(2002) 02 AP CK 0017

Andhra Pradesh High Court

Case No: Writ Petition No. 8020 of 1992

Suvarna Cements Ltd.	APPELLANT
Vs	
The Govt. of A.P. and Others	RESPONDENT

Date of Decision: Feb. 25, 2002

Acts Referred:

- Andhra Pradesh Minor Mineral Concession Rules, 1966 - Rule 59
- Constitution of India, 1950 - Article 14, 226
- Mines and Minerals (Development and Regulation) Act, 1957 - Section 4A

Citation: AIR 2002 AP 401

Hon'ble Judges: G. Bikshapathy, J

Bench: Single Bench

Advocate: S.R. Ashok, for the Appellant; G.P.N. Subba Reddy, P. Ramachandra Reddi, E. Ajay Reddy and C. V. Ramulu, SC for C.G., for the Respondent

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

G. Bikshapathy, J.
The writ petition is filed challenging the Orders passed by the Government in G. O. Rt. No. 653, Industries and Commerce (MI) Department, dated 22-7-1991.

2. The facts leading to the filing of the writ petition can be traced out in nutshell.

3. 4th respondent-Rockland Minerals and Chemicals Limited filed an application for mining lease for lime stone over an extent of 200 acres in S. Nos. 875 and 876 of Mellacheruvu village, Kodad Taluk, Nalgonda District for the purpose of setting of mini cement plant. Accordingly, the Government issued G. O. Ms. No. 779, dated 30-12-1982 granting mining lease for a period of 20 years. The lease deed was executed on 23-6-1983, however, the 4th respondent did not set up the cement industry. Under sub-section (4) of Section 4-A of Mines and Minerals (Regulation and

Development) Act, 1957, where holder of an industry fails to undertake mining operation for a period of one year after the date of the execution of the lease or after commencing the mining operations discontinued for a period of one year, the lease stand lapsed. However, the lease could be revived under certain circumstances. The connected rule was also brought into effect on 10-2-1987. On the basis of the said rule, the Government of Andhra Pradesh also informed all the subordinate offices to bring it to the notice of the leaseholders. Accordingly, the Assistant Director, Mines and Geology, the 3rd respondent herein by letter dated 23-3-1988 informed the 4th respondent about the amendment and called upon him to take necessary action, but no action was taken. It was only on 28-1-1989, the 4th respondent submitted an application to revive the lease with a prayer for condonation of delay. The said application was rejected by the Government in G.O. Rt. No. 1208, dated 28-9-1989 on the ground that the application was time-barred and there is no power to condone the delay. In the same Order, the Government declared that the lease granted by the 4th respondent has lapsed and directed the Director of Mines and Geology-2nd respondent to send the proposals to notify Rule 59 for the purpose of re-grant. It is also stated that after application for revival was filed and prior to rejection dated 29-1-1989, the 4th respondent filed a Writ Petition No. 6470 of 1989 seeking direction to permit it to commence the mining operations. While so, the 4th respondent submitted another application dated 20-11-1990, to the then Honourable Minister for Mines and Geology for reviving the mining lease without mentioning the earlier rejection dated 28-9-1989, on which the Government called for the remarks of the Director of Mines and Geology. But, in the meanwhile, 4th respondent filed yet another application on 24-4-1991 to the Government for the same relief with a prayer for condonation of delay. However, the Government passed orders in G.O. Rt. No. 653, Industries and Commerce Department, dated 22-7-1991 reviving the lease'' with effect from 10-2-1988 by condoning the delay in filing the revival application. The said order is challenged in the present writ petition. It is also brought to the notice of this Court that after the lease in favour of the 4th respondent was revived, it was transferred in favour of 5th respondent-Devi Cements and the name of the Company is now changed to My Home Cements. But, as far as this writ petition is concerned, the changes subsequent to revival would be irrelevant. It is contended that when once the application was rejected there is no provision for again considering the same request and it amounts to review the Order of rejection. Such a power is not available to the Government. It is also contended that when once the lease has lapsed by virtue of the statutory provisions, it shall be construed as if there is no lease at all and the question of reviving the non-existing lease to existent lease is illegal and misconstrued. Thus, it is submitted that there was violation of sub-section (4) of Section 4-A of the Act. Further, it is also stated that transferring the lease in favour of the 5th respondent in the guise of sister concern is also unsustainable in law as such a provision is not available under the provisions of the Act. It is also stated that the petitioner has made an application on 1-7-1988 in Form-VIII to the Director of Mines and Geology for grant of

prosperous licence over entire area in question. On account of the lease, having been revived, the petitioner is put to serious prejudice.

