

**THE HON'BLE SRI JUSTICE G.CHANDRAIAH**

**W.P.NOS.23985 and 23994 OF 2008, 2731, 11498, 12449, 13696, 13697, 13698, 13814, 13815, 14117, 14118, 14143, 14160, 15512, 15513, 15514, 15531, 19131, 19250, 19321, 19327, 19335, 22242, 22243, AND 22488 OF 2009 AND 19348 OF 2010.**

**COMMON ORDER**

Heard the respective counsel appearing for the writ petitioners and the Government Pleader for Mines and Geology and Government Pleader for Forest, for the respondents – State and the Assistant Solicitor General of India for Union of India.

2. Since the issue involved in all the writ petitions, is similar, they are heard analogously and are being disposed of by this common order.

3. The petitioners in all the writ petitions, except in W.P.No.19348/2010, have filed applications for grant of mining lease for iron ore, sand stone, quartzite, soap stone, clay etc. The case of the writ petitioners is that they have complied with all the statutory requirements and after joint inspection by the Assistant Director of Mines and Geology and the Divisional Forest Officer, the Assistant Director of Mines and Geology submitted report stating that the iron ore is visible on the surface to the naked eye in the areas sought for mining lease, and accordingly submitted the proposals by recommending for grant of lease in favour of the writ petitioners, to the Joint Director of Mines and Geology. Pending consideration of applications for grant of mining lease, the petitioners were issued with show cause notices under Rule 26(1) of Mineral Concession Rules, 1960 stating that why the mining lease applications of the petitioners shall not be rejected under Section 5(2) of the Mines and Minerals (Development and Regulation) Act, 1957. The petitioners submitted explanations to the show cause notices and eventually, the impugned orders of rejection came to be passed. Challenging the orders of rejection, the present writ petitions have been filed.

4. In W.P.No.19348/2010, the case of the petitioner – company is that it had applied for mining lease for iron ore in an extent of Acs.168-00 in sy.No.1461 part of Ganganpalli village, Pendlimarri mandal Kadapa District on 4.11.2004 to the Assistant Director of Mines and Geology, Kadapa District. Subsequently, on 18.2.2005 the Mandal Revenue Officer, conducted inquiry and informed the Assistant Director of Mines and Geology, that there is no objection for granting mining lease in favour of the petitioner and based on the enquiry report of the M.R.O., the Assistant Director recommended the case of the petitioner for grant of mining lease. The State Government addressed letter in the month of May, 2008 to the Central Government seeking approval for reserving the said area in favour of Andhra Pradesh Mineral Development Corporation and till today, no approval is received. On the ground that the letter addressed by the State Government is

pending with the Central Government, the application of the petitioner was not considered. Aggrieved by the same, the present writ petition is filed.

5. For better appreciation, the grounds of rejection, in the impugned orders passed by the Secretary to Government, in all the writ petitions, is noted as under:

S.no.	Number of the Writ petition	Area and extent	Mineral sought for Mining lease	Grounds of rejection in the impugned orders.
1.	11498/2009	1300-00 hetscs. In compartment nos.77,78 & 79 of Yambayi Reserve Forest, Kurnool District.	Iron ore.	No reply to the show cause notice dated 9.4.2009
2.	19250/2009	1000 hectares in compartment nos.188 & 189 of Mettupalli Reserve Forest, Mandal Dhone, Dhone, Range, Kurnool District.	Iron ore.	No prospecting work was carried out specifically to the applied extents. It is a general geological reconnaissance survey carried out based on the out crops exposure. The actual prospecting consists geological geophysical if necessary geo chemical survey coupled with exploratory drilling to evaluate the reserves grade wise Zone wise to prove reserves in precise applied areas. The Assistant Director Mines and Geology's one day field visit would not bring out the reserves and do not satisfy Section 5(2) of the Act. Hence, the reply given is not satisfactory.
3.	22243/2009	1000 Hectares in Compartment nos.190 & 198 of Peapully R.F., Extention -I & II, Dhone Range, District Kurnool A.P.	Iron ore	- Do -
4.	22242/2009	1500 Hectares in compartment nos.220 to 230, 258 to 267 of Jaladurgam Reserve Forest, Dhone Range, Kurnool District.	Iron ore, sand stone and soap stone	- Do -

