HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD
(Special Original Jurisdiction)

WEDNESDAY, THE TWELFTH DAY OF MARCH
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE THE ACTING CHIEF JUSTICE SUJOY PAUL
AND
THE HONOURABLE SMT JUSTICE RENUKA YARA

WRIT PETITION NOs: 11967 OF 2016; 40484 OF 2017; 2834, 6828 AND 7126 OF 2018 AND 28573 OF 2019

WRIT PETITION NO: 11967 OF 2016

Between:

G.Kavitha, W/o. G. Govardhan Reddy, Age 35 years, Occ Housewife, R/o Muchinthala Village, Chinna Chinthakunta Mandal, Mahaboobnagar District

...PETITIONER

AND

1. The State of Telangana, Rep. by its Principal Secretary, Industries and Commerce Department, secretariat, Hyderabad
2. The Director of Mines and Geology, Telangana State, Hyderabad
3. The Vice Chairman and Managing Director, Telangana State Mineral Development Corporation Ltd., Hyderabad
4. The District Collector, Mahaboobnagar District, Mahaboobnagar
5. The Assistant Director of Mines and Geology, Mahaboobnagar,
6. The Tahsildar, Maddhur Mandal, Mahaboobnagar District

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue a writ, Order or direction, more particularly one in the nature of writ of mandamus to declare the action of the respondents in issuing G.O.M.S No.54, Dated.21.08.2015 in consequent to the G.O.M.S No.30, Dated.06.0.2015, authorizing Telangana State Mineral Development Corporation Ltd., Hyderabad i.e. respondent no.3 for the purpose of de-casting of sand and other minerals jn petitioners patta land i.e., to an extent of Ac.1-20 Gts land in Sy.No.76/1 situated

at PeddaputTom Village, Maddhur Mandal, Mahaboobnagar District is illegal, improper, unjust, violate of principles of natural justice.

I.A. NO: 1 OF 2016(WPMP. NO: 15026 OF 2016)

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to suspend the G.O.Ms.No.54, dated.21.08.2015 in consequent to the G.O.M.S No.30, Dated.06.05.2015, authorizing Telangana State Mineral Development Corporation Ltd., Hyderabad i.e., respondent No.3 for the purpose of de-casting of sand and other minerals in petitioner's patta land i.e., to an extent of Ac.1-20 Gts land in Sy.No.76/1 situated at Peddapuram Village, Maddhur Mandal, Mahaboobnagar District, pending disposal of the above writ petition.

I.A. NO: 2 OF 2016(WPMP. NO: 30396 OF 2016)

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to permit the petitioner to file the additional material paper in W.P.No.11967 of 2016.

Counsel for the Petitioner: SRI B.CHANDRASEN REDDY

Counsel for the Respondents: SRI S.RAHUL REDDY, SPL. GP, REP. FOR ADDL ADVOCATE GENERAL

WRIT PETITION NO: 40484 OF 2017

Between:

Thokala Venkanna, S/o Thokala Narsaiah Occ Agriculture, Indian, aged about 38 years R/o Sompalli Village, Burgampahad Mandal Badradri Kothagudem District

...PETITIONER

AND

1. State of Telangana, Rep. by its Principal Secretary Mines and Industries Department Secretariat, Hyderabad
2. The District Collector and Chairman District Level Sand, Committee, Badradri Kothagudem District at Kothagudem
3. Telangana State Mineral Development Corporation, Limited Rep. by its Managing Director Having its office at HMWSSB Premises, 4th Floor Khairtabad, Hyderabad

4. Dr. G. Malsur, Vice Chairman and Managing Director Telangana State Mineral Development Corporation Limited Office at HMWSSB Premises, 4th Floor Khairtabad, Hyderabad
5. Deputy Director of Mines and Geology, Kothagudem, Badradri Kothagudem District
6. Assistant Director of Mines and Geology, Kothagudem, Badradri Kothagudem District
7. The Project Officer, Kothagudem, Badradri Kothagudem District
8. Tahsildar, Burgampahad Mandal Badradri Kothagudem District
9. Station House Officer, Burgampahad, Badradri Kothagudem District

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue an appropriate Writ, order or direction more particularly one in the nature of Writ of Mandamus declaring G.O.Ms.No.54, Industries and Commerce (Mines.I) Department, dated 21-08-2015 which was amended by G.O.Ms.No.84, Industries and Commerce (Mines.I) Department, dated 09-11-2017 as illegal, null, void and arbitrary and consequently direct the Respondents to grant permission to de-cast the sand and sell the sand through the Assistant Director of Mines and Geology i.e., 6th Respondent to the general public at the rate of Rs.400/- per cubic meter in the local area of 100 kilometers radius from patty land.

