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**IN THE HIGH COURT OF KARNATAKA AT BENGALURU**

**DATED THIS THE 29<sup>TH</sup> DAY OF JUNE, 2018**

**PRESENT**

**HON'BLE MR.JUSTICE DINESH MAHESHWARI, CHIEF JUSTICE**

**AND**

**HON'BLE MR.JUSTICE KRISHNA S. DIXIT**

**WRIT PETITION NOS.25924-25925 OF 2018 (GM-MM-S)**

**BETWEEN:**

SRI S.A. IBRAHIM  
AGED ABOUT 42 YEARS  
RESIDING AT MAHESHWARINAGAR,  
SALKESHPUR,  
HASSAN DISTRICT  
HASSAN - 573 201

... PETITIONER

(BY SRI PRAKASH B.S. ADVOCATE)

**AND:**

1. THE STATE OF KARNATAKA  
REPRESENTED BY ITS SECRETARY,  
COMMERCE AND INDUSTRIES DEPARTMENT,  
(MSME & MINES)  
VIKASA SOUDHA,  
BANGALORE - 560 001
2. THE DIRECTOR/COMMISSIONER  
DEPARTMENT OF MINES AND GEOLOGY,  
KHANIJABHAVANA,  
R.C.ROAD,  
BANGALORE - 560 001
3. THE SENIOR GEOLOGIST (MINERAL)  
DEPARTMENT OF MINES AND GEOLOGY,  
K.H.B.COLONY,  
KUVEMPU NAGAR,

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HASSAN – 573 201

... RESPONDENTS

(BY SRI V.G.BHANUPRAKASH, AGA)

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THESE WRIT PETITIONS ARE FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO QUASH THE ENDORSEMENT DTD:07.11.2017 ISSUED BY THE SENIOR GEOLOGIST, DEPARTMENT OF MINES AND GEOLOGY, HASSAN THE ORIGINAL OF THE ENDORSEMENT DTD:07.11.2017 ISSUED BY THE DEPUTY DIRECTOR HAS BEEN PRODUCED AT ANNEXURE-A & ETC.

THESE PETITIONS COMING ON FOR PRELIMINARY HEARING THIS DAY, **CHIEF JUSTICE** MADE THE FOLLOWING:

### **ORDER**

The petitioner herein states the grievance against the order dated 07.11.2017 (Annexure-A) for rejection of his application for grant of quarrying lease.

It is not in dispute that several similar nature writ petitions have been considered and allowed by this Court while disapproving the similar nature endorsements and while restoring the applications for reconsideration, including a batch of writ petitions led by W.P.No.43235/2017 decided on 11.04.2018, wherein this Court has, *inter alia*, observed as under:

*“In the order dated 24.10.2017 in W.P.No.44260/2017, this Court has taken note of the provisions contained in the amended Rule 8-B of the Rules and has also taken note of the candid submissions of the learned Additional Government Advocate as under:-*

*“5. Learned Additional Government Advocate submits that this Court in Writ Petition No.25421/2017 (DD 04.07.2017) and in several other matters has held that applications as that of the petitioner do not become ineligible if the application was received by the Competent Authority before 16.06.2015 and further, it is held that it is the responsibility of the Competent Authority to consult the authorities referred to in Rule 8(5) of the Rules and to obtain the certificates and reports referred to therein. He further submits that the application of the petitioner was received by the Competent Authority before 16.06.2015.”*

*This Court has also considered the earlier orders passed in the matters and has allowed W.P.No.60155/2016 by the order dated 22.03.2018, while observing as under:*

*“Having regard to the submissions made, this petition stands disposed of at this stage itself, while requiring that the concerned authorities shall send their views/opinions to the authorities of the Mines and Geology Department within two weeks from today.*

*The authorities concerned shall consider and finally decide on the prayer of the writ petitioner for execution of the lease deed within four weeks from the date of production of the certified copy of this order.*

*No costs."*

*The proposition aforesaid, for all practical purposes, apply to these cases too. This Court has repeatedly observed that it was the responsibility of the concerned authority/authorities to obtain the clearances and technical reports; and for their omissions, the applications could not have been rejected. We find no reason to take any different view of the matter.*

*Accordingly, all these petitions stand disposed of at this stage itself, while requiring that the concerned authorities shall send their views/opinions/reports to the authorities of Mines and Geology Department within two weeks from today.*

*The authorities concerned shall consider and finally decide on the prayer of the writ petitioners for execution of the lease deeds within four weeks from the date of production of the certified copy of this order.*

*No costs."*

Perusal of the record makes out that in these matters in fact the approach of the authorities concerned in taking the petitioner as being ineligible was disapproved by an earlier order dated 06.07.2017, as passed in W.P.Nos.14250/2017 and 14729/2017, whereby the authorities were directed to consider the prayer of the petitioner for grant of lease in accordance with the Rules that existed before

commencement of the Karnataka Minor Mineral Concession (Amendment) Rules, 2016. The authorities concerned have, however, chosen to reject the application again, while taking the petitioner ineligible for want of NOC before 11.08.2016. Even from the other aspects indicated in the impugned order dated 07.11.2017, it is difficult to cull out a definite and categorical finding as to why the application of the petitioner was being rejected.

Thus, in parity with the orders passed in relation to the other similarly circumstanced applicants, it appears appropriate to dispose of these writ petitions with similar orders while disapproving the impugned order dated 07.11.2017.

Accordingly, these writ petitions are also disposed of at this stage itself with the requirement that the authorities concerned shall send their views/opinions/reports to the authorities of Mines and Geology Department within two weeks from today.

The authorities concerned shall consider and finally decide on the prayer of the writ petitioner for execution of the

lease deed within four weeks from the date of production of the certified copy of this order.

No costs.

**Sd/-  
CHIEF JUSTICE**

**Sd/-  
JUDGE**

AHB