

(2022) 01 TEL CK 0021
In the Telangana High Court
Case No : Writ Appeal No. 760 Of 2007

V.Swamy Goud, Nalgonda.

APPELLANT

Vs

N.Penchala Naidu, Hyderabad 4 Others

RESPONDENT

Date of Decision : 19-01-2022

Acts Referred:

Constitution Of India, 1950 — Article 14, 226
A.P. Minor Mineral Concession Rules, 1966 — Rule 9A, 9A(1), 9A(2), 10, 12, 12(3),
12(5)(e), 13, 13(1), 35A
Rajasthan Minor Mineral Concession Rules, 1977 — Section 56, 57
Mines And Minerals Development And Regulation Act, 1957 — Section 14, 15(1)

Citation : (2022) 01 TEL CK 0021

Hon'ble Judges : Satish Chandra Sharma, CJ;Abhinand Kumar Shavili, J

Bench : Division Bench

Advocate : Dharmesh D.K.Jaiswal, Gandyadapu Rajesh

Final Decision : Dismissed

Judgement

1. The present writ appeal is arising out of an order dated 13.07.2007, passed in W.P.No.11152 of 2007 by the learned Single Judge, by which the

learned Single Judge has set aside the order dated 19.05.2007 passed by the respondent No.2 herein/Director of Mines and Geology granting lease in

favour of the appellant herein, who is the respondent No.5 in the writ petition.

2. The undisputed facts of the case reveal that Smt V.Swaroop Rani (respondent No.5 in the writ appeal and respondent No.4 in the writ petition),

who is the wife of the appellant herein, was granted a quarry lease for rough stone and road metal in survey No.438 of Pillaipally Village, Pochampally

Mandal, Nalgonda District over an extent of 4 hectares for a period of 15 years vide order passed by the respondent No.3 herein/Deputy Director of

Mines and Geology, dated 17.09.2004 with a condition to execute the lease deed

within 90 days from the date of grant. She failed to execute the lease deed within the stipulated period of 90 days and applied for extension of time to execute the lease deed and was accorded extension for a further period of 30 days under Rule 13(1) of the A.P. Minor Mineral Concession Rules, 1966. The undisputed facts further reveal that even in the extended period, she could not execute the lease deed and vide order dated 18.05.2006, the respondent No.3 herein/Deputy Director of Mines and Geology has revoked the earlier order granting lease, which was in favour of Smt V.Swaroopaa Rani, the respondent No.5 herein.

3. The undisputed facts further reveal that one Mr N.Penchala Naidu (respondent No.1 in the writ appeal and the writ petitioner) submitted an application after expiry of the extended period, which was granted to Smt V.Swaroopaa Rani to execute the lease, on 03.12.2005 for grant of quarry lease in respect of the same area in survey No.438 of Pillaipally Village and the husband of Smt V.Swaroopaa Rani, who is the appellant herein, also made an application on 16.06.2006 for the same area for grant of the quarry lease. The application of Mr N.Penchala Naidu, respondent No.1 herein/writ petitioner, was considered by the respondent No.4 herein/Assistant Director of Mines and Geology, who has submitted proposals recommending for grant of quarry lease in favour of Mr N.Penchala Naidu and finally the respondent No.3 herein/Deputy Director of Mines and Geology, vide order dated 10.01.2007 granted quarry lease for a period of 15 years to Mr N.Penchala Naidu subject to the terms and conditions laid down under A.P. Minor Mineral Concession Rules, 1966. The application preferred by Mr V.Swamy Goud, the appellant herein, who is the husband of Smt V.Swaroopaa Rani was rejected and thereafter, the appellant herein preferred an Appeal before the respondent No.2 herein/Director of Mines and Geology. Smt V.Swaroopaa Rani, wife of the appellant herein also preferred an Appeal before the respondent No.2 herein/Director of Mines and Geology against the order dated 18.05.2006, by which the lease granted in her favour was revoked. The Appeals preferred by Mr V.Swamy Goud and Smt V.Swaroopaa Rani were disposed of by a common order dated 19.05.2007. The appellate authority has set aside the order dated 10.01.2007, by which the lease was granted in favour of Mr. N.Penchala Naidu, respondent No.1 herein/writ petitioner on the ground that the application was

made prior to revocation of leave, i.e., 18.05.2006, granted in favour of Smt V.Swaroop Rani. Meaning thereby, the order granting lease in favour of

