
(1980) 09 AP CK 0002

In the Andhra Pradesh High Court

Case No : Writ Appeal No's. 347 and 348 of 1980 and Writ Petition No's. 2060, 2074, 2479 and 2533 of 1980

The State of Andhra Pradesh and Others

APPELLANT

Vs

D. Vittal Goud

RESPONDENT

Date of Decision : 23-09-1980

Acts Referred:

Andhra Pradesh Minor Mineral Concession Rules, 1966 — Rule 10(2), 13, 13(2), 14, 14(2)
Civil Procedure Code, 1908 (CPC) — Section 115
Mineral Concession Rules, 1949 — Rule 40
Mineral Concession Rules, 1960 — Rule 54
Mines and Minerals (Regulation and Development) Rules, 1957 — Rule 22, 28
Motor Vehicles Act, 1988 — Section 18, 4, 58(4), 62(1), 64

Citation : AIR 1981 AP 42

Hon'ble Judges : Seetharama Reddy, J;Madhava Rao, J

Bench : Division Bench

Advocate : Govt. Pleader, for Industries in W.A. Nos. 347 and 348 of 1980, V. Rajagopala Reddy, in W.P. Nos. 2479 and 2533 of 1980 and A. Suryanarayana Murthy, in W.P. Nos. 2060 and 2074 of 1980, for the Appellant; Govt. Pleader, for Industries in W.P. No. 2479 and 2533 of 1980, in W.P. Nos. 2060 and 2074 of 1980 and V. Rajagopala Reddy in W.A. Nos. 347 and 348 of 1980, in W.P. Nos. 2060 and 2074 of 1980 and A. Suryanarayana Murthy in W.P. No. 2479 of 1980, for the Respondent

Judgement

Seetharama Reddy, J.—Writ Appeals Nos. 347 and 348 of 1980, arise out of the orders passed in miscellaneous petitions filed in W.P. Nos. 2533 and 2479 of 1980. Common grievance is made regarding certain Government orders pertaining to leases of mining operating by the petitioners in the aforesaid two writ petitions on one hand and the rival petitioners in W.Ps. 2060 and 2074 of 1980 on the other. Hence, all these could be disposed of by a common order. They arise under the following circumstances : The petitioners in W.P. Nos. 2479 and 2533 of 1980, were the lessees under the leases granted by the Government, for quarrying limestone mines. The leases granted by the District

Collector, Mahabubnagar, for a period of five years expired at the end of March, 1980. During the lease period, the Director of Mines and Geology asked the petitioners to stop quarrying operations on the ground of violation of the conditions of lease. Therefore, a writ petition, W.P. No. 2120 of 1977, was filed by the petitioner in W.P. No. 2479 of 1980 and the same was allowed quashing the order of the Director of Mines and Geology. Thereafter, on 24-9-1977, the Deputy Director of Mines, and Geology issued a show cause notice alleging certain irregularities which was duly replied. However, the lease of the petitioner was cancelled along with the leases of 10 others who were similarly situated and so he preferred a revision to the State Government on 22-12-1977. W.P. No. 54 of 1978, which was filed by the petitioner challenging the cancellation was eventually disposed of by this Court on 17-4-1979, with a direction to continue the lease. The petitioner also filed a renewal application on 8-1-1980, before the Assistant Director of Mines and Geology. On 4-4-1980, the revision filed earlier before the Government was allowed with a direction to the Director of Mines and Geology to extend the lease period. This decision of the Govt. was communicated on 30-4-1980. While so, W.P. Nos. 2060 and 2074 of 1980 were filed by third parties on 6-5-1980, challenging the validity of the directions given by the Government. The quarry lease granted to the petitioner expired on 9-4-1980. Since the renewal application made on 8-1-1980, could not be disposed of by the Deputy Director because of the pendency of the revision before the Government within three months" period within which he is expected either to renew or reject the application as per the statutory provisions, it must be deemed to have been rejected. An appeal was preferred on 12-5-1980, before the Director. While the petitioner was continuing to work on the mines, on 23-5-1980, the Forest Range Officer, Kondangal, directed the petitioner to stop quarrying operations. Therefore, the petitioner filed W.P. No. 2479 of 1980 and an interim direction was granted enabling the petitioner to continue the quarrying operations. Precisely the same happened in case of the petitioner in W.P. No. 2533/80. The interim orders were made absolute on 19-6-1980 and therefore, W. A. Nos. 347 and 348 of 1980 were preferred wherein on 7-7-1980, this Court directed the petitioners to deposit the arrears and continue the quarrying operations.