4. It is the case of the petitioner that had the Government taken action under Rule 59 in pursuance of G.O. Rt. No. 1208, the petitioner could have applied for the said area and got the lease in its favour.

5. In the counter filed by the Government, it is stated that the writ petition itself is not maintainable and that the Government even though rejected on earlier occasion, the same was considered at a later date on the instructions of the Government of India, who clarified that if sufficient reasons are forthcoming, it would not preclude the Government from reconsidering the matter.

6. In the counter filed by the official respondents, "it is stated that the writ petition itself is not maintainable and the petitioner has no locus standi to file the writ petition. He is not a party to the proceedings and it cannot be said that he had any fundamental or statutory right and they were infringed. Therefore, the writ petition itself is misconceived and the same is liable to be dismissed on the ground of locus standi. Even on merits also, it is stated that it is always open for the Government to reconsider the matter. Once it is rejected and such a power of review is available as the Order passed is in the nature of administrative order and that the administrative orders can be reviewed at any point of time, so long as they do not affect the rights of others.

7. It is also stated that the earlier rejection was made without giving any opportunity and, therefore, the Government thought that the order passed without giving any opportunity is nullity in law. Hence, the or- der was reviewed and further fresh orders were passed."

8. The principal issue that arises for consideration in the writ petition is whether the petitioner has locus standi to file the writ petition?

9. The facts narrated above are very clear that M/s. Rockland Cement-4th respondent was granted mining lease for a period of 20 years and, however, it could not commence the mining operations. But, in the meanwhile, amendment was brought into effect regarding the lapsing of mining leases if the mining operations are not commenced within the stipulated period. The application also was not filed within the time stipulated under the provisions of the Act and, therefore, the request for revival of lease was rejected on earlier occasion and thereafter the application was again reconsidered and revival was granted in favour of the Rockland Cements and subsequently the same was transferred in favour of the M/s. Devi Cements, which is renamed as My Home Cement.

10. The learned Senior Counsel appearing for the petitioner-Company Mr. S. R. Ashok submits that the impugned order is wholly illegal and without jurisdiction. When once the Government has rejected the case for revival on earlier occasion and

in the absence of any power to review the said order, it amounts to reviewing without any, authority and passing impugned orders and therefore, the impugned order is liable to be set aside as without there being any protection of statute. He also submits that when the authorities have no power to review its own order and in the absence of conferment of such a power any order passed is void and nullity in the eye of law. He refers to the decisions reported in Ramchandra Keshav Adke (dead) by Ramchandra Keshav Adke (Dead) by Lrs. and Others Vs. Govind Joti Chavare and Others, ; Patel Narshi Thakershi and Others Vs. Shri Pradyumansinghji Arjunsinghji, . He further submits that though the impugned order is void ab initio and until such time it is set aside by competent Court, It continues to be valid. Therefore, the present writ petition is filed. He relies on the decisions of the Supreme Court reported in Nawabkhan Abbaskhan Vs. The State of Gujarat, and Indo Marine Agencies (Kerala) Pvt. Ltd. v. Sales Tax Officer, Non-Resident Circle, Bombay (1980) 45 STC 163. Lastly, he also submits that there are clear laches on the part of the 4th respondent and the Government ought not to have entertained the application. He refers to the decision of the Supreme Court reported in S.A. Rasheed Vs. Director of Mines and Geology and another, .