Mr. N.Penchala Naidu, respondent No.1 herein/writ petitioner, was set aside and at the same time, the Appeal preferred by Smt V.Swaroop Rani

was dismissed on the ground that she has failed to execute the lease deed within the stipulated time. The Order dated 19.05.2007 was subjected to

judicial scrutiny by Mr N.Penchala Naidu, in whose favour earlier lease was granted and the learned Single Judge has allowed the writ petition, i.e.,

W.P. No.11152 of 2007, vide Order dated 13.07.2007. The learned Single Judge while allowing the writ petition has held as under:-

â??The learned Counsel for the 5th respondent as well as the learned Government Pleader for the respondents 1 to 3 at the outset raised an objection

as to the maintainability of the writ petition on the ground that an alternative remedy of Revision is available under Rule 35-A of the AP Rules, 1966

against the impugned order. It is contended that without exhausting such a Statutory remedy, the petitioner cannot maintain this writ petition.

In support of the said contention, the learned Counsel for the 5th respondent has relied upon a decision of the Supreme Court in STATE OF GOA

AND OTHERS V. M/S. A.H. JAFFAR AND SONS AIR 1995 SC 333 as well as a decision of this Court in GUDA ANJANEYULU V.

GOVERNMENT OF ANDHRA PRADESH 2002 (4) ALT 755.

It is true that Rule 35-A of the AP Rules, 1966 provides for a Revision against the impugned order, however the law is well-settled that the existence

of an alternative remedy is not an absolute bar to grant relief in exercise of the extraordinary jurisdiction of this Court under Article 226 of the

Constitution of India. Particularly where the dispute does not involve serious questions of fact which require consideration of evidence, this Court can

entertain a writ petition under Article 226 of the Constitution of India notwithstanding the availability of alternative remedy. In this regard, it is suffice

to refer to the decision of the Supreme Court in ABL INTERNATIONAL LIMITED AND ANOTHER vs. EXPORT CREDIT GUARANTEE

CORPORATION OF INDIA (2004) 3 SCC 553 wherein it was held that the power to issue prerogatory writs under Article 226 of the Constitution

of India is plenary in nature which can be exercised even in cases of availability of other remedies in appropriate cases where the High Court is

satisfied that the action of the State or its Instrumentality is arbitrary and unreasonable so as to violate the Constitutional Mandate of Article 14 or for other valid and legitimate reasons for which the Court thinks fit necessary to exercise the said jurisdiction.

In the case on hand, the facts are not in dispute, and the only question involved i.e., whether the petitioner's application which was admittedly made prior to the order of revocation of the lease granted in favour of the 4th respondent can be termed as premature and liable to be rejected on that ground, requires consideration on interpretation of relevant statutory provisions. Hence, I am not inclined to reject the writ petition at the threshold on the ground of availability of alternative remedy.

Coming to the merits of the case, it is relevant to note that in exercise of the powers conferred under Section 15 (1) of the Mines and Minerals

Development and Regulation Act, 1957 (for short "the Act"), the State Government made A.P. Minor Mineral Concession Rules, 1966 (for

short, A.P. Rules, 1966) regulating the grant of mining leases in respect of minor minerals in the State of Andhra Pradesh and for the purposes

connected therewith. Rule 12 of the AP Rules, 1966 provides for grant of quarry lease for any minor mineral. Rule 13 of the AP Rules, 1966 provides

for disposal of the applications received for grant of quarry leases for any minor mineral.

Since rough stone and road metal are minor minerals, the applications received for quarry lease are required to be considered in accordance with

Rules 12 and 13 of the AP Rules, 1966.