2. The petitioner in W.P. No. 2060 of 1980 filed an application for granting lease in his favour on 14-4-1980 as on that date, the lease which was granted in favour of the petitioner in W.P. No. 2479 of 1980 stood expired. Aggrieved by the orders passed by the Government in revision in favour of the petitioner in W.P. No. 2479 of 1980, he filed W.P. No. 2060 of 1980 on 6-5-1980. It was admitted and an interim direction was ordered to maintain status quo. Likewise, the petitioner in W.P. No. 2074 of 1980, filed an application for the grant of lease on 10-10-1977, though on the said date, the lease granted in favour of the petitioner in W.P. 2533 of 1980, was in subsistence. That application was again renewed on 24-12-1977. However, because of the eventual disposal of the revision by the Government in favour of the petitioner in W.P. No. 2533 of 1980, W.P. No. 2074 of 1980 was filed on 6-5-1980, in which also, this Court after

admitting the writ petition, granted interim direction to maintain status quo,

3. The prayer in W.P. No. 2479 of 1980 is for the issue of a writ in the nature of mandamus directing the respondents not to stop the quarrying operations of the petitioner. Same is the prayer in W.P. No. 2533 of 1980 as well.

W. P. No. 2479/80 :

4. The learned counsel for the petitioner raised the following contentions in his writ petition:

1. The petitioner under Rule 31 (xiv) of the Andhra Pradesh Minor Mineral Concession Rules, 1966 (hereinafter referred to as "the Rules") is entitled to two renewals and since the Government had already directed while disposing of the revision to extend the lease period, the Director of Mines has no alternative but to follow the directions of the Government and renew the lease and pending the orders to be issued by the Director, the petitioner is entitled to carry on the mining operations;

2. The renewal clause is a limitation imposed on the lessor and that power of granting authority is curtailed by the renewal clause. The renewal is a continuation of the old arrangement and the forest officers have no authority to stop the quarrying operations.

3. Since the Government has taken a decision before the expiry of lease viz., 9-4-1980, to renew, there is a fiction entitling the petitioner to continue.

5. Before advertng to the above contentions the relevant statutory provisions may be noted. Rule 13 of the A.P. Minor Mineral Concession Rules, 1966 reads as under:--

"13 (1). Disposal of Applications:--The application for the grant of a quarry lease shall be disposed of within ninety days from the date of its receipt and if it is not disposed of within that period, the application shall be deemed to have been refused. The lease deed shall be executed within ninety days from the date of grant of the lease.

(2) The application for the renewal of a quarry lease shall be made at least ninety days before the expiry of the period of lease to the Assistant director and it shall be disposed of before the expiry of the lease period. If the application is not so disposed of within that period, it shall be deemed to have been not renewed". Rule 15 reads :

15. PERIOD OF LEASE: (1) Quarry lease may be granted by the Assistant Director for a period of one year in respect of the minerals which can be extracted without much equipment or investment just like sand, murrum, gravel, lime-shell and lime kankar etc., and for a period of five years in respect of the minerals which require investment, equipment to develop the quarry, such as lime stone, shale granite, slate, marble, shahabad slabs, napa-slabs, nentonite, fuller"s earth etc. If the period exceeds the periods referred to above, prior

approval of the Government shall be obtained.

(2) If the Government are satisfied that for the proper and systematic development of the quarry, a period longer than 1/5 year is necessary and that the applicant or lessee is capable, financially and technically, of developing the quarry on a large scale, a quarry lease may be granted for a longer period not exceeding twice the fixed period. Such lease may, however, be renewed from time to time. Sub-rules (vi) and (xiv) of Rule 31 are:

31. CONDITIONS OF PERMIT OR LEASE:

Every quarry lease shall, in addition to such conditions as may be specifically stipulated in each lease, be subject to the following conditions viz:--

(vi) The lessee shall, if required by the Assistant Director effect and maintain at his own expense, boundary pillars of substantial material, standing not less than one metre above the surface of the ground at each corner or angle in the line of the boundary of the area under lease or permit and at intervals of not more than 183 metres along with the boundary, delineated in the plan attached to the area under lease or permit;