11. On the other hand, the learned Senior Counsel for the respondents Mr. N. Subba Reddy submits that when the petitioner has no locus standi to challenge the order, the question of going into the merits of the case would not arise. The petitioner has to establish that his legal or fundamental right has been violated on account of the revival of the lease. If that is not established, he cannot be said to be aggrieved party and cannot have any locus standi and writ petition itself has to be dismissed at the threshold. Even on merits also, he submits that on earlier occasion when order was passed, without giving any opportunity to the petitioner and, therefore, it was found by the Government that such an order is violative of the principles of natural justice and, therefore, on subsequent application made by the 4th respondent, it was considered and orders were issued reviving the lease. It is also stated that period of 20 years would be expiring in June, 2003. He submits that when substantial justice was meted out to the parties by the Government, this Court would not normally interfere with such Orders. He relies on the decisions reported in Digambar Rao and Another Vs. Govt. of Andhra Pradesh, ; Utkal University Vs. Dr. Nrusingha Charan Sarangi and Others, ; V. Narayana Vs. S. Babu Rao and Others, ; The Nagar Rice and Flour Mills and Others Vs. N. Teekappa Gowda and Bros. and Others, ; Jasbhai Motibhai Desai Vs. Roshan Kumar, Haji Bashir Ahmed and Others, ; The Calcutta Gas Company (Proprietary) Ltd. Vs. The State of West Bengal and Others, ; Kundan Kishanlal Vs. Board of Revenue, U.P. at Allahabad and Others, and Dr. Satyanarayana Sinha Vs. S. Lal and Company (P) Ltd.,

12. As can be seen from the above contentions, the main thrust of the argument is on the locus standi. It is only when the petitioner establishes locus standi to file writ petition, it would be appropriate to go into other merits of the case. The provisions of Section 4-A and consequential Rules is not at all in dispute and the revival of lease

as granted in favour of the 4th respondent is also not in dispute. But, the question is whether the petitioner is an aggrieved party and has any locus standi?

13. The mining lease which was granted in favour of the 4th respondent was revived. But, can it be said that the petitioner is prejudiced in any manner or his statutory right has been infringed. But, his contention is that the action of the Government in reviving the lease is illegal, void ab initio and liable to be set aside.

14. The learned Senior Counsel for the respondent Mr. N. Subba Reddy relies on the decision of the Supreme Court reported in The Calcutta Gas Company (Proprietary) Ltd. Vs. The State of West Bengal and Others, (cited supra) and submits that a person, who has a legal right to enforce can only apply for a writ. In that regard, the Supreme Court observed in para 5 as follows :

"(5) The first question that falls to be considered is whether the appellant has locus standi to file the petition under Article 226 of the Constitution. The argument of learned counsel for the respondents is that the appellant was only managing the industry and it had no proprietary right therein and, therefore, it could not maintain the application. Article 226 confers a very wide power on the High Court to issue directions and writs of the nature mentioned therein for the enforcement of any of the rights conferred by Part III or for any other purpose. It is, therefore, clear that persons other than those claiming fundamental right can also approach the Court seeking a relief thereunder. The Article in terms does not, describe the classes of persons entitled to apply thereunder; but it is implicit in the exercise of the extraordinary jurisdiction that the relief asked for must be one to enforce a legal right. In The State of Orissa Vs. Madan Gopal Rungta, this Court has ruled that the existence of the right is the foundation of the exercise of jurisdiction of the Court under Article 226 of the Constitution. In Chiranjit Lal Chowdhuri Vs. The Union of India (UOI) and Others, , it has been held by this Court that the legal right that can be enforced under Article 32 must ordinarily be the right of the petitioner himself who complains of infraction of such right and approaches the Court for relief. We do not see any reason why a different principle should apply in the case of a petitioner under Article 226 of the Constitution. The right that can be enforced under Article 226 also shall ordinarily be the personal or individual right of the petitioner himself, though in the case of some of the writs like habeas corpus or quo warranto this rule may have to be relaxed or modified. The questions, therefore, is whether in the present case the petitioner has a legal right and whether it has been Infringed by the contesting respondents. The petitioner entered into an agreement dated 24-7-1948, with respondent No. 5; in regard to the Oriental Gas Company. Under the agreement, the appellant was appointed as Manager and the general management of the affairs of the Company was entrusted to it for a period of 20 years. The appellant would receive thereunder by way of remuneration for its services, (a) an office allowance of Rs. 3,000.00 per mensem, (b) a commission of 10 per cent, on the net yearly profit of the Company, subject to a minimum of Rs. 60,000.00 per year in