I.A. NO: 1 OF 2017(WPMP. NO: 50237 OF 2017)

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to direct the Deputy Director of Mines & Geology and Assistant Director of Mines & Geology i.e., 5th and 6th Respondents to grant permits for sale of sand to the general public pursuant to the permission granted by the District Level Sand Committee in Proceedings No.4124/Sand/2012 dated 21-03-2017 forthwith.

I.A. NO: 2 OF 2017(WPMP. NO: 50238 OF 2017)

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to suspend the operation of G.O.Ms.No.54, Industries and Commerce (Mines.I) Department, dated 21-08-2015 which is amended by G.O.Ms.No.84, Industries and Commerce (Mines.I) Department, dated 09-11-2017, pending disposal of the present Writ Petition.

Counsel for the Petitioner: SRI K.DURGA PRASAD

Counsel for the Respondent No.1 to 3 & 5 to 9: SRI S.RAHUL REDDY, SPL. GP, REP. FOR ADDL ADVOCATE GENERAL

Counsel for the Respondent No.4: SRI BONDEMPALLY RAMULU

WRIT PETITION NO: 2834 OF 2018

Between:

1. T. Muthiah, S/o Thokala Ramulu Occ Agriculture, Indian, aged about 45 years R/o. Sompalli Village, Burgampahad Mandal Bhadradri Kothagudem District
2. Kesupaka Akkamma, W/o Kesupaka Sheshaiah Occ Agriculture, Indian, aged about 53 years R/o. Sompalli Village, Burgampahad Mandal Bhadradri Kothagudem District
3. Bingi Venkataiah, S/o Bingi Sayubu Occ Agriculture Indian, aged about 65 years R/o. Sompalli Village, Burgampahad Mandal Bhadradri Kothagudem District
4. Kothapalli Gangaraju, S/o Kothapalli Ramaiah Occ Agriculture, Indian, aged about 42 years R/o. Sompalli Village, Burgampahad Mandal Bhadradri Kothagudem District
5. Gangauri Muthesh, S/o Gangapurisrinu Occ Agriculture, Indian, aged about 28 years R/o. Sompalli Village, Burgampahad Mandal Bhadradri Kothagudem District
6. Kommu Muthamma, W/o Kommu Ganapathi Occ Agriculture, Indian, aged about 52 years R/o. Sompalli Village, Burgampahad Mandal Bhadradri Kothagudem District
7. Manda Anjamma, W/o Manda Venkat Occ Agriculture, Indian, aged about 42 years R/o. Sompalli Village, Burgampahad Mandal Bhadradri Kothagudem District
8. Kesupaka Veera Swamy, Occ Agriculture, Indian, aged about 65 years Sompalli Village, Burgampahad Mandal Bhadradri Kothagudem District
9. Nandipati Veeraiah, Occ Agriculture, Indian, aged about 55 years Sompalli Village, Burgampahad Mandal Bhadradri Kothagudem District
10. Thokala Pitchiah, S/o Thokala Muthaiah Occ Agriculture, Indian, aged about 60 years R/o. Sompalli Village, Burgampahad Mandal Bhadradri Kothagudem District

11. Thokala Chukkamma, W/o Thokala Gangaiah Occ Agriculture, Indian, aged about 55 years R/o. Sompalli Village, Burgampahad Mandal Bhadradri Kothagudem District
12. Kesupaka Sayubu, S/o Kesupala Pitchaiah Occ Agriculture, Indian, aged about 52 years R/o. Sompalli Village, Burgampahad Mandal Bhadradri Kothagudem District

