

(2011) 08 MAD CK 0188

Madras High Court

Case No: W.A. (MD) No"s. 553 and 709 of 2010, 63 and 647 of 2011, W.P. (MD) No"s. 6396 and 6397 of 2008, 273, 378, 5205, 5702, 5703, 5791, 6258, 7067, 7068, 8800, 11622 and 12202 of 2009, 10288, 11237, 11289, 13239 and 13241 of 2011.

C.Muthukrishnan

APPELLANT

Vs

The District Collector, Tirunelveli
District, Tirunelveli

RESPONDENT

Date of Decision: Aug. 19, 2011

Citation: (2011) 7 MLJ 641

Hon'ble Judges: M.Y. Egbal, C.J; T.S. Sivagnanam, J; P. Jyothimani, J

Bench: Full Bench

Advocate: V.T. Gopalan, assisted by Mr. V. Sanjeevi and Mr. S. Chandrasekaran, for the Appellant; V.S. Sethuraman, A.A.G. assisted by Mr. Mahendran, Spl. Govt. Pleader, for the Respondent

Judgement

The Chief Justice, P. Jyothimani and T.S. Sivagnanam, JJ.

In all these writ appeals and writ petitions, the issue relates to the right to quarry stone for a period of 10 years, if it is a virgin quarry, as per Rule 8(8) of the Tamil Nadu Minor Minerals Concession Rules (hereinafter referred to as "the Rules"). The above said rule, which was incorporated, by way of amendment, with effect from 17.11.2000 as per G.O. Ms. No. 391, Industries Department, dated 17.11.2000, reads as follows:

8(8)The period of lease for quarrying stone in respect of the virgin areas, which have not been subjected to quarrying so far, shall be ten years. The period of lease for quarrying stone in respect of other areas shall be five years. The period of lease for quarrying sand and other minor minerals, other than the minerals covered under Rules 8-A and 8-C of the said rules, shall not exceed three years and shall not be less than one year and shall be subject to the following conditions, namely:

(i)The date of commencement of the period of lease

granted under this rule shall be the date on which the lease deed is executed.

(ii) The lease shall expire on the date specified in the lease deed and in no case extension of the period of lease shall be made.

2. In all these cases, it is stated that the parties concerned were awarded lease for quarrying stone, after the amendment came into existence, based on the tenders called for by the respective District Collectors for a period of five years. The Appellants/petitioners, based on such notifications mentioning the lease period as five years, had participated in the tender process and they were granted licences for a period of five years and lease deeds were also entered into accordingly for the said period. At the verge of the expiry of five years period, the parties have applied to the District Collectors concerned for extension of lease period for a further period of five years claiming that after the amendment they have statutory right for quarrying for a period of ten years and such requests were rejected by the concerned District Collectors and therefore the aggrieved parties approached this Court by filing writ petitions challenging the orders of District Collectors rejecting their request for extension of lease period for a further period of five years.

3. When W.P.(MD) No. 6396 and 6397 of 2008 came to be considered by Justice S. Nagamuthu, the Hon"ble Judge has entertained a doubt as to whether the term "shall" in Rule 8(8) of the Rules may be construed as "may" and, therefore, at the direction of the Administrative Judge of this Bench, the matter was referred to a Division Bench consisting of P.JYOTHIMANI and S.NAGAMUTHU, JJ. While the Division Bench heard the matter, it was brought to its notice that one of a Division Bench of this Court in A. Srinivasan and 25 Ors. v. The District Collector reported in 2008 (3) CTC 800, by relying on a judgment of the Supreme Court in Rajendra Singh v. State of Madhya Pradesh, has held that insofar as the lease relates to virgin quarry, when the said fact remains uncontroverted, since the statute is clear mandating lease for ten years, the terms of contract should be in accordance with statutory rules and therefore the period of lease cannot be restricted for five years or for a lesser period. The observations made by the Division Bench in A. Srinivasan's case cited supra are as under:

17. There is one more aspect namely, there cannot be two different set of periods for the virgin quarries, one existed on the date of amended Rules i.e., on 17.11.2000 and another for the leases granted after the said period. The terms of contract and conditions of leases including the period must be in consistent with the rules uniformly for all the leases granted in respect of all virgin areas. The Apex Court in [Rajendra Singh Vs. State of Madhya Pradesh and others](#), has laid down that the terms of the contract should be in accordance with statutory rules. In matters, particularly, in grant of lease, the terms and conditions shall be in tune with the statutory rules made for the purpose. When the statutory rule prescribes a period of ten years for virgin quarries, the entitlement of the lease holders over a virgin quarry cannot be restricted for a period of five years only or lesser periods in some

cases, fixed at the time of grant of lease.