Sub-rule (3) of Rule 12 of the AP Rules, 1966 provides for classification of the applications received for minor minerals specified under Schedule-I to

Rule 10 which included rough stone and road metal, into four categories. The said Rules also specified the order of preference among the said four

categories. The applications received from the individuals come under category (4) under sub-rule (3) of Rule 12 of the AP Rules, 1966 and it is not in

dispute that the applications of both the petitioner and the fifth respondent fall under the said category. The fifth proviso to sub-rule (3) of Rule 12 of

the AP Rules, 1966 which provides for the order of preference to be given whenever more than one application under category (4) are received runs

as under:

â??Provided also that whenever more than one application falling under category (4) above are received for grant of a quarry lease and have to be considered in the order of preference specified above, such preference shall be given to the applications according to the date of their receipt, unless the Government, for special reasons, otherwise direct and in case of applications received on the same day, the (Deputy Director) after taking into consideration the particulars furnished in the applications, may grant the lease to any deserving applicant; or he may, with the previous approval of the Director, grant a quarry lease to an applicant whose application was received later in preference to an earlier application for any special reason to be recorded in writing.â??

A plain reading of the above proviso shows that the preference shall be given according to the date of receipt of the applications. However, power is conferred on the Deputy Director with the prior approval of the Director to grant a quarry lease to the applicant whose application was received later in preference to the earlier application for the reasons to be recorded in writing.

In the light of the above rule position, the learned Counsel for the petitioner contended that the petitionerâ??s application dated 3-12-2005 being the earliest in point of time, the petitioner alone is entitled for the grant of lease in question.

On the other hand, the learned Counsel for the 5th respondent contended that since the lease in favour of the 4th respondent dated 17-9-2004 was revoked only on 18-5-2006, as on the date of the petitionerâ??s application the area in question was not available for grant of lease and therefore his application was rightly rejected by the 1st respondent as premature. Thus, according to the learned Counsel, the application of the 5th respondent made on 16-6-2006 i.e., immediately after revocation of the lease in favour of the 4th respondent should be treated as the application first in point of time and therefore the impugned order setting aside the lease granted in favour of the writ petitioner was in accordance with law and warrants no interference.

For proper appreciation of the controversy involved in the matter, at the cost of the repetition, the relevant dates may be noted again:

17-09-2004 : The 4th respondent was granted lease subject to condition of

executing lease deed within 90 days from the date of grant which was extended by another 30 days.

17-01-2005: Time granted to 4th respondent for execution of lease deed expired.

03-12-2005: Petitioner made an application for quarry lease.

18-05-2006: In terms of Rule 13 (1) of the Rules an order was passed by the 2nd respondent revoking the order granting lease in favour of the 4th respondent.

16-06-2006: 5th respondent made an application for lease over the same area.

From the above dates, it is apparent that the petitioner's application dated 3-12-2005 was made prior to the order dated 18-5-2006 revoking the

lease granted in favour of the 4th respondent, but after the expiry of time stipulated for execution of the agreement by the 4th respondent. Then, the

question that requires consideration is whether the 1st respondent was right in concluding that by the date of the petitioner's application the area

covered by the order dated 17-9-2004 was not available for grant of fresh lease and therefore the petitioner's application shall be treated as premature.

It is relevant to note that the lease granted in favour of the fourth respondent vide proceedings dated 17-9-2004 did not come into operation at all and

consequently she did not acquire any mining rights in respect of the area in question. By virtue of the order dated 17-9-2004 the 4th respondent had

only acquired a right for grant of lease which stood extinguished on the expiry of the time granted to her for execution of the lease deed. As noticed

above, the 4th respondent was granted 90 days time from the date of grant i.e., 17-9-2004 for execution of the lease deed and the same was further

extended for another 30 days, which expired on 17-1-2005. Thus, the right acquired by the 4th respondent for grant of lease came to an end on 17-1-

2005 itself and consequently the area in question is very much available for fresh lease from 18-1-2005 onwards. It is true that under Rule 13 (1) of

the AP Rules, 1966, the Deputy Director of Mines & Geology is required to revoke the order granting lease in case no lease deed is executed within

the stipulated period or extended period due to any default on the part of the applicant and such an order was passed in the case on hand only on 18-5-

2006. However, I am unable to agree with the contention of the respondents that

the area covered by the order dated 17-9-2004 was not available for fresh lease till 18-5-2006 i.e, the date on which the Deputy Director of Mines & Geology had passed the order of revocation. Since admittedly the extended period for execution of the lease deed by the 4th respondent expired in the month of January, 2005 itself, the mere fact that the order of revocation, in compliance with the statutory requirements was passed on 18-5-2006 would not extend the right acquired by the 4th respondent for grant of lease till 18-5-2006. The order of revocation dated 18-5-2006, in my considered opinion, has no significance for the purpose of deciding the availability of the area in question for grant of fresh lease particularly in the absence of any specific provision which obligates notifying the availability of area either for fresh grant of lease or on expiry of lease of minor mineral. Hence, all the applications from the prospective applicants received after 17-1-2005 are valid and required to be taken into consideration for the purpose of grant of fresh lease.

