

**THE HON'BLE SRI JUSTICE R.RAGHUNANDAN RAO**

**WRIT PETITION No.47820 of 2022**

**ORDER:**

The petitioner company had a mining lease, for quarrying black galaxy granite over 6.17 Hectares of land in Sy.No.367/2 P and 422/1 P of Devara Palem Village, Chimakurthy Mandal, erstwhile Prakasam District. This lease was for a period of 20 years and would expire on 15.12.2025. Originally, this lease was granted in the name of M/s.Siva Shankar Granites Private Limited with its office at Flat No.102, Siva Sai Sannidhi, Opp. Shirdi Saibaba Temple, Plot No.32, Hindi Nagar, Panjagutta, Hyderabad. Thereafter, the petitioner changed its name to M/s.Siva Shankar Mineral Limited on 13.03.2007. This change of name was intimated to the authorities of the Mines Department and the 3<sup>rd</sup> respondent by proceedings No.8673/Q/2001 dated 29.07.2008 had accepted the said change. The petitioner contends that it had changed its name again to M/s.Siva Shankar Minerals Private Limited with the address of D.No.8-2-293/82/A, Flat No.739-A, Road No.37, Jubilee Hills, Hyderabad.

2. The Joint Director of Mines is said to have issued a show cause notice dated 08.02.2018 calling upon the petitioner to show cause why the lease should not be determined. Thereafter, the 2<sup>nd</sup> respondent, Director of Mines and Geology, by an order dated 08.06.2018 vide proceedings

bearing No.1040944/R3-2/2018 had determined the lease of the petitioner on the ground that the petitioner had committed various breaches, which were set out in the order of determination. Aggrieved by the said order, the petitioner filed a revision before the 1<sup>st</sup> respondent. This revision was dismissed by the 1<sup>st</sup> respondent vide Memo bearing No.7498/M.I(I)/2018-4 dated 01.11.2018. Aggrieved by the said order, the petitioner has approached this Court, by way of the present writ petition.

3. Sri Challa Gunaranjan learned counsel, appearing for the petitioner, contends that the impugned revisional order has refused to answer the primary contention of the petitioner that the petitioner had not received the show cause notice said to have been issued by the Joint Director, Mines and that the order of the Director of Mines, determining the lease of the petitioner, was passed without giving an opportunity of hearing to the petitioner and consequently violates the principles of natural justice.

4. He relies upon paragraph 10(viii) of the order of revision which states that the address of the petitioner at Flat No.32, Hindi Nagar, Punjagutta, Hyderabad was available in the records of the department. However, the subsequent mailing address 8-2-276, First floor, Pavani Estate, Road No.2, Banjara Hills, Hyderabad does not appear to be available in the records of the department. He contends that the show cause notice produced by the official respondents shows that the notice was addressed to the petitioner at Plot No.81, Road

No.9, Jubilee Hills, Hyderabad. He would contend that the notice could at best have been sent to the earlier address at Hindi Nagar, Punjagutta or to subsequent notice claimed by the petitioner. The show cause notice could not have been sent to Plot No.81, Jubilee Hills, Hyderabad.

5. The counter affidavit filed by the official respondents does not explain as to how the address of the petitioner was taken to be Plot No.81, Jubilee Hills.

6. The petitioner has also produced a letter dated 13.10.2011, addressed by the Zonal Joint Director of Mines and Geology to the petitioner at its address at Pavani Estates, First Floor, Road No.2, Banjara Hills, Hyderabad.

7. The above facts would show that the department was aware of the change of address from Hindi Nagar to Pavani Plaza, Road No.2, Banjara Hills. In the circumstances, any notice served at either of these addresses may have satisfied the requirement of service of show cause notice on the petitioner. The service of the show cause notice to the petitioner at Plot No.81, Road No.9, Jubilee Hills would not amount to service of the show cause notice on the petitioner.