5.	19335/2009	1000 Hectares in compartment nos.241 to 245 & 248 to 250 of North Dhone Reserve Forest, Dhone Range, Kurnol District.	Iron ore.	No reply to the show cause notice dated 3.6.2009.
6.	19327/2009	48.58 hectres in sy.Nos.495/P, 488, 489, 481 to 487, 465 to 468, 470 to 479, 998, 1040, 459, 457 to 455 of Nagamallakunta, H/o Gutupalli village, Betamcherla Mandal , Kurnool District.	Iron ore.	Same reason as noted at serial no.2.
7.	19321/2009	1000 Hectares in compartment nos. 205, 206 and 207 of Peddapaya Reserved forest, Dhone Range Reserved Forest Manal, Kurnool District.	Iron ore.	Same reason as noted as serial no.2
8.	12449/2009	500 hectares in compartment nos.245, 246, 247 & 248 of Village Dhone Forest Range, Mandal North Dhone Reserved Forest, Kurnool District.	Iron ore, soap stone and clay.	The applicant has not submitted any report prospected by any recognized agency with regard to availability of iron ore in the area applied for mining.
9.	13696/2009	1000 Hectares in compartment nos.240 to 243 of Village Dhone Forest range, Manaal North Dhone Reserved Forest, Kurnool District.	Iron ore.	No reply to the show cause notice dated 9.4.2009
10.	13697/2009	200 Hectares in compartment nos.65 to 70 of Yaparlapadu Reserved Forest, Kurnool Divisionl, Kurnool District.	Iron ore.	No reply to the show cause notice dated 9.4.2009

11.	13698/2009	Acs.234.44 gts in Sy.Nos.613 to 616, 606 B to 609, 598, 599 A, 861, 597, 600 A, 596, 581, 582 B, 582 A, 580, 849, 872, 871, 870 & 850 of Bukkapuram village, Bethamcherla Mandal, Kurnool District.	Iron ore	No reply to the show cause notice dated 9.4.2009.
12.	13814/2009	1500 hectares in Sy.Nos.174 to 179, 179/A & 180 of L Banda, R.F. Village, Bethamcherla Mandal, Kurnool district.	Iron ore.	No reply to the show cause notice dated 9.4.2009.
13.	13815/2009	1300 Hects in Sy/compartments nos.69, 68, 66, 64 & 70 of Yaparlapadu Reserve Forest, Kurnool Sector & Division, Kurnool District.	Iron ore.	No reply to the show cause notice.
14.	23985/2008	500 Hectares in compartment nos.245, 247, 248, 249 & 250 of North Dhone reserve Forest, Dhone Forest Range, Kurnool District.	Iron ore	The State Government have in principle decided to reserve the Iron Ore bearing areas of Kurnool District (Excluding the existing PL and MLs) for exclusive exploitation by the Andhra Pradesh Minerals Development Corporation Limited.
15.	23994/2008	500 Hectares in Compartment nos.246, 247 & 248 of North Dhone Reserve Forest, Kurnool District.	Iron ore.	- Do -
16.	15513/2009	11.174 Hectares in Sy.Nos.267/1, 278/4A & 4B, 269/1 and 274/A/A of Pullalgunni village, Veldurthi Mandal Kurnool District.	Iron ore.	The applicant has not submitted any report prospected by any authorized agency with regard to availability of mineral.
17.	15514/2009	13.323 Hectares in Sy.No.308/1 of Pendekal village, Bethamcherla Mandal, Kurnool District.	Iron ore.	- Do -

18.	15512/2009	61.623 Hectares in Sy.No.291/P of Pendekal village, Bethamcherla Mandal, Kurnool District.	Iron ore.	- Do -
19.	19131/2009	249.25 acres in Sy.No.841/2, 853, 852 etc. Gutupalli village, Bethamcherla Mandal, Kurnool District.	Iron ore	No reply to the show cause notice dated 9.4.2009
20.	2731/2009	Acs.12.17 in sy.No.203/W at Bayyaram village, Bayyaram mandal, Khammam District.	Iron ore.	To reserve the area in public interest to utilize iron ore mineral for optimum use by the State Public Sector Undertaking to generate more revenue and employment in the State.
21.	22488/2009	Ac.1120 gts. In Sy.Nos.45/57, 45/58, 45/59 & 45/60 situate at Motla Timmapuram village, Bayyaram Mandal, Khammam District.	Iron Ore	After careful examination of the matter, Government felt that the justification report submitted earlier, while processing the mining lease application of the applicant, by the O/o ADM & G, Kothaudem and O/o DM & G, Hyderabad, about mineral occurrence in the applied areas instead of prospecting the area, does not compensation the actual prospection of the area.
22.	14160/2009	Ac.50-20 gts in Sy.Nos.1/50 to 1/66, 1/72 to 1/78, 1/81 to 1/84 and 1/95 of Gurimella Village, Bayyaram Mandal, Khammam District.	Iron ore	- Do -
23.	15531/2009	Acs.28-21 gts. in Sy.No.45/85 of Metlathimmauram village, Bayyaram mandal, Khammam District.	Iron ore	- Do --
24.	14143/2009	Acs.23.40 in Sy.No.202/13, 27, 28 & 40 of Balajipet village, Bayyaram Mandal, Khammam District.	Iron ore	- Do -
25.	14118/2009	Acs.12-17 in Sy.No.203/W of Bayyaram village a n d Mandal, Khammam District.	Iron ore	- Do -

26.	14117/2009	Acs.24-20 Sy.No.60/1 Ramachandrapuram village, Bayyaram Mandal, Khammam District.	in of Iron Ore	- Do -
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6. In all the writ petitions, counter affidavits have been filed, justifying the orders of rejection.

