
(2003) 01 AP CK 0015

In the Andhra Pradesh High Court

Case No : Writ Petition No. 36885 of 1998

C.M. Ramanatha Reddy

APPELLANT

Vs

Govt. of India and Others

RESPONDENT

Date of Decision : 06-01-2003

Acts Referred:

Citation : (2003) 1 ALT 352

Hon'ble Judges : D.S.R. Varma, J

Bench : Single Bench

Advocate : T. Jagdish, for the Appellant; A.G., for the Respondent

Final Decision : Dismissed

Judgement

D.S.R. Varma, J.—This writ petition is filed for a Writ of Mandamus to declare the action of the respondents in passing the final order No. 100/98, dated 9-9-1998 in Revision Application No. 3(8)/95/RC-I/RC-II of the Government of India, Ministry of Steel and Mines, Department of Mines, as illegal and arbitrary and further to direct the 2nd respondent-Government to renew the subleases granted to the petitioner for another period of 20 years from 19-2-1995.

2. The brief facts of the case for better appreciation are that the Government of Andhra Pradesh is the lessor of the lands for mining operations. 5th respondent - A.P. Mineral Development Corporation Ltd., is the lessee. It is not in dispute that the 5th respondent as a lessee is permitted to sublease to outsiders for mining operation. In that process, the petitioner along with some others was granted sublease for different areas for quarrying of barytes ore. The lease period was up to 18-2-1995. While so, Government issued G.O.Ms. No. 441, Industries and Commerce (M.III) Department dated 5-11-1990 granting permission to the 5th respondent to sublease the mining operation for barytes in certain extents to different individuals including the petitioner. However, this G.O. is subject to certain conditions and those conditions will be referred to at appropriate place. Subsequently, the 2nd respondent -Government issued G.O.Ms. No. 402

Industries and Commerce (Mines.I) Department dated 1-12-1993 accepting the recommendations of the House Committee with regard to some illegalities committed in mining operations and accordingly cancelled all the existing subleases. Consequently, the Government issued another G.O. Ms. No. 417 Industries and Commerce (Mines.I) Department dated 7-12-1993 withdrawing its consent given to the 5th respondent for subleasing of the lands to private parties and ordered that the mining operations shall be done exclusively by the 5th respondent itself. Challenging both the G.Os. i.e., G.O.Ms. Nos. 402 and 417, a batch of writ petitions were filed before this Court and they were allowed by a learned single Judge, by setting aside the said G.Os. Challenging the same, the Government carried the matter in writ appeal and a Full Bench of this Court in a reported judgment in Government of Andhra Pradesh and another Vs. Y.S. Vivekananda Reddy and others, while confirming the order of the learned single Judge in setting aside G.O.Ms. Nos. 402 and 417, came to the conclusion that the principles of natural justice have been violated and therefore without going into other merits, modified the order of the learned single Judge and directed the respondents to issue show-cause notice to the affected parties i.e., sub-lessees, and after receiving the explanations, directed the Government to pass appropriate orders. It appears that accordingly after receiving the explanations, the 2nd respondent -Government passed the orders in proceedings No. 20/PSMA/94 dated 9-3-1995 rejecting the claim of the sublessees, including that of the petitioner and also issued G.O.Ms. No. 35 Industries and Commerce (M.III) Department dated 9-3-1995 rejecting the request for renewal of the lease period after expiry of their terms. Aggrieved by the proceedings and the G.O.Ms. No. 35 dated 9-3-1995, the petitioner preferred a revision before the 1st respondent - Government of India, which is the revisional authority under the statute. In the meanwhile, the sublessees filed another batch of writ petitions seeking extension of the sublease, because of the interruption in the subsisting period of subleases. The details of the said interruption are not necessary to be reiterated, since the same have been elaborately dealt with by a Full Bench of this Court in Y.S. Vivekananda Reddy and Vs. Govt. of Andhra Pradesh and others, . as well as by the Supreme Court on appeal, in Verigamto Naveen Vs. Government of Andhra Pradesh and Others, and they will be referred to in the course of the judgment. The Full Bench in the decision cited 2 supra. having regard to the interruption and the resultant hardship caused to the sublessees, granted extension of sublease by ten more months, mainly on the ground that, even during the subsistence of the sublease, the petitioners could not carry on the mining operations. Challenging the said orders of the Full Bench in extending the mining lease for another ten more months, the matter was carried to the Supreme Court both by private individuals in Civil Appeal No. 6656-6657 of 1994 and also by the A.P. Mineral Development Corporation i.e., the 5th respondent herein in Civil Appeal Nos. 5115-5117 of 1996 and the Supreme Court in Verigamto Naveen's case³ disposed of first set of appeals as having become infructuous, as the lease period had expired by efflux of time. However, the Apex Court partly allowed the second set of appeals and made certain observations, which will also be referred

to at appropriate place.