It is also relevant to note that the mineral in question being a minor mineral, by virtue of Section 14 of the Act the requirement of notifying the availability of area in the Official Gazette for grant of lease does not apply. The only provision which provides for notifying the availability of area as well as premature applications for grant of mining lease for minor minerals is Rule 9-A which runs as under:

9-A. (1) Reservation of areas for exploitation in the public sector, etc.:— The State Government may, by notification in the Official Gazette, reserve any area for exploitation by the Government, a Corporation established by any Central, State or Provincial Act or a Government Company within the meaning of Sec. 617 of the Companies Act, 1956 (Central Act 1 of 1956).

(2) Availability of area for re-grant to be notified:— No area which has been reserved by the Government under Rule 9-A (1) shall be available for grant of quarry lease unless the availability of the area for grant is notified in the Official Gazette specifying a date (being a date not earlier than thirty days from the date of the publication of such notification in the Official Gazette) from which such area shall be available for grant.

(3) Premature applications:— Applications for the grant of a quarry lease in

respect of areas whose availability for grant is required to be notified under Rule 9-A (2) shall if, --

(a) No notification has been issued under that rule; or

(b) Where any such notification has been issued the period specified in notification has not expired, shall be deemed to be premature and

shall not be entertained; and the application fee thereon, if any paid, shall be refunded.â??

There can be no dispute that the above rule does not apply to the case on hand since the area in question has never been reserved for exploitation by

the Government under Rule 9-A(1) and consequently there is no question of notifying the availability of the area for re-grant under Rule 9-A(2).

In DEVANGULA LAXMINARAYANA v. THE DIRECTOR OF MINES & GEOLOGY, GOVT. OF A.P. AND OTHERS AIR 1991 AP 167,

this Court while dealing with identical circumstances where the existing lessee holding lease in respect of a minor mineral upto 18-9-1989 did not apply

for renewal of lease within the stipulated period i.e., within 90 days before the expiry of lease, held that an application by a prospective lessee for

grant of fresh lease regarding the same area in the absence of a notification regarding the availability of the land for grant of fresh lease could not be

termed as premature.

As rightly submitted by the learned Counsel for the petitioner, the same analogy applies to the case on hand. In the circumstances, the applications

made by the prospective applicants seeking grant of fresh lease prior to the order of revocation dated 18-5-2006 cannot be termed as premature. As a

matter of fact, it is not possible for the prospective applicants to ascertain whether any such revocation order was passed by the competent authority.

It is interesting to note that the 5th respondent herein is none other than the husband of the 4th respondent and he might have had the knowledge of

revocation order dated 18-5-2006 and accordingly made his application immediately thereafter on 16-6-2006.

Viewed from any angle, the petitioner's application cannot be rejected as premature on the mere ground that the same was made prior to the

order of revocation dated 18-5-2006. As expressed above, the order of revocation dated 18-5-2006 has no relevancy either for deciding the availability

of the area in question for grant of lease or for deciding the order of preference

among the prospective applicants.

The 1st respondent erred in concluding that the application of the petitioner was premature on the basis of the order of revocation dated 18-5-2006 and

setting aside the lease granted in favour of the petitioner vide proceedings of the 2nd respondent dated 10-1-2007. The decision of the Supreme Court

in THE LABOUR CONTRACT CO-OPERATIVE SOCIETY, PALIKUR vs. DIRECTOR OF MINES & GEOLOGY, HYDERABAD AND

OTHERS AIR 1993 SC 147 relied upon by the 1st respondent while allowing the appeal has no application to the facts of the case and the ratio laid

down therein is of no assistance to justify the impugned order.

For the aforesaid reasons, the impugned order dated 19-5-2007 as well as the consequential order of the 2nd respondent granting lease in favour of the

5th respondent dated 11-6-2007 are hereby declared as arbitrary and illegal. Accordingly, both the said orders are set aside and the order of the 2nd

respondent dated 10-1-2007 granting lease in favour of the petitioner is upheld.