7. The learned counsel appearing for the writ petitioners contended that that the petitioners have complied with all the conditions for grant of mining lease; that the petitioners were not given opportunity before passing the impugned orders of rejection and hence it amounts to violation of the principles of natural justice; that the respondents have failed to consider the material available on record, which is in favour of the writ petitioners to grant the mining lease; that the impugned orders are predetermined in nature; that no tenable reasons are assigned in the impugned orders; that the respondents abused their discretion with mala fide intention and oblique motive; that there are several notifications issued by the Government to show that abundant mineral is available in the petition schedule land and the petitioners have filed the material evidence, but the same was not considered; that assuming that no mineral is available in the petition schedule lands, then there is no justification to reserve the said area in favour of APMDC; that the Assistant Director of Mines and Geology, conducted the field survey and submitted report recommending for grant of mining leases in favour of the petitioners, in which case, it cannot be said that the mineral is not available; that in respect of similar situated persons, in the areas in question, mining leases were granted, but the same treatment was denied to the petitioners and this is arbitrary and discriminative on the part of the respondents in rejecting the cases of the petitioners by issuing the impugned orders; that the grounds recorded in the impugned orders are contradictory and passed without application of mind and; that since the writ petitioners have complied with all the conditions for grant of mining leases in their favour, it is the duty of the State Government to forward the same to the Central Government for consideration and the stage of forwarding the applications, the role of State Government is very limited and as such, it cannot reject the applications filed by the petitioners. With these contentions, the learned counsel appearing for the writ petitioners, sought to set aside the impugned orders of rejection

8. The learned Government Pleaders contended that the impugned orders are passed based on the material available on record and by recording reasons and they are in accordance with law and sought to dismiss the writ petitions.

9. Without delving much into the merits of rejection, it could be conspicuously

noticed that the respondent in some of the writ petitions, have rejected the applications of the petitioners on the ground that there is no evidence of existence of iron ore and no prospecting operations were carried out by the petitioners. In respect of the very same area/district, in some of the writ petitions, the grounds of rejection are that in principle the Government has taken decision to reserve the area for the public sector undertaking Andhra Pradesh Mineral Development Corporation Limited. Under Section 17(A)(2) of the Act, the Government can reserve any area, subject to certain conditions, with approval of the Central Government. Admittedly, as on today, there is no approval from the Central Government in the areas under Kurnool District. In respect of areas in Khammam District, such approval has been cancelled and the beneficiary company of APMDC, which was given contract for exploitation of mineral on behalf of APMDC, has filed writ petitions and the Government also issued G.Os., cancelling the agreement and the said dispute is pending adjudication before this court.

10. Be that as it may, as noticed from the above table, the grounds of rejection are contradictory, since, if mineral is not available, there cannot be any justification in seeking to reserve the said area in favour of any public sector undertaking. Further, in some cases, it was rejected on the ground that report of the Assistant Director of Mines and Geology is not sufficient. In some cases it is rejected that reply to the show cause notice is not filed. It is brought on record that the replies filed by the petitioners pursuant to the show cause notices, have been received by the respondents. Therefore, this shows that the rejection has been made without considering the explanations submitted by the petitioners. Further, in some writ petitions, the rejection was on the ground that the applicant has not submitted any report prospected by any authorized agency with regard to availability of mineral. The petitioners have filed certain notifications and material evidence to show that iron ore is available in the areas in question. But in the impugned orders of rejection, there is no reference to the material evidence filed by the writ petitioners.

11. To consider the contention of the petitioners that reports filed by the Assistant Director of Mines and Geology, with regard to the availability of mineral, is in compliance of Section 5 (2)(a) of the Act, it is necessary to note the said provision as under:

**5. Restrictions on the grant of prospecting licences or mining leases:--**

(1). .

(2) No mining lease shall be granted by the State Government unless it is satisfied that-

(a) there is evidence to show that the area for which the lease is applied for has been prospected earlier or the existence of mineral contents therein has been established otherwise than by means of prospecting such area; and

(b) there is mining plan duly approved by the Central Government, or by the State Government, in respect of such category of mines as may be specified by the Central Government, for the development of mineral deposits in the area concerned.