8. In that view of the matter, the finding of both the Director of Mines as well as the 1<sup>st</sup> respondent-Government that the show cause notice dated 08.02.2018 had been served on the petitioner would have to be rejected. The inescapable conclusion, on the facts placed before this Court, is that the show cause notice dated 08.02.2018 was not served on the

petitioner at its place of business and as such, the order of the Director, Mines dated 08.06.2018 is in violation of principles of natural justice.

9. The matter does not end here. The 4<sup>th</sup> respondent, who has impleaded himself in the writ petition, appears to have made an application for grant of a mining lease over the very same area and had obtained necessary grant of mining lease and had taken further steps for obtaining environment clearance, consent for establishment and consent for operation issued by the Andhra Pradesh Pollution Control Board for the purpose of undertaking quarrying operations in the lease area. The grant of the lease and the right to undertake quarrying operations in this land given to the 4<sup>th</sup> respondent is now dependent upon the result of the determination proceedings issued to the petitioner.

10. Sri P. Roy Reddy learned counsel, appearing for the 4<sup>th</sup> respondent would submit that the notices sent to the petitioner at the address in Jubilee Hills amounts to service of notice on the petitioner as the petitioner's office was situated in Jubilee Hills. This contention would have to be rejected for the reasons set out above.

11. Sri P. Roy Reddy, learned counsel would submit that even if there has been a violation of principles of natural justice, the petitioner cannot have a complaint against the order dated 08.06.2018, passed by the Director or the order dated 01.11.2018, dismissing the revision of the petitioner, as no prejudice was caused to the petitioner on account of non-

service of notice. He relies upon the Judgments of the Hon'ble Supreme Court reported in **Aligarh Muslim University vs. Mansoor Ali Khan<sup>1</sup> and State of U.P vs. Sudhir Kumar Singh<sup>2</sup>**.

12. In **Mansoor Ali Khan's** case an employee of Aligarh Muslim University, sought restoration of his employment on the ground that his removal was arbitrary and unfair. This challenge finally reached the Hon'ble Supreme Court. One of the grounds raised before the Hon'ble Supreme Court was that there was violation of principles of natural justice and as such, the impugned order of vacation of office would have to be set aside. The Hon'ble Supreme Court, after reviewing the law on this issue, had taken the view that the principle laid down in **Ridge vs. Baldwin<sup>3</sup>**, that breach of principles of natural justice, by itself, amounts to prejudice and no other defect or prejudice needs to be proved, has been relaxed by various Judgments in India. After referring to the cases of **S.L. Kapoor vs. Jagmohan<sup>4</sup>**, **K.L.Tripathi vs. State Bank of India<sup>5</sup>**, **Rajendra Singh vs. State of M.P.<sup>6</sup>** and **M.C.Mehta vs. Union of India<sup>7</sup>**., the Hon'ble Supreme Court had held that mere breach of principles of natural justice is not sufficient unless prejudice caused on account of such breach is also demonstrated before the Court. Subsequently, a three Judge Bench of the Hon'ble Supreme Court in the case

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<sup>1</sup> (2007) 7 SCC 529 (paras 21 to 25)

<sup>2</sup> 2020 SCC Online SC 847 (paras 38 & 39)

<sup>3</sup> 1964 AC 40 : (1963) 2 AII ER 66 (HL)

<sup>4</sup> (1980) 4 SCC 379

<sup>5</sup> (1996) 3 SCC 364

<sup>6</sup> (1996) 5 SCC 460

<sup>7</sup> (1999) 6 SCC 237

of State of **U.P vs. Sudheer Kumar Singh** after considering the law on this issue had held as follows:

39. An analysis of the aforesaid judgments thus reveals:

(1) Natural justice is a flexible tool in the hands of the judiciary to reach out in fit cases to remedy injustice. The breach of the *audi alteram partem* rule cannot by itself, without more, lead to the conclusion that prejudice is thereby caused.