4. It was also brought to the notice of the Division Bench that another Division Bench of this Court in A. Kumar and Ors. v. The District Collector Kancheepuram Kancheepuram District and Ors. reported in 2010 (4) MLJ 791, it was of course not relating to virgin area, has held that after the amendment came into existence, the Petitioners concerned, having acted as per the notification issued, cannot claim the benefit of the amended rules, as a matter of right. It was, based on the said subsequent Division Bench judgment in A. Kumar's case, K.CHANDRU, J in W.P.(MD) No. 10362/2010 has held that the Petitioner therein has not made out a case for claiming a period of ten years, as a matter of right, after the amendment and, accordingly, dismissed the writ petition, against which Writ Appeal (MD) No. 553/2010 came to be filed, which was considered by the Division Bench, along with connected WP(MD)Nos. 6396 and 6397 of 2008.

5. After hearing the respective counsel, on the basis that there has been some contradiction in respect of construction of amended Rule 8(8) of the Rules, atleast in two Division Bench decisions namely A. Srinivasan and 25 others v. The District Collector reported in 2008 (3) CTC 800 and A. Kumar and Ors. v. The District Collector Kancheepuram, Kancheepuram District and Ors. reported in 2010 (4) MLJ 791, the matter was directed to be placed before the Hon"ble The Chief Justice by the Division for constituting a Larger Bench to decide the issue. Accordingly, the present Full Bench came to be constituted as per the direction of the Hon"ble Chief Justice and the matters are before us.

6. It was the contention of Mr. V.T. Gopalan, learned Senior Counsel, appearing for the Appellants/petitioners in these matters that when the statutory rule, as amended with effect from 17.11.2000, contemplates a mandatory duty on the part of the authorities to lease out a virgin quarry for a period of 10 years, any publication made or irrespective of the period of lease entered pursuant to the tender notification and participation which may be less than 10 years, it has to be construed to be a period of 10 years. According to the learned Senior Counsel, execution of lease deed is only pursuant to the rights conferred under the statutory rules and therefore the contents of the lease deed are subservient to the Rules and consequently they are to be ignored and the statutory provisions are to be read into the lease deed. He would compare Rule 8(10-A) of the Rules which relates to leasing of Stone quarries to SGSY Groups and submit that a discretion has been vested with the District Collector to grant lease even for a lesser period while such discretion is totally missing in so far as it relates to grant of lease for quarrying virgin area.

7. According to the learned Senior Counsel, fixing of period of lease, when it is covered by statutory provisions, the same can never be termed as procedural. According to him, the advertisement issued calling for application for lease of virgin quarry is only in order to implement the rules and therefore advertisement or lease has to be read in conjunction with the Rules. In support of this submission, he relies

on the judgment of the Supreme Court in [V. Karnal Durai Vs. The District Collector, Tuticorin and another](#), . He would also rely upon the judgment of the Supreme Court in [Union Territory, Chandigarh Admn. and others Vs. Managing Society, Goswami, GDSDC](#), , to contend that when a statute prescribes a mandatory provision, any contract in violation of such statutory provision can only be read and enforced in terms of law and in no other way.

8. Mr.Veera Kathiravan, Learned Counsel appearing for one of the Petitioners, also insist the said point by relying upon the judgment in [Sudhir G. Angur and Others Vs. M. Sanjeev and Others](#), . Therefore, according to him, the notification is only procedural in nature and does not take away the substantiate right already been given under statutory rules as amended. For the same proposition, he also relied on another unreported judgment of the Supreme Court in Rochiram and Sons v. Union of India and Ors. decided on 24.04.2008.

9. Per contra, it is the contention of Mr. Sethuraman, learned Additional Advocate General-I, that there is a factual dispute about the nature of the quarries. According to him, these are non-virgin quarries and there are no statutory rights available for the Petitioners/appellants. His contention is that out of a larger extent of land even if a portion is a non-virgin quarry in the sense that quarrying operation is only in respect of one of the portions, the entire extent should be treated as a non-virgin quarry. He would submit that whether it is a virgin area or a non-virgin area is a factual question to be decided in individual cases. He would submit that in the Division Bench decision of this Court in A. Kumar and Ors. v. District Collector Kancheepuram, Kancheepuram District and Ors. reported in 2010 (4) MLJ 791, even though it relates to non-virgin quarry, the principle was laid down that a party having eyes wide open knowing the terms of notification and having participated in the auction process and becoming a party of the lease deed inspite of the fact that the amended rule has come into existence, he is bound by his conduct and cannot claim, as a mater of right, what is contemplated under the rules.