Writ Petition is accordingly allowed. No costs.â??

4. The learned Single Judge has allowed the writ petition quashing the order dated 19.05.2007 passed by the respondent No.2 herein/Director of Mines

and Minerals. The undisputed facts of the case makes it very clear that Smt V.Swaroop Rani was granted lease on 17.09.2004, subject to condition

of executing lease deed within 90 days and she did submit an application for extension of time, which was extended by another 30 days. The relevant

statutory provisions as contained under the Telangana Minor Mineral Concessions Rules, 1966 (A.P.Minor Mineral Concession Rules, 1966) are

reproduced as under:-

â??Rule 12 (5) (e) of the Minor Mineral Concession Rules:-

â??The licence or lease deed shall be executed within sixty days from the date of grant or within such further period as the Director may allow in this

behalf provided the grantee applies for extension of time within fifteen days from the date of expiry of period stipulated for execution. Such, extension

may be granted by the Director not exceeding two times, and each time not exceeding 30 days.

Provided that any such application may be entertained even after the prescribed period specified above, if the applicant satisfies the Director that he

had sufficient cause for not making application within the specified time.

Provided further that in case no licence or lease deed is executed within the stipulated period or the extended period due to any default on the part of

the applicant, the Director shall revoke the order granting licence or lease and the deposit amount paid along with application shall be forfeited to the

Government.â??

Rule 13(1) of the Minor Mineral Concession Rules:-

The applicants for the grant of quarry leases for any minor minerals (except sand, granite useful for cutting and polishing and marble) shall be disposed

of by the Deputy Director concerned. The Deputy Director concerned shall reject the applications in the event of concerned shall reject the

applications in the event of default on the part of the applicants for not attending inspection or survey or non-submission of Mineral Revenue

Clearance Certificate or any other material papers as required by Deputy Director. The lease deed shall be executed within ninety days from the date

of grant or within such further period as the Director may allow in this behalf provided the grantee applies for extension of time within thirty days from

the date of expiry of the period stipulated for execution. Such extensions can be granted by the Director not exceeding two times and such time not

exceeding thirty days. If no lease deed is executed within the stipulated period or extended period due to any default on the part of the applicant, the

authority who is competent to grant quarry lease shall revoke the order granting lease.

Provided that any such application may be entertained for the first time even after the prescribed period specified above, if the applicant satisfies that

he had sufficient cause for not making the application within the specified time.

Rule 35-A. Revision of the Minor Mineral Concession Rules:-

â??The Government may either suo motu at any time or on an application made within ninety days, call for and examine the record relating to any

order passed or proceeding taken by the Director [Joint Director], Deputy Director or Assistant Director under these Rules for the purpose of

satisfying themselves as to the legality or propriety of such order or as to the regularity of such proceedings and pass such order in reference thereto

as they think fit:

Provided that no order adversely affecting any person shall be passed under this Rule unless such person has been given an opportunity of making his representation.â??

5. Keeping in view the aforesaid provision of law, it is evident that after 17.01.2005, the area was available for the writ petitioner/respondent No.1

herein to apply for grant of mining lease. The time granted to Smt V.Swaroopaa Rani expired on 17.01.2005 and the writ petitioner made an application

for grant of quarry lease on 03.12.2005. Smt V.Swaroopaa Rani could not have executed the lease deed keeping in view Rule 12(5)(e) of the Rules nor

further time could have been granted beyond 17.01.2005 and therefore, the learned Single Judge was justified in holding that the area was available

and as the writ petitioner applied for grant of quarry lease on 03.12.2005, his application was rightly processed, after the revocation order was passed

on 18.05.2006, and an order was passed on 10.01.2007 granting lease in favour of the writ petitioner, namely Mr N.Penchala Naidu. It is true that on

18.05.2006, the respondent No.3 herein/Deputy Director of Mines and Geology has passed an order revoking the grant of lease in favour of Smt

V.Swaroopaa Rani, but the fact remains that the area was available after 17.01.2005 as no further extension could have been granted to Smt

V.Swaroopaa Rani. The present appellant, who is the husband of Smt V.Swaroopaa Rani, mischievously knowing fully well that his wife cannot apply

for further grant of time, has preferred an application on 16.06.2006 for grant of quarry lease and now he is trying to take shelter of the fact that on