(xiv) If the lessee to whom a quarry lease is granted has duly observed all the conditions of his lease or permit and given ninety days previous notice in writing to the Assistant Director, requesting grant of the renewal of the lease, the Assistant Director shall grant renewals for not more than two times to the period of quarry lease, subject to the following criteria namely:--1st renewal;

(a) systematic development of the quarry/quarries;

(b) development of good communication facilities and their maintenance;

(c) investment on transport;

(d) training of skilled labour and commitments on labour retention and inducement;

(e) preliminary work and investment for establishment of a processing (dressing or upgrading) plant utilising the product from the quarry/quarries in question;

(f) establishment of market, for the product, either in raw form or in processed or semiprocessed form; 2nd renewal:

(a) establishment of processing plant, either individually or in joint partnership with others;

(b) development of market in the country or abroad; (effort in this direction is very important);

(c) any long term contracts with established industries for supply of quarry product;

(d) setting up of an industry in the region, either individually or in partnership

with others;

XX XX XX

6. In support of his first contention, learned counsel for the petitioner relied upon the following decisions:

In Rajasthan Mineral and Co., Jaipur Vs. Union of India (UOI) and Others, it has been held:

"Both the parties agree that under the Business Rules, it is the Minister who has ultimately to pass the order granting lease to an applicant. The matter is not to be referred to the Governor for final sanction. In such circumstances, whatever the order was passed by the Minister even if it is taken to be an advice to the head of the State, it shall be taken that advice was deemed to have been accepted by the Head of the State as under the Business Rules that advice was not to go to the Governor for final sanction and in such circumstances that sanction of the Minister cannot be deemed to be a provisional order because it did not require sanctioning from the Head of the State."

In Dharam Chand Jain Vs. The State of Bihar, , it is held:

"Under Rule 54 of the Mineral Concession Rules, 1960, the Central Government acts as a revisional tribunal against any order passed by the State Government and has obviously, therefore, the same powers as the State Government. In these circumstances, therefore, when the Central Government allows the revision application and directs the State Government to grant the licence to the applicant, the order must be deemed to be an order passed by the Central Government granting the prayer of the applicant for issue of the mining lease. The order of the Central Government therefore, leaves no discretion to the State Government to refuse to grant the mining lease to the applicant.

In fact to take the view that the State Government could decline to carry out the Order of the Central Government on ground which it thinks proper would be subversive of judicial discipline. Therefore, when the applicant preferred a revision application to the Central Government against the refusal of the State Government to carry out the order of the Central Government by rejecting his application, there was absolutely no legal justification at all for the Central Government to go back upon its earlier order even on the ground which came into existence subsequent to the making of the earlier order. The earlier order of the Central "Government stood unvaried and unvacated and the State Government was bound to implement it and, therefore, the Central Government was in error in upholding the action of the State Government rejecting the revision application filed by the appellant.

In P. Swarajyalakshmi Vs. The State of Andhra Pradesh and Others, , a Division Bench of this Court held:

"Every Tribunal invested with a power to determine a controversy has inherent

jurisdiction to pass such orders in relation to the subject-matter of the controversy as would meet the ends of justice although there might be no direct statutory provision therefor. Similarly every authority empowered to entertain an appeal must ex-necessitate have the power to review the order of the original authority and pass such orders in relation thereto which the justice of the case requires, though this is, of course, not to say that the appellate authority is invested with an arbitrary power. To hold otherwise would render infructuous the exercise of the appellate jurisdiction vested in the State Transport Authority u/s 4 of the Motor Vehicles Act.

A revisional authority can exercise the power of remand which is a necessary incident of its power to revise an order or proceeding of subordinate authorities. The revisional power conferred on the Government u/s 64-A of the Motor Vehicles Act is analogous to the jurisdiction vested in the High Court u/s 115 of the Code of Civil Procedure. The words "may pass such order in reference thereto as it thinks fit" in Section 64-A of the Motor Vehicles Act are in pari materia with the words "may make such order in the case as it thinks fit" contained in Section 115 of the Code of Civil Procedure.

When once the jurisdiction to revise is established, there is no limitation imposed on the power of the authority as to the mode of disposal. The revisional authority may finally dispose of the case itself or pass any other order which may satisfy the justice of the case. What the order should be in any particular case would depend on the circumstances of that case."