3. However, all the aggrieved parties filed revisions before the 1st respondent-Government of India and the same were dismissed by common orders dated 9-9-1998. It is to be noted that the second batch of writ petitions were filed only for the limited extent of extension of lease, which occurred because of interruption. Now the petitioner filed the present writ petition challenging the order passed by the 1st respondent both in cancelling his sublease and also refusal of renewal.

4. The learned counsel for the petitioner Sri Jagadish assailed the impugned order on various grounds. His main contention is that, after the G.O.Ms. Nos. 402 and 417 were set aside by this Court, the original order of the Government i.e., G.O.Ms. No. 441 would revive, under which the petitioner is entitled for not only extension of lease, but also renewal. He further contends that the grounds mentioned in the impugned order are not tenable. In order to substantiate his contentions, he relied on the variation in the extents shown in the impugned order with regard to actual land surrendered by the petitioner in lieu of grant of mining lease.

5. Per contra, the learned Advocate General representing the respondents 2 and 5 submitted that in view of the judgment of the Apex Court in Verigamto Naveen's case (cited 3 supra) no further orders need be passed, inasmuch as the same is binding on this Court.

6. The learned counsel for the petitioner while repelling this contention, submitted that the Apex Court while dealing only with the question of extension of time, partly allowed the appeals filed by the Government and, therefore, the reasoning of the Apex Court will not in all fours, affect the rights of the petitioner. In other words, he contends that the context in which the Supreme Court rendered the judgment is different from the context under which the petitioner makes his claim. Therefore, he submits that the findings of the Supreme Court in the decision cited 3 supra cannot be made applicable to the present case.

7. Having regard to the relative contentions, it is necessary to first look into G.O.Ms. No. 441 dated 5-11-1990. A reading of the said G.O. would reveal that the 2nd respondent-Government is the original lessor and it had granted permission to its agency i.e., the 5th respondent to sublease the mining operations to private parties. But this permission is subject to certain conditions, which are as under:-

(1) That this sublease may also be cancelled along with the cancellation of all other subleases/ leases as and when a decision to cancel such lease/subleases is implemented;

(2) That the petitioner should not claim any compensation for either delay in sanction of sublease to him or for any other action on the part of Andhra Pradesh Mineral Development Corporation Limited/Government in this regard; and

(3) That he should not seek for sanction of lease in the same area in future.

8. From the above conditions it is clear that subleases may be cancelled as and when a decision is taken to that effect and no compensation is permitted to be claimed by any sub-lessee. Further and more important condition is that the sublessee after such cancellation shall not seek further sanction of lease in the same area in future.

9. Though G.O.Ms. Nos. 402 and 417 were set aside by this Court, I feel it necessary to have a look at the said G.Os. also, for comprehensiveness. The relevant portion of G.O.Ms. No. 402 is extracted as under:-

3. Government have decided to accept the recommendations made by the House Committee and accordingly order cancellation of all existing subleases to mine barytes entered into between the Andhra Pradesh Mineral Development Corporation Limited and the sublessees. A.P. Mineral Development Corporation Limited is directed to take action accordingly in accordance with law and report compliance to Government.

10. From a reading of the above G.O.No. 402 it is clear that certain irregularities were detected and pursuant to the recommendations of the House Committee, the Government decided to cancel all the existing subleases and accordingly cancelled.

11. G.O.Ms. No. 417, is consequential to G.O.Ms. No. 402, and under this G.O., all the subleases were cancelled and the 5th respondent-Andhra Pradesh Mineral Development Corporation Limited is entrusted with exclusive exploitation of the mineral.