(2) where procedural and/or substantive provisions of law embody the principles of natural justice, their infraction *per se* does not lead to invalidity of the orders passed. Here again, prejudice must be caused to the litigant, except in the case of a mandatory provision of law which is conceived not only in individual interest, but also in public interest.

(3) No prejudice is caused to the person complaining of the breach of natural justice where such person does not dispute the case against him or it. This can happen by reason of estoppel, acquiescence, waiver and by way of non-challenge or non-denial or admission of facts, in cases in which the Court finds on facts that no real prejudice can therefore be said to have been caused to the person complaining of the breach of natural justice.

(4) In cases where facts can be stated to be admitted or indisputable, and only one conclusion is possible, the Court does not pass futile orders of setting aside or remand when there is, in fact, no prejudice caused. This conclusion must be drawn by the Court on an appraisal of the facts of a case, and not by the authority who denies natural justice to a person.

(5) The “prejudice” exception must be more than a mere apprehension or even a reasonable suspicion of a litigant. It should exist as a matter of fact, or be based upon a definite inference of likelihood of prejudice flowing from the non-observance of natural justice.

13. Sri P. Roy Reddy, learned counsel relying upon the above Judgments, would submit that on the admitted facts, the petitioner had not undertaken any mining activities from the year 2005 onwards till the lease was terminated in 2018. He would submit that this fact is not disputed by the petitioner even in the grounds of revision filed by petitioner and recorded in the revisional order. In the circumstances, Sri Roy Reddy, learned counsel contends that the issuance of a show cause notice is a “superfluous formality” as the petitioner does not have any explanation as to why no quarrying operations have been carried out for 13 years after the grant of the lease and as such, the finding of the original authority of the revisional authority that the State had been losing revenue on account of the petitioner blocking the exploitation of the minor mineral available in the lease area.

14. The principle of “superfluous formality” as laid down by the Hon’ble Supreme Court is binding on this Court. The question that would remain is whether the non service of a show cause notice to the petitioner would fall within the ambit of this principle.

15. The grounds on which the Director had determined the lease of the petitioner are as follows:

- 1) The lessee has kept the quarry idle since grant and violated Rule 12(5)(h)(vii)(b) of A.P.M.M.C. Rules, 1966.
- 2) The lessee has not erected the boundary pillars around the leased area which is a violation of

covenant 8(13) of lease deed read with Rule 12(5)(h)(v) of A.P.M.M.C. Rules, 1966.

3) The lessee has not maintained production, dispatch registers at Quarry site and violated covenant 8(7) of lease deed.

4) The lessee has not submitted Approved Mining Plan which is violation of Rule 17(1) of Granite Conservation and Development Rules, 1999.

5) The lessee has not having EC/CFC/CFO as required under S.O.141(E), dated 15.01.2016 and S.O.226(e) of MOEF & CC, Government of India.

6) The lessee has not developed benches in violation of Rule 21(1) of Granite Conservation and Development Rules, 1999.

7) The lessee has not submitted quarterly returns in Form 'f' and annual returns which is a violation of covenant 8(7) of lease deed read with rule 28(3) of APMMC Rules, 1966 and Rule 41 of Granite Conservation and Development Rules, 1999.

8) The lessee has not obtained any dispatch permits since grant.

16. The petitioner while assailing this order, by way of revision, did not deny the finding of the Director, that the Petitioner had not undertaken any mining operations in the lease area from the inception of the lease till the order of determination. Further, the contention of the petitioner, in the



revision, was that the petitioner was willing to rectify all the defects pointed out in the order of determination. It is evident that, the Petitioner did not dispute the findings in the determination order nor does the Petitioner have any grounds/objections which required further consideration. In the circumstances, the present case would fall within the ambit of a superfluous formality.