10. We have heard the Learned Counsel appearing for the parties and perused the materials available on record.

11. The power of State Governments in making Rules in respect of Minor Minerals flows from Section 15(1) of the Mines and Minerals (Development and Regulation) Act, 1957 (in short "the Act"). The said rule making power enables a State Government to stipulate various circumstances like manner of quarrying, time of quarrying, terms and conditions with which lease to be granted, procedure for obtaining quarry leases, facilities to be afforded by holders of quarry leases, etc. Section 15(2) of the Act states that until rules re made under Sub-section (1), any rules made by a State Government regulating the grant of quarry leases, mining leases or other mineral concessions in respect of minor minerals which are in force immediately before the commencement of the Act shall continue. For the purpose of better understanding, it is relevant to extract Section 15 of the Act, which is as

under:

15. Power of State Governments to make rules in respect of minor minerals-(1) The State Government may, by notification in the Official Gazette, make rules for regulating the grant of [quarry leases, mining leases or other mineral concessions] in respect of minor minerals and for purposes connected therewith.

(1-A) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:

(a) the person by whom and the manner in which, applications for quarry leases, mining leases or other mineral concessions may be made and the fees to be paid therefor;

(b) the time within which, and the form in which, acknowledgment of the receipt of any such applications may be sent;

(c) the matters which may be considered where applications in respect of the same land are received within the same day;

(d) the terms on which, and the conditions subject to which and the authority by which quarry leases, mining leases or other mineral concessions may be granted or renewed;

(e) the procedure for obtaining quarry leases, mining leases or other mineral concessions;

(f) the facilities to be afforded by holders of quarry leases, mining leases or other mineral concessions to persons deputed by the Government for the purpose of undertaking research or training in matters relating to mining operations;

(g) the fixing and collection of rent, royalty, fees, dead rent, fines or other charges and the time within which and the manner in which these shall be payable;

(h) the manner in which rights of third parties may be protected (whether by way of payment of compensation or otherwise) in cases where any such party is prejudicially affected by reason of any prospecting or mining operations;

(i) the manner in which rehabilitation of flora and other vegetation such as trees, shrubs and the like destroyed by reason of any quarrying or mining operations shall be made in the same area or in any other area selected by the State Government (whether by way of reimbursement of the cost of rehabilitation or otherwise) by the person holding the quarrying or mining lease;

(j) the manner in which and the conditions subject to which, a quarry lease, mining lease or other mineral concession may be transferred;

(k) the construction, maintenance and use of roads, power transmission lines, tramways, railways, aerial ropeways, pipelines and the making of passage for water

for mining purposes on any land comprised in a quarry or mining lease or other mineral concession;

(l) the form of registers to be maintained under this Act;

(m) the reports and statements to be submitted by holders of quarry or mining leases or other mineral concessions and the authority to which such reports and statements shall be submitted;

(n) the period within which and the manner in which and the authority to which applications for revision of any order passed by any authority under these rules may be made, the fees to be paid therefor, and the powers of the revisional authority; and

(o) any other matter which is to be, or may be, prescribed

(2) Unit rules are made under Sub-section (1), any rules made by a State Government regulating the grant of [quarry leases, mining leases or other mineral concessions] in respect of minor minerals which are in force immediately before the commencement of this Act shall continue in force.

(3) The holder of a mining lease or any other mineral concession granted under any rule made under Sub-section

(1) shall pay [royalty or dead rent, whichever is more], in respect of minor minerals removed or consumed by him or by his agent, manager, employee, contractor or sub-lessee at the rate prescribed for the time being in the rules framed by the State Government in respect of minor minerals:

Provided that the State Government shall not enhance the rate of [royalty or dead rent] in respect of any minor mineral for more than once during any period of three years.

12. Rule 8(8) of the Rules, which was originally in the Rules framed by the State of Tamil Nadu, stood as follows:

(8)(a)The period of any quarry lease granted under this rule for quarrying stones shall be five years and the period of quarry lease for quarrying sand and other minor minerals shall be three years subject to the following conditions:

(i)The date of commencement of the period for which the quarrying lease is granted under the rule shall be the date on which the lease deed is executed.