the case of absence of or inadequacy of profits, and (c) a commission of Re. 1.00 per ton of all coal purchased and negotiated by the Manager. In its capacity as Manager, the appellant-company was put in charge of the entire business and its assets in India and it was given all the incidental powers necessary for the said management. Under the agreement, therefore, the appellant had the right to manage the Oriental Gas Company for a period of 20 years and to receive the aforesaid amounts toward its remuneration for its services. Section 4 of the impugned Act reads : "With effect from the appointed day and for a period of five years thereafter (a) the undertaking of the company shall stand transferred to the State Government for the purpose of management and control; (b) the company and its agents, including managing agents, if any, and servant shall cease to exercise management or control in relation to the undertaking of the company;-(c) all contracts, excluding any contract or contracts in respect of agency or managing agency, subsisting immediately before the appointed day and affecting the undertaking of the company shall cease to effect or to be enforceable company, its agents or (sic) any to have against the person who was a surety thereto or had guaranteed the per- formance thereof and shall be of as full force and effect against or in favour of the State of West Bengal and shall be enforceable as fully and effectively as if instead of the company the State of West Bengal had been named therein or had been a party thereto : Under the said section, with effect from the appointed day and for a period of five years thereafter, the management of the company shall stand transferred to the State Government, and the company, its agents and servants shall cease to exercise management or control of the same. Under Clause (c) of the section, the contracts of agency or managing agency are not touched, but all the other contracts cease to have effect against the company and are enforceable by or against the State. It is not necessary in this case to decide whether under the said agreement the appellant was constituted as agent or managing agent or a servant of the Oriental Gas Company. Whatever may be its character, by reason of Section 4 of the impugned Act, it was deprived of certain legal rights it possessed under the agreement. Under the agreement, the appellant had the right to manage the Oriental Gas Company for a period of 20 years and to receive remuneration for the same. But u/s 4 of the impugned Act, it was deprived of that right for a period of five years. There was certainly a legal right accruing to the appellant under the agreement and that was abridged, if not destroyed, by the impugned Act. It is, therefore, impossible to say that the legal right of the appellant was not infringed by the provisions of the impugned Act. In the circumstances, as the appellant''s personal right to manage the company and to receive remuneration therefor, had been infringed by the provisions of the statute, it had locus standi to file the petition under Article 226 of the Constitution."

15. In The Nagar Rice and Flour Mills and Others Vs. N. Teekappa Gowda and Bros. and Others, (cited supra), the owners of an existing rice mill shifted its existing location and obtained necessary permission for change of location from the

competent authority and the said permission was challenged by the competitor in the business alleging contravention of the violation of the provisions of the Rice Milling Industry (Registration) Act, 1958 and that their business would be adversely affected. Repelling the said contention, the Supreme Court held that the right to carry on the business is a fundamental right under Article 19(1)(g) of the Constitution and its exercise is subject only to the restrictions imposed by law in the interests of the general public under Article 19(6)(i). It was further held that Section 8(3) (c) of Rice Milling Industry (Registration) Act, 1958 is merely regulatory and if it is not complied with, the Appellants may probably be exposed to a penalty, but a competitor in the business cannot seek to prevent the owners from exercising their right to carry on business, because of the default nor can the rice mill of the Appellants be regarded as a new rice mill. Competition in the trade or business may be subject to such restrictions as are permissible and are imposed by the State by a law enacted in the interest of the general public under Article 19(6) of the Constitution, but a person cannot claim independently of such restriction that another person shall not carry on business or trade so as to affect his trade or business adversely. The Supreme Court further observed thus (para 10) :
"The Appellants complied with the statutory requirements for carrying on rice milling operations in the building on the new site. Even assuming that no previous permission was obtained, the respondents would have no locus standi for challenging the grant of the permission, because no right vested in the respondents was infringed."

16. The Supreme Court in Dr. Satyanarayana Sinha Vs. S. Lal and Company (P) Ltd., (cited supra) held that ordinarily, the High Court or Supreme Court can be moved under Article 226 or 32 of the Constitution of India as the case may be only when the personal or individual right was violated, except with the exception like habeas corpus or quo warranto. It was a case where ''X'' was granted mining lease by the Central Government against which, an application was made challenging the same in revision and the same was dismissed. The Supreme Court-observed in paras 9 to 11 as follows :