18.05.2006 the order was passed by the respondent No.3 herein/Deputy Director of mines and Geology in terms of Rule 13(1) of the Minor Mineral

Concession Rule rejecting the grant of lease in favour of his wife and therefore, the area was available on 18.05.2006. the learned Single Judge has

rightly arrived at a conclusion that the right accrued in favour of Smt V.Swaroopaa Rani came to end on 17.01.2005 itself and the area in question was

very much available for grant of fresh lease from 18.01.2005 in the light of Rule 13(1) of the Minor Mineral Concession Rules and therefore, the order

passed by the respondent No.2 herein/Director of Mines and Geology dated 19.05.2007.

6. Much has been argued before this Court regarding availability of alternative remedy.

7. In the considered opinion of this Court, on account of availability of alternative remedy, the right accrued in favour of the writ petitioner, Mr

N.Penchala Naidu cannot be wiped out, that too at this stage as this Court is dealing with the writ appeal of the year 2007. He is regularly paying the

lease rent from 10.01.2007 and is also clearing the Government dues since 10.01.2007 and therefore, the alternative remedy will certainly not a bar in

the present case, keeping in view the totality of the circumstances of the case. The alternative remedy is not an absolute bar for entertaining the writ

petition or writ appeal in the peculiar facts and circumstances of the case as the matter is of the year 2007, this Court does not find any reason to

allow the writ appeal on the ground of alternative remedy available to the writ petitioner.

8. Learned counsel for the appellant has placed heavy reliance upon the Judgment delivered in the case of Ajit Singh v. Union of India 1995 Supp (4)

SCC 224. This Court has carefully gone through the aforesaid Judgment and paragraph 11 of the aforesaid Judgment reads as under:-

“11. We may now come to the question whether the second application dated 19-1-1983 submitted by Respondent 5 was premature. The answer

to this question would depend upon the question whether on 19-1-1983 the area in question was available for grant. The appellant has placed reliance

on the provisions of Rules 56 and 57 of the 1977 Rules in this regard. The said Rules provide as under:

“56. Availability of the areas for regrant to be signified by an entry in the register for mining lease and rent-cum-royalty lease.”No

area which was previously held under mining lease or rent-cum-royalty lease shall be treated as available for regrant unless an entry to this effect has

been made in the register of mining lease or rent-cum-royalty lease and 15 days have elapsed from the date of such entry. The aforesaid entry in the

register of mining lease shall be made at least 3 months before the date of expiry of original lease or within 15 days from the receipt of determination

order, as the case may be. In case of rent-cum-royalty lease the entry shall be made on the date of the notification under Rule 27(4). In the case of

mining lease for area of 1sq km or above the date from which it shall be treated as available for regrant shall be notified in the Rajasthan Gazette at

least 30 days in advance. The notification shall mention the relevant rule under which the grant shall be made either by auction or by application.

Note.â?"(a) For the purposes of this rule, the register required to be maintained under Rules 10(2) and 24(2) shall be deemed to be the register for entry under this rule.

(b) In case of a renewal application for mining lease the entry in the said register shall be made within 15 days of the rejection of renewal application.

57. Premature application.â?"Application for grant of mining lease in respect of areas which have been previously held under a mining lease but in

respect of which there is no entry in the register as provided for in the foregoing rule, shall be deemed to be premature and shall be disposed of by the

Government accordingly and the application fee paid shall be refunded.â??

9. In the aforesaid case, the Honâ??ble Supreme Court was dealing with the Rajasthan Minor Mineral Concession Rules, 1977 and under Rules 56

and 57 of the aforesaid Rules, there was a specific clause for notification of the area, in respect of which an application can be submitted for grant of

mining lease. There is no such rule under the A.P.Minor Mineral Concession Rules and therefore, the Judgment is distinguishable on facts. Otherwise

also, Smt V.Swaroop Rani was granted mining lease on 17. 09.2004, she was required to execute the lease deed within 90 days and extension was

granted for further period of 30 days. Meaning thereby, she was entitled to lease upto 17.01.2005 and the statute does not provide for grant of any

further extension and therefore, the area was very much available for grant of mining lease from 18. 01.2005 and the application submitted by Mr

N.Penchala Naidu, writ petitioner on 03.12.2005, was certainly prior in time and therefore, it was rightly considered and mining lease was rightly

granted to Mr. N.Penchala Naidu.