17. The petitioner had also contended that the show cause notice, for determination of the lease, was issued by the Joint Director while the order of determination was passed by the Director. The petitioner submits that the Director could not have passed the order on the basis of a show cause notice said to have been issued by the Joint Director. This contention would be available to the petitioner in the event of the Director passing an order after objections, in writing and by way of personal hearing, were considered by the Joint Director. As no objections were filed by the petitioner, on account of non receipt of the show cause notice, the question of considering the objections never arose. In the circumstances, this issue would not in any manner invalidate the order of the Director.

18. For all the aforesaid reasons, this writ petition would have to fail and is accordingly dismissed. There shall be no order as to costs.

Miscellaneous petitions, pending if any, shall stand closed.

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**JUSTICE R.RAGHUNANDAN RAO**

Date : 13-07-2022

RJS

**THE HON'BLE SRI JUSTICE R.RAGHUNANDAN RAO**

**WRIT PETITION No.47820 of 2022**

**Date : 13.07.2022**

RJS

**IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI**

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**W.P.No.47820 of 2018**

**Between:**

M/s.Siva Shankar Minerals Pvt.Ltd.,  
Represented by it's Authorized person Sri Chennareddy  
Seshareddy(Formerly known as M/s.Siva Shankar Granites Private  
Limited) D.No.8-2-293/82/a, Plot No.739-A, Road No.37, Jubilee Hills,  
Hyderabad, Telangana.

**... Petitioner**

And

§ 1. The State of Andhra Pradesh, Rep.by its Principal Secretary,  
Industries and Commerce Department Secretariat, Velagapudi,  
Vijayawada.

2. Director of Mines and Geology, Anjani Towers, Ibrahimpatnam,  
Krishna District, Andhra Pradesh.

3. The Assistant Director of Mines and Geology, Ongole District, Andhra  
Pradesh.

4. M/s.Parvathi Mines, Represented by its Managing Partner V.U.S.V  
Bhushan Kumar, Plot No.183, Road No.11, Prashasan Nagar, Shaikpeta,  
Hyderabad.

**... Respondents**

**Date of Judgment pronounced on : 13-07-2022**

**HON'BLE SRI JUSTICE R. RAGHUNANDAN RAO**

1. Whether Reporters of Local newspapers : Yes/No  
May be allowed to see the judgments?
2. Whether the copies of judgment may be marked : Yes/No  
to Law Reporters/Journals:
3. Whether the Lordship wishes to see the fair copy : Yes/No  
Of the Judgment?

**\*IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI**

**\* HON'BLE SRI JUSTICE R. RAGHUNANDAN RAO**

**+ W.P.No.47820 of 2018**

**% Dated: 13-07-2022**

M/s.Siva Shankar Minerals Pvt.Ltd.,  
Represented by it's Authorized person Sri Chennareddy  
Seshareddy(Formerly known as M/s.Siva Shankar Granites Private  
Limited) D.No.8-2-293/82/a, Plot No.739-A, Road No.37, Jubilee Hills,  
Hyderabad, Telangana.

**... Petitioner**

And

\$ 1. The State of Andhra Pradesh, Rep.by its Principal Secretary,  
Industries and Commerce Department Secretariat, Velagapudi,  
Vijayawada.

2. Director of Mines and Geology, Anjani Towers, Ibrahimpatnam,  
Krishna District, Andhra Pradesh.

3. The Assistant Director of Mines and Geology, Ongole District, Andhra  
Pradesh.

4. M/s.Parvathi Mines, Represented by its Managing Partner V.U.S.V  
Bhushan Kumar, Plot No.183, Road No.11, Prashasan Nagar, Shaikpeta,  
Hyderabad.

**... Respondents**

! Counsel for petitioner : Challa Gunaranjan

^Counsel for Respondents 1 to 3 : G.P. for Mines

^Counsel for Respondent No.4 : P.Roy Reddy

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>HEAD NOTE:

? Cases referred:

<sup>1</sup> (2007) 7 SCC 529 (paras 21 to 25)

<sup>2</sup> 2020 SCC Online SC 847 (paras 38 & 39)

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