"(9) As already pointed out it is admitted by respondents 2 and 3 that the application made by the first respondent was not in respect of the area which is granted to the appellant and consequently the first respondent had no interest in the subject-matter of the lease. Even though this contention was not urged before the High Court, and in the circumstances adverted to by us could not have been urged, as the appellant did not appear, this Court in an appeal cannot only determine the soundness of the decision, but has jurisdiction to determine any point raised before it, such as whether the appeal is competent, whether a party has locus standi to present the petition and whether the petition is maintainable etc. Ebrahim Aboobakar and Another Vs. Custodian General of Evacuee Property, . In Chiranjit Lal Chowdhuri Vs. The Union of India (UOI) and Others, , it was held by this Court that

the legal right that can be enforced under Article 32 must ordinarily be the right of the petitioner himself who complains of infraction of such right and approaches the Court for relief. In respect of the jurisdiction under Article 226 of the Constitution it was laid down in The State of Orissa Vs. Madan Gopal Rungta, that the existence of the right is the foundation of the exercise of jurisdiction of the Court under Article 220 of the Constitution. The right to which this Court had adverted as being the foundation for exercising the jurisdiction under Article 32 or Article 226 of the Constitution, according to The Calcutta Gas Company (Proprietary) Ltd. Vs. The State of West Bengal and Others, , is ordinarily the personal or individual right of the petitioner himself, though in the case of some of the writs like habeas corpus or quo warranto this rule may have to be relaxed or modified. Subba Rao, J., as he then was, observed in that case :

"Article 226 confers a very wide power on the High Court to issue directions and writs of the nature mentioned therein for the enforcement of any of the rights conferred by Part III or for any other purpose. It is, therefore, clear that persons other than those claiming fundamental rights can also approach the Court seeking a relief thereunder."

After citing the above passage in Godde Venkateswara Rao Vs. Government of Andhra Pradesh and Others, the learned Judge who delivered the judgment in this case also observed at p. 833 (Para 8) :

"A personal right need not be in respect of a proprietary interest; it can also relate to an interest of a trustee. That apart, in exceptional cases, as the expression ''ordinary'' indicates, a person who has been prejudicially affected by an act or omission of an authority can file a writ even though he has no proprietary or even fiduciary interest in the subject-matter thereof."

In respect of persons who are strangers and who seek to invoke the jurisdiction of the High Court or of this Court, difficulty sometimes arises because of the nature and extent of the right or interest which is said to have been infringed, and whether the infringement in some way affects such persons. On this aspect there is no clear enunciation of principles on which the Court will exercise its jurisdiction.

(10) In England also the Courts have taken the view that when the application is made by a party or by a person aggrieved the Court will intervene ex debito justitiae, in justice to the applicant, and when it is made by a stranger the Court considers whether the public interest demands its intervention. In either case it is a matter which rests ultimately in the discretion of the Court: (See R. v. Thames Magistrates'' Court, ex. P. Greenbaum (1957 (55) LGR 129).

(11) In this case, however, the first respondent has not challenged the grant of the lease on the ground of ex debito justitiae but has done so on the ground of a direct infringement of his right to be granted a milling lease over 280.62 acres for which the appellant was given a lease along with other area. Since it is now found that no

such right of the first respondent has been affected, he has no locus standi. He is neither a party nor a person aggrieved or affected and consequently his writ petition in the High Court is not maintainable".

17. It is well settled proposition that the right that can be enforced under Article 226 of the Constitution of India must ordinarily be the fundamental right or legal right of the petitioner himself, except in case of habeas corpus and quo warranto. Therefore, the right is the foundation of an application under Article 226 of the Constitution of India and such right should be personal and individual right. A person who complains of the infringement of fundamental right, he should also establish that such fundamental right belongs to him. Therefore, the existence of legal right or the fundamental right is the sine qua non for filing an application under Article 226 of the Constitution of India. It should also be further established that a person approached the Court should have been prejudicially affected by the act or omission complained of. (See State of Orissa Vs. Ram Chandra Dev and Mohan Prasad Singh Deo, , Begum Noorbanu and Others Vs. Deputy Custodian General of Evacuee Property, , Godde Venkateswara Rao Vs. Government of Andhra Pradesh and Others, , S. Pratap Singh Vs. The State of Punjab, and Bhagwan Dass Vs. State of U.P. and Others,). But, however, this principle has been relaxed to some extent and the expression "aggrieved person" has been widened whereby when a public interest is affected by State action, an organisation which has special interest in the subject-matter or the member thereof would be allowed to apply i.e. where public injury has been committed by the State or public authority by an act or omission which is contrary to the Constitution or the law, any member of public can maintain an action for redressing the public injury provided only he acts bona fide and not of personal or private or political motivation or other oblique considerations. (See : People''s Union for Democratic Rights and Others Vs. Union of India (UOI) and Others, , State of West Bengal, etc. Vs. Ashutosh Lahiri and others,).