(ii)The lease shall expire on the date specified in the lease deed and in no case extension of the period of the lease shall be made.

13. It was, by virtue of the amendment effected by G.O. Ms. No. 391, Industries Department, dated 17.11.2010, Rule 8(8) stood amended as extracted in the beginning of the judgment. G.O. Ms. No. 391, Industries Department, dated

17.11.2000, reads as under:

GOVERNMENT of TAMIL NADU

ABSTRACT

Mines and Quarries -Minor Minerals -Amendment to Rule 8 of the Tamil Nadu Minor Mineral Concession Rules, 1959 -Notification -issued.

INDUSTRIES (MMC-1) DEPARTMENT

G.O. Ms. No. 391 dated:17.11.2000 Read: From the Commissioner of Geology and Mining, D.O. Letter Rc. No. 18133/LC/99 dated 20.4.1999.

ORDER:

14. The notification appended to this order will be published in the Tamil Nadu Government Gazette and in the District Gazette. The works Manager, Government Central Press, Chennai is requested to publish the notification in the next issue of the Tamil Nadu Government Gazette and supply 25 copies of the Notification to this Department and Commissioner of Geology and Mining, Chennai-32 and also all District Collectors.

15. The Director, Tamil Development and Culture (Translation) Department is requested to send the Tamil version of the Notification appended to this order to the Works Manager, Government Central Press, Chennai-79 for publishing in Tamil Nadu Government Gazette and to the Collectors of all Districts for publishing it in the District Gazette, immediately.

(BY ORDER of THE GOVERNOR)

SHATIKANTA DAS,

SECRETARY TO GOVERNMENT.

APPENDIX

NOTIFICATION

In exercise of the powers conferred by sub section (1) and (1-A) of Section 15 of the Mines and Minerals (Development and Regulation) Act, 1957 (Central Act 67 of 1957), the Governor of Tamil Nadu hereby makes the following amendment to the Tamil Nadu Minor Mineral Concession Rules, 1959.

AMENDMENT

In the said Rules, in Rule 8, for Sub-rule (8), the following sub-rule shall be substituted, namely:

(8)The period of lease for quarrying stone in respect of the virgin areas, which have not been subjected to quarrying so far, shall be ten years. The period of lease for

quarrying stone in respect of other areas shall be five years. The period of lease for quarrying sand and other minor minerals, other than the minerals covered under Rules 8-A and 8-C of the said rules, shall not exceed three years and shall not be less than one year and shall be subject to the following conditions, namely:

(i) The date of commencement of the period of lease granted under this rule shall be the date on which the lease deed is executed.

(ii) The lease shall expire on the date specified in the lease deed and in no case extension of the period of lease shall be made.

16. The appendix, by way of notification, makes it clear that the amendment is prospective from the date of issuance of the Government Order. By virtue of the amendment, it is no doubt true that the period of lease in respect of virgin quarry in virgin areas shall be 10 years. Apart from the fact that quarrying stones in respect of other areas is for five years and quarrying of sand and other minor minerals, other than the minerals covered under Rules 8-A and 8-C, shall not exceed three years and shall not be less than one year subject to various conditions.

17. Rule 8(1)(a) of the Rules contemplates a publication by way of notice to be issued by the District Collector in the District Gazette calling for sealed covers for grant of lease of areas for quarrying minor minerals other than those which are covered under Rules 8-A and 8-C of the Rules which relate to quarrying of granite by private person or granting of lease to State Government Company or Corporation, respectively. The notice and advertisement shall speak about the survey number, extent, village and taluk. The prescribed application with which the participant should apply is set out in Appendix-VI. Clause (6) of Appendix VI states "Period for which quarrying lease is required", for which the applicant has to mention the period.

18. There are two sets of cases as follows:

(i) Lease granted in respect of virgin quarries before the amendment came into existence and during the existence of five years lease period, amendment comes into existence by making the period of lease as ten years.

(ii) Lease granted by notification after the amendment has come into existence.