...PETITIONERS

AND

1. The State of Telangana, Rep. by its Principal Secretary, Mines and Industries Department Secretariat, Hyderabad
2. The District Collector and Chairman, District Level Sand Committee, Bhadradri Kothagudem District at Kothagudem
3. Telangana State Mineral Development Corporation Limited, Rep. by its Managing Director Having its office at HMWSSB Premises, 4th Floor Khairtabad, Hyderabad
4. Dr. G. Malsur, Vice Chairman and Managing Director Telangana State Mineral Development Corporation Limited Office at HMWSSB Premises. 4th Floor Khairtabad, Hyderabad
5. The Project Officer, Kothagudem, Bhadradri Kothagudem District
6. The Assistant Director of Mines and Geology, Kothagudem, Bhadradri Kothagudem District

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue an appropriate Writ, order or direction more particularly one in the nature of Writ of Mandamus declaring G.O.Ms.No.84, Industries and Commerce (Mines.I) Department, dated 09-11-2017 as illegal, null, void and arbitrary and consequently direct the Respondents to grant permission to de-cast the sand and sell the sand through the Assistant Director of Mines and Geology i.e., 6th Respondent to the general public at the rate of Rs.400/- per cubic meter in the local area of 100 kilometers radius from patta land.

IA NO: 1 OF 2018

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to suspend the operation of G.O.Ms No.84, Industries and Commerce (Mines.I) Department, dated 09-11-2017, pending disposal of the present Writ Petition.

IA NO: 2 OF 2018

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to direct the Assistant Director of Mines & Geology i.e., 6th Respondent to grant permits for sale of sand to the general public / Kothagudem Thermal Power Station (KTPS) pursuant to the permission granted by the District Level Sand Committee in Proceedings No.4124/Sand/2012 dated 21-03-2017 forthwith.

Counsel for the Petitioners: SRI K.DURGA PRASAD

Counsel for the Respondent No.1 to 3, 5 & 6: SRI S.RAHUL REDDY, SPL. GP, REP. FOR ADDL ADVOCATE GENERAL

Counsel for the Respondent No.4: SRI BONDEMPALLY RAMULU

WRIT PETITION NO: 6828 OF 2018

Between:

1. Batta Sambaiah, S/o. Bangaraiah Indian, Aged about 30 years Rio. Chikkudugunta, Ramanujavaram Manuguru Mandal, Khammam District
2. Batta Pullaiah, S/o. Venkanna Indian, Aged about 38 years R/o. Bayyaram, Pinapaka Mandal Khammam District
3. M. Laxmaiah, S/o. Pullaiah Indian, Aged about 48 years R/o. Chikkudugunta, Manuguru Mandal Khammam District

...PETITIONERS

AND

1. The State of Telangana, Rep. by its Principal Secretary Mines and Industries Department Secretariat, Hyderabad
2. The District Collector and Chairman District Level Sand Committee, Bhadradri Kothagudem District at Kothagudem
3. Telangana State Mineral Development Corporation Limited, Rep. by its Vice Chairman and Managing Director Having its office at HMWSSB Premises, 4th Floor Khairtabad, Hyderabad
4. The Project Officer, Kothagudem, Bhadradri Kothagudem District
5. The Assistant Director of Mines and Geology, Kothagudem, Bhadradri Kothagudem District

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue an appropriate Writ, order or direction more particularly one in

the nature of Writ of Mandamus declaring G.O.Ms.No.84,Industries and Commerce (Mines.I) Department, dated 09-11-2017 as illegal, null, void and arbitrary and consequently direct the Respondents to grant permission to de-cast the sand and sell the sand through the Assistant Director of Mines and Geology i.e., 5th Respondent to the general public at the rate of Rs.400/- per cubic meter in the local area of 100 kilometers radius from patta land.

IA NO: 1 OF 2018

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to suspend the operation of G.O.Ms.No.84, Industries and Commerce (Mines.I) Department, dated 09-11-2017, pending disposal of the present Writ Petition.

IA NO: 2 OF 2018

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to direct the Assistant Director of Mines and Geology Le., 5th Respondent to grant permits for sale of sand to the general public/Kothagudem Thermal Power Station (KTPS) forthwith pending disposal of the present Writ Petition.