10. Learned counsel for the appellant has also placed reliance upon the Judgment delivered in the case of Opto Circuit India Limited v. Axis Bank

(2021) 6 SCC 707 and his contention is that the procedure prescribed under the statute has to be followed and if the procedure under the statute has

not been followed, it vitiates the decision. It has been vehemently argued that the procedure under the statute was not done in a particular manner as

provided under the statute and therefore, the allotment which was done in favour of Mr. N.Penchala Naidu, writ petitioners, is bad in law.

11. This Court has carefully gone through the aforesaid Judgment. The aforesaid Judgment was in respect of Prevention of Money Laundering Act,

2002. It is certainly true that if a statute provides for a thing to be done in a particular manner, it has to be done in that manner alone and in no other

manner. In the present case, the respondent No.3 herein/Deputy Director of Mines and Geology has followed the statutory provision as contained

under A.P.Minor Mineral Concession Rules and the area was very much available on 18.01.2005 as the right of Smt V.Swaroop Rani stood

extinguished with effect from 17.01.2005 and therefore, the Judgment relied upon by the learned counsel for the appellant is again of no consequence.

12. Learned counsel for the appellant has also placed reliance upon the Judgment delivered in the case of Collector of Customs, Baroda v.

Digvijaysinghji Spinning & Weaving Mills Limited (1962) 1 SCR 896 : AIR 1961 SC 1549. It has been argued before this Court that in the light of the

aforesaid Judgment, the learned Single Judge has given an erroneous interpretation to the statutory provisions and as there was no order passed by the

respondent No.3 herein/Deputy Director of Mines and Geology under Rule 13(1) of the Minor Mineral Concession Rules, revoking the grant of lease

in favour of Smt V.Swaroop Rani and as the same was done only on 18.05.2006, the application submitted by Mr N.Penchala Naidu, writ petitioner,

could not have been treated as prior in time as it was submitted on 03.12.2005.

13. This Court has carefully gone through the aforesaid Judgment and it was again a case relating to Sea Customs Act, 1878. The Judgment relied

upon by the learned counsel for the appellant is distinguishable on facts. In the present case, statute provided for extension and after the extended

period, no right existed in favour of Smt V.Swaroop Rani after 17.01.2005. The respondent No.3 herein/Deputy Director of Mines and Geology was

justified as the area was available with effect from 18.01.2005 for grant of lease in favour of the writ petitioner, Mr N.Penchala Naidu.

14. Reliance has also been placed upon paragraph 14 of the Judgment delivered in the case of State of Gujarat v. Chaturbhuji Maganlal (1976) 3 SCC

54 and paragraph 14 of the aforesaid Judgment reads as under:-

â??14. It is well recognised that where the language of a statutory provision is susceptible of two interpretations, the one which promotes the object

of the provision, comports best with its purpose and preserves its smooth working, should be chosen in preference to the other which introduces

inconvenience and uncertainty in the working of the system. This rule will apply

in full force where the provision confers ample discretion on the

Government for a specific purpose to enable it to bring about an effective result.â??

15. This Court has carefully gone through the aforesaid Judgment and the action of the respondent No.3 herein/Deputy Director of Mines and

Geology in granting lease in favour of Mr N.Penchala Naidu, writ petitioner is certainly in consonance with the statutory provisions of the Minor

Mineral Concession Rules. As stated earlier, the area was very much available for grant of lease on 18.01.2005 and therefore, there was no illegality

committed by the respondent No.3 herein/Deputy Director of Mines and Geology in granting lease in favour of Mr N.Penchala Naidu, writ petitioner.

16. This Court is of the opinion that the learned Single Judge has rightly allowed the writ petition preferred by Mr N.Penchala Naidu and no case is

made out for interference in the order passed by the learned Single Judge.

17. In the light of the aforesaid, this Court does not find any reason to interfere with the Order passed by the learned Single Judge and the Writ

Appeal is accordingly dismissed.

Miscellaneous applications, if any pending, shall stand dismissed. There shall be no order as to costs.