Certificate on 09-06-2017 and recommended the case of the petitioner and thereafter, the Assistant Director of Mines

and Geology has forwarded the same to the Deputy Director of Mines and Geology for passing of orders as he is the competent authority to pass orders granting quarry lease under T.S.Minor Mineral Concession Rules, 1966. Learned counsel submits that the petitioner has made an application as per the said Rules and in spite of the same, no action has been taken by the respondents and the petitioner has been put to lot of hardship. She further submits that in case of some persons' applications, which were subsequent to the petitioner's application, the respondents have considered the same.

3. Learned Assistant Government Pleader for Mines and Geology appearing for respondent Nos.1 to 4 submits that the respondents will consider the application of the petitioner.

4. The Government has issued G.O.Ms.No.181 dated 28-05-1998 with a view to expedite disposal of prospecting licence/mining lease and quarry lease applications in furtherance of the earlier G.O., that is issued i.e., G.O.Ms.No.122 dated 07-04-1998. It is stated in the said G.O., that;

(i) Immediately after receipt of the applications, the Assistant Director of Mines and Geology shall acknowledge receipt of the application, fix a date of inspection and send one set of applications to the Mandal Revenue Officer concerned to report on the category of the land and availability of the land for grant of Prospecting Licence/Mining Lease or Quarry lease.

(ii) The Mandal Revenue Officer will send his report to the Assistant Director of Mines and Geology within a period of 30 days duly marking a copy of his report to the District Collector. The reports of the Mandal Revenue Officer need not be routed through the intermediate level of Revenue Divisional Officer/Sub-Collector.

(iii) If the District Collector is in agreement with the report of the Mandal Revenue Officer, he need not make any further report to the Director of Mines and Geology. However, if the District Collector disagrees with the recommendation of the Mandal Revenue Officer, he will send his recommendations to the Director of Mines and Geology within 30 days from the date of receipt of report from the Mandal Revenue Officer. In case no report is received from the District Collector within 30 days, it will be assumed that the Collector has no objection in grant of Prospecting Licence/Mining Lease or Quarry Lease.

(iv) The Assistant Director of Mines and Geology will submit his report along with recommendations of the Mandal Revenue Officer to the Director of Mines and Geology within 15 days from the date of receipt of report from the Mandal Revenue Officer.

(v) Further, in the said G.O., it is observed that if there are any delays in respect of report from the Mandal Revenue Officer, the Assistant Director of Mines and Geology will bring such cases to the notice of the Collector at the monthly District Industrial Promotion Committee

Meeting and the District Collector will ensure that the Mandal Revenue Officer's send their reports within the specific time and even the Regional Deputy Director of Mines and Geology is also obligated to take up a detailed half yearly inspection of each of Assistant Director of Mines and Geology's Office in his jurisdiction.

(vi) When it comes to the arrears falling in the forest, the Assistant Director of Mines and Geology will send one set of application to the Divisional Forest Officer concerned on the same day on which the application is received and the Assistant Director of Mines and Geology will send his report to the Director of Mines and Geology without waiting for a report from the Divisional Forest Officer and the Divisional Forest Officer concerned will send his report to the Principal Chief Conservator of Forest under intimation to Director of Mines and Geology and Chief Conservator of Forest concerned within one month and the Principal Chief Conservator of Forest will make his recommendations to the Government within a period of 30 days and they in turn make recommendations to the Chief Conservator of Forests (Central) at Bangalore or Government of India, as the case may be in consultation with the Department of Industries within a period of 90 days; and

(vii) on receipt of report from the Assistant Director of Mines and Geology, the Director of Mines and Geology shall either pass orders granting lease or make recommendations to the State Government depending upon the delegation of powers within a period of 30 days.

While passing orders or making recommendations to the Government, the Director of Mines and Geology will take note of the opinion of the Collector on the recommendations of the Mandal Revenue Officer, if any such opinion is received. If no opinion of the Collector is received, the Director of Mines and Geology will pass order or make his recommendations to the Government as the case may be on the basis of report of the Mandal Revenue Officer and the Government will scrutinize the proposals and pass final orders or make recommendations to the Government of India as the case may be within a period of 30 days.

5. In spite of this definite time frame that is fixed by issuing the said G.O., it appears that the respondents are not adhering to the procedure under the said G.O. When as per the said procedure that is envisaged under G.O.Ms.No.181 dated 28-05-1998, the maximum time appears to be 105 days, but the respondents, for years together, are keeping the applications pending and every time when their applications are not considered by the respondents, the applicants are coming before this Court by filing the writ petitions seeking a direction to the respondents to consider the applications. Thereafter, basing on the orders passed by this Court, the applications are considered by the respondents. This Court is not able to appreciate this procedure adopted by the respondents contrary to G.O.Ms.No.181 dated 28-05-1998. When the respondents are not adhering to that, there shall be accountability on the persons who are obligated to pass orders as per the said G.O.

6. Accordingly, the Writ Petition is disposed of directing the respondents to consider the application of the petitioner dated 09-12-2016 within a period of four weeks from the date of receipt of a copy of this order. No order as to costs.

7. The Registrar (Judicial), High Court for the State of Telangana, Hyderabad, shall communicate a copy of this order to all the respondents. Respondent Nos.1 and 2 shall take appropriate steps and shall ensure that G.O.Ms.No.181 dated 28-05-1998 is complied with and followed by all the officers concerned and if there is any lapse and if it comes to the notice of this Court that beyond the reasonable time the applications are pending, this Court will impose exemplary costs on the officers concerned.

8. Miscellaneous petitions, if any pending in this writ petition shall stand closed.

SMT LALITHA KANNEGANTI, J

10th January, 2023.

sj

LR copy to be marked.

Note:

Registry is directed to communicate a copy of this Order to the Registrar (Judicial), High Court for the State of Telangana, Hyderabad.