Counsel for the Petitioner: SRI K.DURGA PRASAD

Counsel for the Respondents: SRI S.RAHUL REDDY, SPL. GP,
REP. FOR ADDL ADVOCATE GENERAL

WRIT PETITION NO: 7126 OF 2018

Between:

1. Gurrala Sarojini Devi, W/o Venkata Narsaiah aged about 78 years R/o Palam Village Venkatapuram Mandal Jayashankar Bhupalapally District
2. Solam Chanti Babu, S/o Mallaiah Aged about 30 years R/o Veerabhadravaram Village Venkatapuram Mandal Jayashankar Bhupalapally District

...PETITIONERS

AND

1. The State of Telangana, Rep by its Secretary Mines and Industries Department Secretariat Hyderabad
2. The District Collector and Chairman, The District Level Sand Committee Jayashankar Bhupalapally

3. Telangana State Mineral Development Corporation, Rep by its Vice Chairman and Managing Director TSMDC Office Khairtabad Hyderabad
4. The Project Officer, Jayashankar Bhupalapally
5. Assistant Director of Mines and Geology, Assistant Director of Mines and Geology Jayashankar Bhupalapally District Bhupalapally

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue an appropriate Writ order or direction more particularly one in the nature of Writ of Mandamus declaring G.O.Ms.No.84 Industries and Commerce (Mines.I) Department dated 09-11-2017 as illegal null void and arbitrary and consequently direct the Respondents to grant permission to de-cast the sand and sell the sand through the Assistant Director of Mines and Geology i e 5th Respondent to the general public at the rate of Rs.400/- per cubic meter in the local area of 100 kilometers radius from patta land.

IA NO: 1 OF 2018

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to suspend the operation of G.O.Ms.No.84 Industries and commerce mines.I Department dated 09-11-2017 pending disposal of the present writ petition.

IA NO: 2 OF 2018

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to direct the Assistant Director of mines and geology i.e., 5th Respondent to grant permits for sale of sand to the general public Kothagudem Thermal power Station KTPS forthwith pending disposal of the present Writ petition.

Counsel for the Petitioners: SRI K.DURGA PRASAD

Counsel for the Respondents: SRI S.RAHUL REDDY, SPL. GP,
REP. FOR ADDL ADVOCATE GENERAL

WRIT PETITION NO: 28573 OF 2019

Between:

1. M/s Super Enterprises, A Regd. Partnership Firm. Having its Registered office at, H. No. 6-39, A.C. Guards, Lakadikapool, Hyderabad - 500004, Rep. by its Managing Partner, Mohammed Zaheeruddin.
2. Mohammed Zaheeruddin, S/o Mr. Mohammed Nazeeruddin Aged about 40 years, Occ. Business, R/o H. No. 12-2-836, Asif Nagar, Hyderabad -500028

...PETITIONERS

AND

1. The State of Telangana, Rep. by its Principal Secretary Industries and Commerce Department, Secretariat, Hyderabad.
2. The Director of Mines and Geology, Telangana State, Hyderabad
3. The Vice Chairman and Managing Director, Telangana State Mineral Development Corporation Ltd., Hyderabad
4. The District Collector, Mahaboobnagar District, Mahaboobnagar.
5. The Assistant Director of Mines and Geology, Mahaboobnagar.
6. The Tahsildar, Midjil Mandal, Mahaboobnagar District.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue a Writ, Order or direction, more particularly one in the nature of writ of Mandamus or any other Writ, to declare the action of the respondents in issuing G.O.Ms No. 54, dated 21/08/2015 in consequent to the G.O.Ms No. 30 dated 06/05/2015 authorizing Telangan State Mineral Development Corporation Ltd., Hyderabad for the purpose of de-casting of sand and other minerals over the patta lands, affecting the rights of the petitioners, as illegal, improper, unjust, violate of principles of natural justice and consequently set aside the same.

IA NO: 1 OF 2019

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to

Suspend the G.O.Ms No. 54 dt. 21/08/2015 in consequent to the G.O.Ms No. 30 dated 06/05/2015, authorizing Telangana State Mineral Development of sand and other minerals over the patta lands affecting the rights of the petitioners, pending disposal of the above Writ Petition.