7. These citations have been relied upon for the proposition that since the minister passed the order on 4-4-1980, itself i.e., before the expiry of the lease period on 9-4-1980, though the same was communicated on 30-4-1980 in reality it must be deemed to have been ordered before the expiry of the time. The communication as such is not the essence of the matter. Since the minister, while disposing of the revision had before him the renewal application which was made by the petitioner on 8-1-1980, itself, he directed the authority to renew the lease. Now, it is not open to the licensing authority to take a decision contrary to what the minister had already decided. Therefore, it is obligatory on the part of the Director of Mines to extend the lease period. We apprehend the contention of the learned counsel is unfounded. The decisions cited, are with reference to the statutory provisions with regard to various other enactments or Rules but not with regard to the Andhra Pradesh Minor Mineral Concession Rules. They are not in pari materia either.

8. The crucial provision are Rules 15 and 31 (xiv). Rule 15 confers power on the Assistant Director to grant lease either for a period of one year or for a period of five years and if the period exceeds the periods referred to above, prior approval of the Government should be obtained. So, the original authority for grant of lease is the Assistant Director. However, in Sub-rule (2) of Rule 15, it is provided that it would be competent for the Government to grant lease for a period longer than one year or five years, as the case may be, referred to in Sub-rule (1) of

Rule 15 not exceeding, of course, twice the fixed period. But such leases may be renewed from time to time. Therefore, the provision contemplated under Rule 15 clothing the Government with a power to grant lease exceeding five years in case of lease granted for quarrying limestone, is with reference to the grant made at the first instance and not at a time when renewal of the lease is applied for. It is further made clear by the provision enacted in Rule 31 (xiv) which reads that if the lessee, to whom a quarry lease is granted, requests for grant of renewal, the Assistant Director shall grant renewals for not more than two times to the period of quarry lease, subject to certain criteria.

9. This amply demonstrates that the Government cannot direct the renewal straightway and in particular at a time when the revision is pending. It is not open to the Government to direct the renewal straightway which power actually as per the statutory provisions resides in the Assistant Director. In fact, a reading of the two rules in combinatory makes it clear that at a time when a renewal has to be granted various elements enumerated in (a) to (f) of Rule 31 under the heading "1st renewal" have to be taken into consideration. Therefore, it is rather futile for the learned counsel for the petitioners to contend that it is open to the Government to direct the concerned authority to renew the lease straightway.

10. However, there is another aspect of the matter. It is then argued that an appeal has been preferred on 12-5-1980, against the rejection of the application for renewal which was made on 8-1-1980 and the appellate authority has not disposed of the appeal one way or the other. Therefore, till the disposal of the appeal, the petitioner will be entitled to carry on the quarrying operations in anticipation that his lease will be renewed by way of extension. There is some force in this contention. We, however, propose to postpone the adjudication on this to a later stage, when we consider the second contention raised by the learned counsel for the petitioner.

11. Regarding the second contention, the learned counsel for the petitioner placed reliance on the following decisions:

In *Chhatu Ram Horil Ram Ltd. Vs. State of Bihar and Another*, it was held:

"We agree with the High Court that a clause for renewal of the lease at a future date was a limitation imposed upon the lessor. His freedom as an absolute owner was sought to be curtailed by such agreement. It was thus an incumbrance and all incumbrances were wiped out by Section 4.

Taking all these provisions into consideration, an agreement for renewal of a lease in future cannot be binding upon the State Government after the vesting of the estate".

7. Counsel for the appellant relied upon Rule 40 of the Mineral Concession Rules, 1949 and contended that under the scheme of the Rules a lessee of a mining lease is entitled to at least one renewal. Rule 40, insofar as is material, provides:

(1) The period for which a mining lease may be granted shall be 30 years in the

case of coal, iron-ore and bauxite for manufacture of aluminium and 20 years in the case of any other minerals, unless the applicant himself asks for a shorter period. The lease shall be renewable at the option of the lessee, for one or two periods, each not exceeding the duration of the original lease, in the case of iron-ore and bauxite for manufacture of aluminium, and one period not exceeding the duration of the original lease in the case of other minerals."