19. Insofar as the first set of cases are concerned, there is no difficulty to hold that the notification itself was based on the pre-amended Rule 8(8), in which there is no mandatory clause of 10 years. Moreover, as per the reading of the G.O. as extracted above, the period of 10 years stated in the amendment is prospective in nature and therefore such persons cannot, as a matter of right, claim for further extension of 10 years. At this juncture, it is pertinent to note that Rule 8(11) of the Rules says that the lease granted under Rule 8 shall not be renewed. Rule 8(11) reads as under:

11. No lease granted under this Rule shall be renewed.

20. In respect of the 2nd set of cases about which we are concerned, in these batch of cases, it is after the amendment has come into existence, the concerned District Collectors issued notifications calling for tenders for issuing lease by restricting the period as five years. It is based on those notifications issued by the District Collectors, the Petitioners have applied for the restricted period of five years and lease deeds were executed subsequently. In the lease deeds executed, no doubt, one of the clauses, namely Clause 24, states "The lessee shall abide all the conditions laid down in Tamilnadu Minor Mineral Concession Rules, 1959". This clause read with Rule 8(11) enforces the duty of the lessee to act as per the terms of lease. Mere reference under Rule 8(8), as amended by giving a period of 10 years lease by using the word "shall", cannot be construed to be a mandatory duty on the part of the District Collectors while giving notification. Such construction would mean that even in places where minerals may not be available for exploitation for a period of 10 years based on the scientific assessment the District Collector is compelled by giving such lease for 10 years, which, in our considered view, cannot be the intent of the law makers in exploiting minor minerals. Further, such construction would mean that irrespective of any circumstance, when, for the first time, a lease is entered into by the District Collector it would be for a period of 10 years. In our view, while issuing notification, the District Collector decides about the availability of minor minerals for exploitation and then proceeds to notify indicating the period. It may not be said to be illegal or against the statute merely because the period is mentioned less than 10 years. Even though the statute gives a right to the parties, by virtue of the conduct of the parties, they have accepted to receive lesser benefit and having accepted the same, it is not certainly open to those parties to rely upon the statute to show that the contract voluntarily entered should be modified. If the parties have chosen to challenge the notification of the District Collector that their right has been restricted by notification, that will be on a different footing wherein this Court would be forced to enter into the fact as to whether the District Collector has applied his mind about the availability of minor minerals for exploitation for ten years period. The parties, having eyes wide open to the provisions of the rules, have entered into the terms of contract restricting their legal rights, cannot, in our view, as a matter of right, claim to substitute the statutory provisions in the terms of contract.

21. It is relevant to point out at this stage that after entering into the lease, if the parties feel that there are further minerals available for exploitation upto the period of 10 years, it is not as if the parties are left in lurch. There is a provision for an appeal u/s 36(C)2 of the Act, which is as follows:

36-C(2)Any person aggrieved by any order made by the District Collector in exercise of the powers conferred on him by these Rules, except on appeals under Sub-rule (1) may, within 30 days from the date of communication of the order to him, appeal to the Director of Geology and Mining against such order. Incase, the aggrieved person is not satisfied with the decision of the Director of Geology and Mining, he

may prefer a second appeal to the State Government within 30 days from the date of receipt of the order of the Director of Geology and Mining."

22. At this stage, it is also relevant to note that as against the judgment of the Division Bench in *A. Srinivasan v. District Collector Kancheepuram* 2008 (3) CTC 800 holding that in respect of virgin quarry, under the amended Rule 8(8) of the Rules, a lessee is entitled to have a lease for quarrying for a period of 10 years, a SLP was filed, wherein, the Hon"ble Supreme Court, in the order dated 23.01.2009, while dismissing the same on the ground that virtually the SLP has become infructuous as the 10 years period would be expiring in June, 2009, has observed that the question of law is left open to be decided.

23. In [Beg Raj Singh Vs. State of U.P. and Others](#), . while the grant was erroneously given for one year when the G.O. contemplated three years, the Supreme has held that even though a Petitioner may be entitled to relief in law, the same may be denied in equity due to various circumstances in the following words.:

6. Having heard the Learned Counsel for the Petitioner, as also the Learned Counsel for the State and the private Respondent, we are satisfied that the petition deserves to be allowed. The ordinary rule of litigation is that the rights of the parties stand crystallized on the date of commencement of litigation and the right to relief should be decided by reference to the date on which the Petitioner entered the portals of the court. A Petitioner though entitled to relief in law, may yet be denied relief in equity because of subsequent or intervening events i.e. the events between the commencement of litigation and the date of decision. The relief to which the Petitioner is held entitled may have been rendered redundant by lapse of time or may have been rendered incapable of being granted by change in law. There may be other circumstances which render it inequitable to grant the Petitioner any relief over the Respondents because of the balance tilting against the Petitioner on weighing inequities pitted against equities on the date of judgment. Third-party interests may have been created or allowing relief to the claimant may result in unjust enrichment on account of events happening in-between.