Counsel for the Petitioners: M/s. CHANDRASEN LAW OFFICES / SRI K.S.SUNEEL

Counsel for the Respondents: SRI S.RAHUL REDDY, SPL. GP, REP. FOR ADDL ADVOCATE GENERAL

The Court made the following: COMMON ORDER

THE HON'BLE THE ACTING CHIEF JUSTICE SUJOY PAUL
AND
THE HON'BLE SMT. JUSTICE RENUKA YARA

WRIT PETITION Nos.11967 OF 2016; 40484 OF 2017; 2834, 6828 AND 7126 OF 2018 AND 28573 OF 2019

COMMON ORDER *(per the Hon'ble the Acting Chief Justice)*:

Regard being had to the similitude of the questions involved, on the joint request of the parties, the matters were analogously heard and decided by this common order.

W.P.Nos.40484 of 2017; 2834, 6828 & 7126 OF 2018:

2. These petitions filed under Article 226 of the Constitution assail the constitutionality of G.O.Ms.No.84, dated 09.11.2017, whereby amendment is made to **The Telangana State and Sand Mining Rules, 2015** (for short, Rules of 2015), issued in G.O.Ms.No.3, dated 08.01.2015. One such prayer is reproduced for ready reference and it reads thus:

> "...to issue an appropriate Writ order or direction more particularly one in the nature of Writ of Mandamus declaring G.O.Ms.No.84, Industries and Commerce (Mines.I) Department dated 09-11-2017 as illegal null void and arbitrary and consequently direct the Respondents to grant permission to de-cast the sand and sell the sand through the Assistant Director of Mines and Geology i.e., 5th Respondent to the general public at the rate of Rs.400/- per cubic meter in the local area of 100 kilometers radius from patta land..."
>
> (Emphasis Supplied)

Factual Background:

3. The facts are taken from W.P.No.7126 of 2018. The petitioners preferred an application in the year 2015 to the Telangana State Mineral Development Corporation (Corporation) seeking permission for de-casting of sand in their patta lands in various villages of erstwhile Khammam District, now Bhoopalapally District. The Corporation, after conducting a detailed enquiry and survey, submitted the report to the District Level Sand Committee. The file was pending in the office of the District Collector and the petitioners' repeated requests to clear it could not fetch any result. The petitioners could not get necessary orders/permissions to de-cast the sand in their patta lands.

Contention of the petitioners:

4. Sri K. Durga Prasad, learned counsel for the petitioners, urged that during rainy season because of floods, huge sand gets accumulated on certain agricultural fields which are situated on the banks of river/water bodies. After the rainy season, the sand needs to be removed, so that the agriculturists can undertake their agricultural activity. He submits that the Government of Telangana issued G.O.Ms.No.3, dated 08.01.2015, which is popularly known as 'New Sand Mining Policy-2014'. Rule 7 of the Rules of 2015 was inserted permitting the pattadars to de-cast the

sand. Based on this rule, the petitioners submitted their application for de-casting of sand in their patta lands.

5. The petitioners have raised eyebrows on the impugned amendment through G.O.Ms.No.54, dated 21.08.2015, which reads thus:

> "The de-casting of sand in any patta land abutting river bed, to make the land suitable for cultivation shall be by M/s.Telangana State Mineral Development Corporation Limited."
>
> (Emphasis Supplied)

6. It is the common stand that the procedure prescribed under the Rules and monopoly given to the Corporation is bad in law. Because of this monopoly given to the Corporation, the delay is being caused in de-casting the sand from the land of the agriculturists which adversely affects their agricultural activity. If the permission is given to the patta owners to sell the sand, because of competitive rates, the end user will be benefitted.

Contention of the Government:

7. Sri S. Rahul Reddy, Special Government Pleader representing learned Additional Advocate General for the respondents, supported the impugned GO and urged that the impugned rules are amended in consonance with rule making power and the object of **The Mines and Minerals (Development**

and Regulation) Act, 1957 ('Act of 1957'). In order to avoid illegal sale of sand and in order to regulate the same, the impugned rule was brought into force and were successfully operating for couple of years. Thus, no interference may be made.