But Rule 40 has no application. Manifestly the rule applies to grants made by the Government; it has no application to statutory leases arising by virtue of Section 10 of the Bihar Land Reforms Act. Even assuming that Rule 40 applies to such a statutory lease, the duration of the "original lease" may be deemed to be no longer than the period, between the date of vesting and September 30, 1955. That period for which renewal may have been claimed has expired many years ago, and recognition of the rights of the appellant Company will be of no practical significance in this appeal." In *Seshagiri Rao v. D.R.O. Krishna District* 19781 Andh LT 62 this Court dealing with Rules 14 and 31 (ii) read with Rules 10 (2) and 14 (2) of the Andhra Pradesh Minor Mineral Concession Rules 1966, held :

"From a reading of the clause, it becomes manifest that the lease which has originally been granted by public auction is continued provided the lessee had observed all the conditions of his lease and has given six months" previous notice in writing requesting for renewal. While granting the renewal, the Collector is however, empowered to impose such terms and conditions as he thinks fit. In these cases before granting renewals, the Collector has imposed a condition that the amounts should be raised by 25%. The lessee accepted this and continued their leases until they are finally terminated. Renewal in its very nature is only a continuation of the old arrangement. Therefore, it is difficult for us to make any distinction between the original lease based on auction and its renewal. Justice Jeevan Reddy also does not appear to take a different view. On the other hand, while dealing with the decision of Madhava Reddy, J., in W.P. Nos 4903 and 4910/73 dated 13-2-1975, Jeevan Reddy, J., distinguished these cases on the ground that they were cases of renewals thereby meaning that cases of renewals stand on a different ground. Madhava Reddy, J., in W.P. No. 4903/73 granted relief to the petitioner there and held that seigniorage fee could not be collected. This is a case of renewal. The decision of Madhava Reddy, J., accords with our view not only with regard to renewal but also in respect at the option in the case of leases based on public auctions."

12. Based on this, the learned counsel for the petitioner referred to Rule 26 of the Rules which reads as under :

"26. Penalty for unauthorised quarrying : If any person carries on quarrying operations in contravention of these rules, he shall be liable to pay as penalty such enhanced seigniorage fee together with the assessment as may be imposed by an order of the Deputy Director."

13. He also, by way of reinforcement, relied upon a decision reported in C.

Lakshman Reddi Vs. The State Transport Authority, Andhra Pradesh and Another, , wherein a Bench of this Court, while dealing with the provisions enacted in Section 62 (1) (d) of the Motor Vehicles Act, held;--

"The Learned Government Pleader contends that by giving such retrospective effect, the provisions of Section 62 (1) (d) which provide for grant of a temporary permit pending decision on an application for the renewal of the permit will be rendered nugatory. But I am unable to agree with this contention. In a case where an operator applied for the renewal of a permit, it is open to him either to apply for a temporary permit u/s 62 (1) (d) pending disposal of the application for renewal of the permit or he may also run the vehicle in anticipation of the renewal of the permit. Of course, in a case where the permit has not been renewed, the operator will take the risk of having to pay the maximum tax and also penalty. But if the permit has been renewed, it will take effect from the date of the expiry of the original permit and it cannot be said that the vehicle was run without a valid permit. The words "such renewal shall have effect from the date of such expiry irrespective of whether or not a temporary permit has been granted under Clause (d) of Section 62 (1)" occurring in Sub-section (4) of Section 58 make it clear that even in a case where the vehicle was run without a temporary permit, the renewal shall have effect from the date of expiry of the permit."

and submitted that since the renewal is nothing but a continuation of an old agreement, the renewing authority, may at the time of renewal, impose conditions with regard to the period for which there was no prior renewal by imposing either seigniorage fee or increasing the rental suitably. We are inclined to accede to this proposition and in this we are fortified by a Bench decision of this Court reported in *Sheshagiri Rao v. D.R.O. Krishna District* (1978) 1 ALT 62 (supra); Provided, the authority, at the time of renewal, considers that the lessee is entitled for renewal after being satisfied with the criteria laid down under the rules and then it will be open to the authority concerned to impose such conditions as it deems fit. While considering the renewal application, it goes without saying the authority will have to act within the four corners of the statutory provisions and if that authority eventually considers and concludes for the renewal, then taking into consideration the various decisions laid down by this Court and also the provisions enacted in the rules, it will stipulate accordingly. This equally answers the query raised earlier by the learned counsel as to whether the petitioner lessee will be entitled to carry on mining operations during the pendency of appeal for renewal, even after the expiry of lease period.