12. A reading of the above provision makes it clear that the mining lease shall not be granted unless it is satisfied that there is evidence to show that the area for which the lease is applied for, has been prospected earlier or the existence of mineral contents therein has been established otherwise than by means of prospecting such area. In the present cases, the case of the petitioners is that they have complied with all the statutory formalities and the Assistant Director of Mines and Geology has submitted report to the Director of Mines and Geology stating that the iron ore is available on the surface level itself and hence it is clear that the mineral is available in abundance. The report of the Assistant Director of Mines and Geology, as per the case of the petitioners, is in compliance of the second limb of clause (a) of sub section 2 of Section 5. The further grievance of the petitioners is that the respondents have forwarded the applications of several other applicants to the Central Government and they have not raised the objections as in the present case for rejection and this shows arbitrariness on the part of the respondents.

13 Further, as already noticed above, though the petitioners have submitted explanations to the show cause notices, in the impugned order, it is stated that no reply is filed. Along with the writ petitions, the petitioners filed the replies submitted by them, bearing acknowledgement stamps of the respondent. But in the orders of rejection, the explanations submitted by the petitioners have not been considered.

14. In my considered view, having regard to the above facts and circumstances, giving inconsistent reasons for rejection, non-consideration of material evidence filed by the petitioners and the explanations submitted by the petitioners, amounts to non-application of mind and also amounts to violation of the principles of natural justice and it is well settled that when there is violation of principles of natural justice, directing the petitioners to avail alternate remedy of appeal, is unwarranted.

15. This court passed interim orders in W.P.Nos.2731, 20374, 15112, 15113 of 2009 and 23994 and 23985 of 2008 directing the respondents to process the applications of the petitioners, without reference to the impugned orders of rejection. Subsequently, on vacate petitions being filed, the interim orders were vacated.

16. In writ petitions pertaining to Khammam District, M/s Rakshana Steels Limited and its consortium, represented by its Director, filed implead petitions, in WPMP.No.38773/2012 in WP.No.14118/2009, WPMP.No.40111/2012 in W.P.No.14117/2009, WPOMP.No.38803/2012 in W.P.No.14143/2009,



WPMP.No.38804/2012 in W.P.No.15531/2009 and WPMP.No.38802/2012 in W.P.No.22488/2009, seeking impleadment and its case is that the iron ore was reserved in its favour through APMDC and when the same was cancelled by the official respondents, the same was challenged before this court in W.P.No.31370/2010, and in WPMP.NO.39911/2011 in W.P.No.31370/2010, by interim order dated 16.12.2010, this court directed that respondents shall not grant mining lease in respect of areas situated in Bayyaram, Garla, Nelakondapalli of Khammam District and Gudur Mandal of Warangal District. In view of these facts and circumstances, the implead petitions are ordered, as the said petitioners are interested parties to the subject matter.

17. However, it is to be noticed that in the present writ petitions, this court is examining the validity of the impugned order and as the reasons for rejection are found to be contradictory and in violation of the principles of natural justice, and passed without considering the explanations and the material evidence submitted by the petitioners, they are being set aside. When the authorities seek to entertain the applications for granting the mining leases, the interim order of this court shall become operative. But for the disposal of the present writ petitions, the interim order passed in W.P.No.31370/2010 cannot be a bar.

18. Before parting with the case, it is to be noticed that though the counsel appearing for the respective parties, raised contentions on the merits of the case, vis-à-vis the relevant provisions and also relied on the case law, they are not being referred to, since it is found that the impugned orders are passed without application of mind and in violation of the principles of natural justice and this court is contemplating to remit the matter back to the authorities below, for considering the cases afresh, after giving opportunity to the petitioners.

19. For the foregoing reasons, the impugned orders in all the writ petitions are set aside. The respondents in W.P.Nos. 23985 and 23994 of 2008 and 2731, 11498, 19250, 22243, 22242, 19335, 19327, 19321, 12449, 13696, 13697, 13698, 13814, 13815, 14160, 15513, 15514, 15512 and 19131 of 2009, are directed to consider the case of the writ petitioners afresh, by considering the explanations submitted in pursuance to the show cause, and after giving sufficient opportunity of being heard, shall pass appropriate orders in accordance with law, within a period of two months from the date of receipt of a copy of this order.

20. In W.P.No.19348/2010, the respondents are directed the process the application of the petitioner in accordance with law and pass appropriate orders within a period of two months from the date of receipt of a copy of this order.

21. In respect of the writ petitions in W.P.Nos. 22488, 15531, 14143, 14118 and

14117 of 2009, the consideration of the applications of the petitioners, shall be subject to the outcome of interim orders in WPMP.NO.39911/2011 in W.P.No.31370/2010 dated 16.12.2010.

22. The writ petitions are accordingly disposed of. No costs.

23. Consequent to the disposal of the writ petitions, the miscellaneous petitions, if any, pending, shall stand dismissed.

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AVS