(emphasis supplied)

24. Therefore, granting lease, which is a statutory right, is not a fundamental right in nature. That was also the view expressed by the Hon"ble Apex Court in [Rajendra Singh Vs. State of Madhya Pradesh and others](#), . That was a case relating to the licence to vend liquor. It was held that the licensee has no fundamental right to trade in liquor and he has only a right to seek to enforce the terms of contract and statutory provisions governing the contract.

25. A Division Bench of this Court in W.A.(MD) No. 597 of 2009, decided on 18.11.2009, has held that the period of 10 years stated in Rule 8(8) of the Rules is not automatic and it is only an outer limit thereby implying that it is for the District Collectors to fix the period depending upon various circumstances.

26. Further, the learned Senior counsel appearing for the Appellant by placing reliance on the decision of the Supreme Court in *Union Territory v. Managing Society* (supra), contended that when a statute prescribes a mandatory provision, the Government is bound to follow the same. It is therefore contended that the rule having fixed the period of lease as 10 years, the Government cannot fix a lesser period. The case before the Supreme Court pertained to an allotment of land by the Chandigarh Administration to a society. The Estate officer of the administration raised a demand on the society, demanding payment of a sum of Rs. 1,74,690/- being the difference between ground rent already paid by the society and one which was payable under the statutory rules. This notice was challenged before the Punjab and Haryana High Court and the writ petition was allowed and the demand was quashed. The Chandigarh Administration did not cancel the allotment, but it only corrected a patent mistake, which could not be permitted to subsist and in the absence of any power under the Act or Rules permitting relaxation of the mandatory provision of the rules, a contract in violation of the mandatory provision of law can only be read and enforced in terms of the law and in no other way. We fail to see as to how this judgment of the Supreme Court in any manner advances to the case of the Appellant. The challenge in the said case was to a rental demand issued by the administration on the lessee being the differential rent payable in terms of the rules. Therefore, we are of the view that this decision does not render any support to the case of the Appellants.

27. We may at this stage, think about a converse case to that of the case of the Appellants herein. Assuming that by virtue of an amendment to the rules, if the period of lease had been reduced, then what would have been stand of the Appellant. The only answer to this question would be by stating that the Government was estopped from reducing the lease period after having consciously entered into a lease transaction for a specified period. This test if applied to the Appellants' case can only lead to the irresistible conclusion that the Appellants/ Petitioners, who consciously entered into a contract with the Government for a period, which is lesser than the period stipulated under the rules are bound by the contract and cannot after the expiry of the period seek to rewrite the terms of the contract by relying upon the statutory rule.

28. By going through the terms of amended Rule 8(8) of the Rules, which makes it abundantly clear that the date of commencement of the period of lease is as per the contents of the lease deed executed and on expiry of the specified period of lease no extension of period of lease is made, the amended provision is not merely a procedural law and is substantive in its nature. Therefore, the question retrospective applicability of the amendment does not arise. Reliance placed on by Mr. Veera Kathiravan, Learned Counsel appearing for one of the Petitioners, in [Sudhir G. Angur and Others Vs. M. Sanjeev and Others](#), to show that the amendment should be treated as procedural law and therefore it is retrospective, unless there is a specific provision in the amendment to the effect that it is prospective, has no

meaning.

29. This being the substantive law, the effect of the amended rule is prospective in nature. Therefore, the necessary consequence will be that in respect of leases granted before the amendment came into existence, the amended Rule 8(8) is not applicable in respect of the period of lease. However, in respect of the lease granted based on the notification issued by the District Collector after the amended rule has come into existence, the amended rule no doubt confers a right of 10 years period, but subject to the period of lease mentioned in the lease deed. Even though the participant has got a right to claim the period of 10 years, such right was available to him at the time of the notification issued by the District Collector under Rule 8(1) of the Rules and having failed to raise his objections with eyes wide open to the terms of the notification which restricted the period of lease to five years even after the amendment, if a person participates in the tender process and being a highest bidder executes voluntarily a lease deed for a lesser period, he cannot, as a matter of right, claim extension of lease upto the period of 10 years. Such fixation of period, in our view, even though the amended rule confers a right on the lessee in respect of virgin quarry, when once the District Collector fixes lesser period which depends upon various circumstances and factors and the same is accepted by a party entering into a lease agreement, the terms of the lease agreement are binding.

30. The reference is answered accordingly. Consequently, all these writ appeals writ petitions are disposed of. Connected miscellaneous petitions are closed. No costs.