14. In view of this, the contention of the learned Government Pleader and the supporting arguments of the learned counsel for the petitioners in W.P. Nos. 2060 and 2074/1980 that a lessee cannot continue the operations upon the mines without the licence being renewed, the moment licence period is expired, is rejected.

15. We now come to the last argument of the petitioners, for which the learned

counsel placed reliance on the decision reported in Kangra Valley State Co., Ltd. Vs. State of Punjab and Others, . In the case, the Supreme Court was concerned with the statutory provisions enacted under Mines and Minerals (Regulations and Development) Act 1957 and it held as follows:

"It is clear that the object of these rules laying down time-limits for making applications, acknowledging their receipts and disposal thereof was to see that the development of mines and exploitation of minerals took place both in a regulated manner and without any undue delay. Rule 28 with which we are immediately concerned not only lays down the time within which a renewal application is to be made but also provides that if it is not disposed of before the expiry of the lease the period of the lease shall be deemed to have been extended for a further period of six months or ending with the date of the receipt of the orders of the State Government thereon whichever is shorter. The object of providing time-limit for the renewal of application was that sufficient time before the expiry of lease was available to the State Government to decide whether the renewal should be granted or not, for, if the renewal was not granted the land in question would be available for regrant and the State Government would have to declare that the land was so available for regrant, invite applications for the grant of the lease and follow the procedure laid down in the Act and the Rules therefor. It is obvious that if the time of six months prescribed in Rules 22 and 28 was not available to the State Government it would not be possible for it to decide within time and to follow the procedure for granting a fresh lease to some one else. The result would be that mining operations would be delayed in that particular land and to that extent the object of the Act and the duty imposed by Section 18 on the Central Government would be delayed or defeated. Considering the scheme and the object of the Act and the rules it is not possible to agree with Mr. Gupte that Rule 28 was not intended to be mandatory and is only directory".

16. The submission of the learned counsel is that what the Supreme Court observed in regard to Section 18 of the Mines and Minerals (Regulations and Development) Act, 1957 and Rules 22 and 28 of the Rules framed under the Act, will also be equally applicable to the case before us and therefore by way of legal fiction it must be presumed that the lessee was acting under the deemed renewal, as otherwise, the result would be that mining operations would be delayed, which would indirectly and adversely affect the object of the Act and the Rules resulting in loss to the exchequer and also would impose a very heavy burden on the petitioner in maintaining the enormous establishment,

17. The provisions enacted in Mines and Minerals (Regulation and Development) Act and the rules framed thereunder are not in pari materia with the rules in the case before us; unlike in the former, where if renewal is not made one way or the other, then, by virtue of a deemed provision, it will be deemed to have been renewal which is exactly the converse case in the Minor Mineral Concession Rules. It is stated by the learned counsel for the petitioner that some of the

States in the country like Rajasthan and few other States have amended the Minor Mineral Concession Rules enacting a provision that if the renewal application is not considered one way or the other within the period fixed, then, it will be deemed that it has been renewed. Be that as it may, such a provision does not exist in the Andhra Pradesh Minor Mineral Concession Rules. But one thing which stands out distinct in these cases is the circumstances under which the lease period came to be expired, the circumstances under which the renewal application could not be considered one way or the other by the authority concerned, and the circumstances in which the delay has occurred. All these can be said to be beyond the control of the renewing authority and it could not be said to be the making of the petitioner either. Be that as it may, in our judgment, the legal fiction which is sought to be made the basis in order to drive home the argument of the learned counsel for the petitioner is devoid of substance and we are not inclined to agree with it. In so far as the argument pertaining to the provision made in Rule 9 of the Rules is concerned, there is sufficient force in the argument of the learned counsel for the petitioner. The petitioner who was carrying on the mining operations, even though beyond the expiry of the period pending the appeal before the authority concerned, was stopped by the forest officials, which power apparently, as stated by the learned Government Pleader, appears to have been exercised under the proviso to Rule 9, which reads:--

"9. Authority to Grant Quarry Lease or Permit:--

(i) Every application for grant of a quarry lease in respect of a land shall be made in Form "B" to the Assistant Director concerned and shall be disposed of by him.