12. However, as contended by the counsel for the petitioner since the Full Bench of this court set aside the G.O.Ms. Nos. 402 and 417, the original G.O.Ms. No. 441 would remain. Here the contention of the counsel for the petitioner that under the said G.O. the petitioner has right to obtain sublease from the 5th respondent, cannot be accepted for the simple reason that under the said G.O., the Government had reserved the right to cancel any or all the subleases any time and also stated that no compensation is payable to any party owing to cancellation of the sublease. Therefore, in my considered view, G.O.Ms. No. 441 is a self-contained document reserving all the rights of the Government with regard to cancellation. A reading of the said G.O. would make the situation further clear that it is only the "policy" of the Government to accord permission to the 5th respondent as an agency to sublease to private individuals. And such a policy decision of the Government, can be varied, modified or even nullified any time, by the Government in the interest of the State, provided the same is not hit by any arbitrariness. In the instant case it is apparent from the record that the 1st respondent in the impugned order had noted that the petitioner had knowledge of the contents of the conditions of G.O.Ms. No. 441 and accepted the right of the Government to terminate the sublease as and when a decision is taken in that regard. It was further noticed by the 1st respondent in the

impugned order that the petitioner was given sub-lease upon surrender of his land to certain extent. But it was found that those lands belong to the Government. This being a question of fact, no opinion can be expressed under the writ jurisdiction.

13. It is to be further noted that admittedly the petitioner is a sublessee and in such a case, it cannot be said that the petitioner has any vested right. The rights, if any, are only to the extent indicated in the agreements, which are again in consonance with G.O.Ms. No. 441. The Government apparently has absolute right over the lands for extracting ore by itself or through agency of the Government by allowing private parties on subleases. It is to be noted that some irregularities were found by the House Committee and as a result of which, the Government have taken policy decision to cancel all the subleases and entrust the exploitation of the mineral exclusively by its agency i.e., the 5th respondent. Therefore, I am of the considered view that even assuming that G.O.Ms. No. 441 is accepted to be in force, in view of the conditions incorporated in the said G.O. the petitioner cannot claim any right under it.

14. Apropos the other contention of the counsel for the petitioner that the judgment of the Apex Court cited (3 supra) was in a different context and the same is not applicable to the present case is concerned, it is to be noted that though the context appears to be slightly different, the chain of events right from the beginning are the same and only the issues at different stages have been revolving around the main controversy i.e., the cancellation of lease. At this juncture it is to be noted that the lease period in so far as the petitioner is concerned, has expired as long back as in the year 1995; precisely, on 18-2-1995. Further while dealing with the Full Bench decision of this Court (cited 2 supra), the Apex Court observed as under:-

26. There are at least three weighty reasons as to why the period of sublease could not have been extended after the expiry of period of original lease and they are:

(i) In most of the present cases, the interruptions in respect of which the claim is made is for a period of about 10 months and in one other case an additional period of 6 1/2 months. In some cases the lease having expired as early as in the year 1995 or in others in 1998, it would not be appropriate to direct the extension of lease in the year 2001 particularly when the subleases have expired as a result of which the parties have to reestablish their infrastructure and put in a great deal of logistical support though for a short period once over again, to work the mines which will have a pernicious effect on the mines and the parties concerned.

(ii) The claim for renewal of leases has been refused already as the policy of the Government is not to grant lease or sublease in favour of private parties. Now to ask the Government to enter into fresh contracts will be contrary to its policy.

(iii) When several malpractices had been pointed out by the House Committee, it

would not be in the public interest to extend the period of lease which will perpetuate the same.

27. Therefore, the High Court ought not to have exercised its discretion for extension of period of sublease.

28. For the reasons aforesaid, we think it would be appropriate to set aside the order made by the High Court and allow these appeals to the extent the High Court has granted the relief of extension of the sub-leases.

15. From the above observations of the Supreme Court it is clear that the Apex Court has taken judicial notice with regard to expiry of the lease in the year 1995 or in some cases in the year 1998. It is significant to note that it was further observed that renewal of lease has been refused by the Government as a policy. Therefore, it is clear that the policy of the Government for a reasonable cause can be changed and such a policy of the Government cannot be subjected to judicial scrutiny.

16. For the foregoing reasons, I do not find any valid reason to interfere with the impugned order and accordingly pass the order as under:

The writ petition is dismissed. No. costs.