

(2013) 01 AP CK 0009

Andhra Pradesh High Court

Case No: Writ Petition No. 21851 of 2011

The Muslim Minority Stone
Quarry Workers Labour Contract
Cooperative Society Limited

APPELLANT

Vs

The Government of Andhra
Pradesh, Industries and
Commerce (Mines. I)
Department and Others

RESPONDENT

Date of Decision: Jan. 22, 2013

Citation: (2013) 3 ALD 535 : (2013) 4 ALT 214

Judgement

@JUDGMENTTAG-ORDER

L. Narasimha Reddy, J.

M/s. Venkateshwara Stone Crushers, the 5th respondent herein, was granted mining lease over Acs. 4.00 of land in survey No. 1009 of Devanganagar Village, Kanigiri Mandal, Prakasam District, to quarry road metal, in the year 1981, for different spells. The lease was to expire on 24.06.2011. As required under Rule 13 of the A.P. Minor Mineral Concession Rules, 1966 (for short "the Rules"), the 5th respondent submitted an application for renewal, on 14.03.2011. The petitioner submitted an application for grant of mining lease over that very land on 25.06.2011. The grievance of the petitioner is that the Deputy Director of Mines and Geology, Guntur, the 3rd respondent, has not passed any order so far, and that in the meanwhile, the 5th respondent is carrying on the mining operations. Across the Bar, it is stated that the application submitted by the 5th respondent for renewal was rejected by the 3rd respondent on 02.07.2012. Placing reliance upon a judgment of the Supreme Court in [The Labour Contract, Co-operative Society, Palikur Vs. Director of Mines and Geology, Hyderabad and others](#), the petitioner contends that its application ought to have been considered by the 3rd respondent.

2. The Assistant Director of Mines and Geology, the 4th respondent, filed a counter-affidavit, narrating the relevant facts. He furnished the particulars of grant of lease in favour of the 5th respondent and the renewals from time to time. It is stated that the 5th respondent submitted application for grant of renewal and that the same was pending by the time the counter-affidavit is filed.

3. Heard Sri S.A. Razack, learned counsel for the petitioner, learned Government Pleader for Mines and Geology and Sri K. Naveen Kumar, learned counsel for the 5th respondent.

4. Mining lease was granted in favour of respondent No. 5 over Acs. 4.00 of land in survey No. 1009 of Devanganagar Village, and it was valid up to 24.06.2011. An application to renew the lease was submitted within the stipulated time. However, no orders were passed before the lease expired. The petitioner submitted an application on 25.06.2011 for grant of mining lease over the same land. Its grievance is that though Rule 12(4) of the Rules provides for consideration of application in such matters, the benefit was not extended. Reliance is placed upon judgment of the Supreme Court, referred to above, in the previous paragraphs.

5. While Rule 12 prescribes the procedure for submission of applications for grant of mining lease, Rule 13 deals with the procedure stipulated for disposal of the applications. It does not need any emphasis to state that if there exists a mining lease over an extent of land, no application can be received for grant of lease over that very land. In case the lease is determined or terminated or has expired, the land would be very much available for grant of a mining lease.

6. Rule 13(2) mandates that an application for renewal of quarry lease shall be made 90 days before the expiry of the lease. The rule making authority has taken into account a situation, where an existing lessee has failed to submit an application for renewal of the lease. The absence of an application for renewal would naturally lead to a situation, where the land would be available to be leased, may be after expiry of the lease. Obviously, to save the time, in such cases, sub-rule (4) of Rule 12 provides for receipt of applications. It reads,

Rule 12(4): In cases where the quarry lease holders fail to apply for renewal of the lease of the areas within ninety days before the expiry of the lease held by them, as required under sub-rule (2) of Rule 13, fresh application for grant of quarry lease, in respect of those areas, will be entertained thirty days before the expiry of the lease.

7. From a perusal of this, it becomes evident that a fresh applicant would get the right to submit application in respect of a land covered by lease, only when the existing lessee fails to submit the application for renewal. Axiomatically, if an application for renewal is made, the benefit under the Rule cannot be availed. Secondly, an application for fresh lease in such cases can be entertained, 30 days before the expiry of the lease. In the instant case, both the factors run against the petitioner: Firstly, the 5th respondent did file an application for renewal and

secondly, the application submitted by the petitioner was not within 30 days before the expiry of the lease, but on the other hand, it was after the expiry of the lease.

8. The Hon"ble Supreme Court in *The Labour Contract Cooperative Society, Palikur v. Director of Mines and Geology (supra)* took the view that irrespective of the categories of applications, namely, which fall within Rule 12(4), or filed thereafter, all of them need to be considered according to the priorities that are provided for under the Rules. It is brought to the notice of this Court that during the pendency of the writ petition, the application for renewal submitted by the 5th respondent was rejected, and an appeal is pending.

9. Hence, the writ petition is disposed of, directing that the 3rd respondent shall consider the application of the petitioner, along with other applications, by treating it as the one, filed subsequent to the expiry of the lease, but subject to the outcome of the appeal, preferred by the 5th respondent. The appellate authority shall pass orders on the appeal within three months from the date of receipt of a copy of this order. There shall be no order as to costs. The miscellaneous petition filed in this writ petition shall also stand disposed of.