18. In the instant case, the writ cannot be treated as a public interest litigation and it is not the case of the petitioner also for the simple reason that he has not challenged the order in the public interest. It is only where the public in general are interested in vindication of some right or enforcement of public duty, the application can be entertained under public interest litigation in relaxation of the rule of locus standi. (See : S.P. Gupta Vs. President of India and Others,).

19. A public interest litigation is usually entertained by a Court for the purpose of redressing the public injury enforcing public duty protecting social rights and vindicating public interest. The real purpose of entertaining such application is vindication of rule of law facilitating effective access to justice to economically weaker classes and meaningful realisation of the fundamental right. In other words, the directions and commands issued by the Courts of law in public interest litigation are for betterment of the Society at large and not for benefiting any individual. But if the Court find that in the garb of public interest litigation actually an individual''s

interest is sought to be carried out or protected. It would be bounden duty of the Court not to entertain such petition as otherwise, the purpose of public interest litigation will be frustrated. The public interest litigation in fact is a litigation in which a person though not aggrieved personally, but brings an action on behalf of the downtrodden mass for the redressal of their grievances. (See : Malik Brothers Vs. Narendra Dadhich and Ors,).

20. The learned counsel would, however, submit that the order itself is void ab initio and, therefore, it has to be necessarily set aside thereby paving the way for taking action under Rule 59 namely the area becoming available for re-grant. Moreover, his application for additional area is also pending for grant of lease. The additional area is none else than the area in question. Under those circumstances, unless the order is set aside, his application for grant of lease would not be considered and thus the learned counsel would project the principle of legitimate expectation.

21. It cannot be disputed that the petitioner is a competitor in cement industry and the lease was originally granted to the 4th respondent, subsequently, it was transferred in favour of the 5th respondent. The question of consideration of application for grant of lease would only arise only when the area was notified for re-grant under Rule 59, but that situation has not arisen in this case. Therefore, until such time, the area is notified for re-grant, the petitioner cannot be said to have acquired any right to be considered for grant of lease. Even as on the date when the lease was deemed to have lapsed or when the lease was subsequently revived, can it be said that the petitioner is an aggrieved party? The answer should be in a negative as the petitioner was not a party at all in the proceedings. The lease which was granted to the third party was revived and it cannot be said that the petitioner is directly an aggrieved party. He cannot also be said that he is remotely aggrieved, inasmuch as no applications were called for grant or re-grant. Even this contention is not available to the petitioner. The writ petition also cannot be treated as public interest litigation inasmuch as no public interest is involved. Moreover, in the hands of an interested person, plea of public interest cannot be entertained. Even assuming that there are violations of the statutory provisions in reviving the lease, but so long as the petitioner is not aggrieved, he-cannot be said to maintain locus standi except by way of public interest litigation which is also not permissible in view of individual interest of the petitioner. The learned Senior Counsel for the petitioner vainly tried to invoke the theory of "legitimate expectation". But, there is no whisper anywhere in the writ argu- ments about this issue. Whether the expectation and the claim is reasonable or legitimate is question of fact in each case and it must be specifically pleaded and established. Moreover, the issue had to be determined not according to pre-emption of the claimant but in larger public interest. (See : Food Corporation of India Vs. M/s. Kamdhenu Cattle Feed Industries, and National Buildings Construction Corporation Vs. S. Raghunathan and Others,). Thus, viewed from any angle, it is clear that the petitioner did not establish infringement of personal legal right or fundamental right, he cannot be said to be an aggrieved

party and consequently he does not possess locus standi. Even assuming that the order passed by the authorities is void or non est in law, but that has to be challenged only by the person directly affected or prejudiced. Thus, I find force in the contention raised by the learned Senior Counsel, Mr. N. Subba Reddy, and also the learned Government Pleader and hold that the petitioner has no locus standi to file writ petition. In view of this finding, it is not necessary to go into the aspects as to whether the authority could review its own order without there being any specific power under the statute or whether the application of the 4th respondent was liable to be rejected on the ground of laches or whether the Government was justified in transferring the lease in favour of the 5th respondent.

22. The writ petition accordingly, fails and it is dismissed without costs.