XX XX XX Provided that the applications for grant of a lease or a permit in respect of a reserved forest land shall be disposed of after consultation with the Divisional or the District Forest Officer concerned."

18. It is quite evident from the proviso that the proposal for granting of a lease when made and considered for the first time, consultation with the concerned forest officer is contemplated as essential; but not thereafter when the renewal is sought to be made because it is not to be found anywhere in the renewal provisions either in Rule 15 or Rule 31 (xiv) of the rules making it mandatory on the part of the Mining Department to consult the Forest Department and therefore, the alleged stoppage by the Forest Department on 23-5-1980 is in contravention of the rules. It is competent for the Mining Department if at all to prevent the petitioners from carrying on the mining operations. Therefore, the argument of the learned Government Pleader in this behalf has no substance and the same is liable to be rejected.

19. W.P. 2533/1980: In this case, the petitioner submitted the renewal application on 8-4-1980 i.e. just one day before the expiry of grace period. It may however be stated that the facts and circumstances in the case of this petitioner are more or less analogous to the case of the petitioner in W.P. No. 2479/1980 and therefore, it is unnecessary to restate the entire facts. The

complaint of the petitioner is against the stoppage made by the Forest Department. So whatever holds good for the petitioner in W.P. No. 2479/1980 will also be equally applicable to the case of the petitioner in this Writ Petition but with one distinction, that is, in this case, the petitioner filed renewal application on 8-4-1980 which is one day before the expiry of the grace period. As per Rule 13 (2) of the Andhra Pradesh Minor Mineral Concession Rules, 1966, every renewal application shall be made at least 90 days before the expiry of the period of lease without adjudicating upon the merits, we however deem it proper, in the circumstances of the case, just as we propose to do the same in the case of the petitioner in W.P. No. 2479/1980, to direct the authority concerned to dispose of the renewal application pending before it, in accordance with law.

20. Coming to W.P. No. 2060/1980 and W.P. No. 2074/1980 the petitioners have challenged the order made on the revision petitions filed by the petitioners in W.P. Nos. 2479 and 2533 of 1980 in which the Government directed the concerned authority to renew the lease. Their submissions in the main are that it is not competent for the Government under Rule 35-A of the rules to straightway direct the licensing authority to renew the lease, and it can only direct the licensing authority to consider the renewal applications so made. This is a sufficient foundation for the argument and we agree that it is not competent for the Government to straightway direct the competent licensing authority to renew the lease and it can only seek to direct the consideration of the renewal applications. We may observe that in these cases, the Government was only concerned with the disposal of the Revision petitions filed by the petitioners in W.P. Nos. 2479 and 2533 of 1980 reagitating the act of the Deputy Director, in cancelling the leases and to that extent, the Government after going through the entire record and the material placed before it, concluded that the cancellation was wrong and accordingly set aside that cancellation. Since the period within which the renewal application was to be considered was coming to an end and inasmuch as the renewal applications made by the petitioner were pending, a direction was thought necessary by the Government to consider the renewal applications. But the Government in ordering the licensing authority to renew straightway, has overstepped its authority so conferred under the statutory provisions.

21. In view of the above and in view of the peculiar circumstances of these cases, we make the following :

Order : (1) The renewal applications made by the petitioners in W.P. Nos. 2479 and 2533/1980 will be considered by the authority concerned in accordance with law within six weeks from the date of receipt of this order,

(2) Pending consideration of the aforesaid renewal applications, the petitioners in W.P. Nos. 2479 and 2533 of 1980 shall be entitled to carry on the quarrying operations. The petitioners however shall be liable to pay seigniorage fee, royalty and such other impositions contemplated by the Andhra Pradesh Minor Mineral Concession Rules 1966, which the concerned authorities eventually impose in

accordance with the statutory provisions.

(3) If, for some reason, the renewal applications are not favourably considered, the applications made by the petitioners in W.P. Nos. 2060 and 2074/1983 will be considered in accordance with the rules. W.P. Nos. 2479 and 2533/1980 are partly allowed and W.P. Nos. 2060 and 2074/1980 are allowed. The Writ Appeals are accordingly disposed of. No costs. Advocate's fee Rs. 100/- in each.

22. An oral application was made by the learned Government Pleader for leave to appeal to the Supreme Court. Since no substantial question of law of general importance arises in these cases which, in our view, requires the consideration of the Supreme Court, the leave is rejected.