

(1991) 08 AP CK 0021

In the Andhra Pradesh High Court

Case No : Writ Petition No. 12052 of 1988

The Andhra Cement Co. Ltd.

APPELLANT

Vs

Govt. of A.P. and Others

RESPONDENT

Date of Decision : 19-08-1991

Acts Referred:

Constitution of India, 1950 — Article 226

Mineral Concession Rules, 1960 — Rule 54

Mines and Minerals (Development and Regulation) Act, 1957 — Section 11(2), 11(4)

Citation : (1991) 3 ALT 411

Hon'ble Judges : Sivaraman Nair, J

Bench : Single Bench

Advocate : D. Gopala Rao and S.V. Subbaiah, for the Appellant; The Govt. Pleader for Home for Respondents 1 and 2 and A. Panduranga Rao, for the Respondent

Final Decision : Dismissed

Judgement

Sivaraman Nair, J.—This Writ petition involves the conflicting claims of the petitioner and the 4th respondent for the grant of mining lease in respect of certain areas of land in S.No. 124 of Ravirala Village, Jaggayyapet Mandal, Krishna District. Petitioner submits that it has filed an application on 3-1-1983 for mining lease and waited for twelve months for orders of the licensing authority. Not having received any response, the petitioner filed a revision under Rule 54 of the Mineral Concession Rules deeming the delay as amounting to rejection of the application. The Government of India, which is the revisional authority, by its order dated 19-4-1984 directed the State Government to dispose of the application of the petitioner within 200 days from the date of the order. The State Government did not pass orders within that period. Petitioner thereupon filed Writ Petition No. 15721 of 1984. That writ petition was disposed of by this Court directing the licensing authority to consider and pass orders on the application of the petitioner within two months thereafter. In the meantime, the 4th respondent had filed an application on 25-11-1983 for grant of mining

lease in 2,161.59 acres of land of Ravirala Village. Due to certain technical objections, some areas were removed from the application, which now relates only to 716.15 acres comprising of 366.50 acres of forest Land and 349.65 of revenue land. According to the 4th respondent, it has commenced operation of a cement factory at Jayanthipuram with a capacity of 7.5. lakhs tonnes of cement per annum, whereas the petitioner is yet to commence even construction of the factory. It submits that the existing lease in favour of the petitioner will be sufficient to feed the raw material for the factory for a period of forty years and, therefore, there is no need for the petitioner Company to obtain the mining lease, which it has applied for. The 4th respondent has raised other contentions in its affidavit accompanying W.V.M.P.No. 1604/88 highlighting the prejudice caused to it by orders passed by this court in W.P.M.P.No. 15219/88 restraining the respondents from granting any lease in favour of the 4th respondent in respect of the land in Ravirala Village.

2. The mining lease, either in favour of the petitioner or the 4th respondent, is yet to be granted. Counsel for the petitioner submits that u/s 11(2) of the Mines and Minerals (Regulation and Development) Act, 1957 ("the Act" for short), the earlier applicant is entitled to preference for grant of mining lease. The 4th respondent submits, on the other hand, that u/s 11(4) of the Act, it is open to the State Government, for any special reasons to be recorded and with the previous approval of the Central Government, to grant a prospecting licence or a mining lease to an applicant whose application was received later in preference to an applicant whose application was received earlier. This controversy as to who shall get preference is not a matter which can be agitated appropriately or decided inclusively in proceedings under Article 226 of the Constitution of India. The conflicting claims of the applicants, the special reasons, if any, in support of each of the applications, and the circumstances justifying the grant or refusal in favour of one or the other are all matters to be primarily considered by the State Government, in dealing with applications of the rival claimants u/s 11 of the Act. It is premature at this stage for this court to consider the competing claims of the rival applicants or to decide as to whether the licence shall be granted in favour of one or the other. It is pointed out that if the licence is granted in favour of the other, the aggrieved party is entitled to file a revision before the Government of India under Rule 54 of the Mineral Concession Rules. Before the revisional Authority also, the entire controversy regarding the comparative merits of the rival applicants will be open for consideration. I do not find any justifiable reason for this court at this stage to intervene.

3. In this view, I consider the writ petition to be premature and I dismiss the same for that reason. While doing so, I make it clear that it is open for the petitioner and the 4th respondent to urge their rival contentions for grant of mining lease before the State Government by filing appropriate representations, if need be, in supplementation of the applications which they have already filed. The State Government shall consider the applications in accordance with law and pass orders within a period not exceeding three months from the date of receipt

of a copy of this Judgment.

There will be no order as to costs.