8. No other point is pressed by learned counsel for the parties.

9. We have heard the learned counsel for the parties and perused the record.

FINDINGS:

10. This is trite that the constitutionality of a provision must be challenged by taking grounds with accuracy and precession. Pertinently, in these cases, there exists no column of 'grounds' at all. It is necessary to assail the statutory provision with clarity so that the respondents may put forth their defence against each of the ground raised with similar clarity. Statutory provisions cannot be interfered with on mere asking. Thus, two requirements are essential i.e., (i) to set out ground in specific to declare a statutory provision as *ultra vires* and (ii) to assail the provision in the relief clause.

11. The Apex Court in its recent judgment in **Union of India v. Manjurani Routray**[1] held as under:

> "10. After hearing the learned counsel for the parties and considering the prayer made in the writ petition, it is luculent that Respondent 1 did not set out any grounds to declare Rule 4(b) of the Rules as ultra vires. No such relief was even prayed for in the writ petition. Respondent 1 in the writ petition merely sought a writ in the nature of certiorari to set aside the order of CAT. Therefore in the given facts, there was no occasion for the High Court to declare Rule 4(b) as ultra vires.
>
> 11... It is a trite law that for striking down the provisions of law or for declaring any rules as ultra vires, specific pleading to challenge the rules and asking of such relief ought to be made, that is conspicuously missing in the present case. In the absence of such a pleading, the Union of India did not have an opportunity to rebut the same. The other side had no opportunity to bring on record the object, if any, behind the Rules that were brought into force. We are also of the considered view that, in the writ petition seeking a writ of certiorari challenging the order of CAT, the High Court ought not to have declared Rule 4(b) as ultra vires in the above fact situation. Therefore, the High Court was not justified to declare Rule 4(b) as ultra vires."
>
> (Emphasis Supplied)

12. In these cases, the first requirement for assailing a statutory provision is totally missing and, therefore, in view of judgment of **Manjurani Routray** (supra), no interference can be made.

13. No amount of argument could be advanced as to how the amended Rule 7 of the Rules of 2015 runs contrary to any statutory or enabling provision. A statutory provision can be held *ultra vires* only on satisfying certain strict parameters. The Apex Court in its recent judgment in **Naresh Chandra Agrawal v.**

[1] (2023) 9 SCC 144

Institute of Chartered Accountants of India[2], considered previous judgments and culled out the principles as under:

> "22....
>
> 15. There is a presumption in favour of constitutionality or validity of a subordinate legislation and the burden is upon him who attacks it to show that it is invalid. It is also well recognized that a subordinate legislation can be challenged under any of the following grounds:
>
> (a) Lack of legislative competence to make the subordinate legislation.
> (b) Violation of fundamental rights guaranteed under the Constitution of India.
> (c) Violation of any provision of the Constitution of India.
> (d) Failure to conform to the statute under which it is made or exceeding the limits of authority conferred by the enabling Act.
> (e) Repugnancy to the laws of the land, that is, any enactment.
> (f) Manifest arbitrariness/unreasonableness (to an extent where the court might well say that the legislature never intended to give authority to make such rules)"

14. In these cases, the petitioners could not establish that any such ingredient is available on the strength of which interference can be made on the impugned rule. Hence, these petitions fail and are hereby dismissed.

W.P.Nos.11967 of 2016 and 28573 of 2019:

15. In these Writ Petitions, the petitioners have challenged the constitutionality of G.O.Ms.No.54, dated 21.08.2015, whereby amendments are made to the Rules of 2015, issued in G.O.Ms.No.3, dated 08.01.2015. One such prayer is reproduced for ready reference and it reads thus:

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[2] 2024 SCC OnLine SC 114

"...to issue a Writ, Order or direction, more particularly one in the nature of writ of Mandamus or any other Writ, to declare the action of the respondents in issuing G.O.Ms No. 54, dated 21/08/2015 in consequent to the G.O.Ms No. 30 dated 06/05/2015 authorizing Telangana State Mineral Development Corporation Ltd., Hyderabad for the purpose of de-casting of sand and other minerals over the patta lands, affecting the rights of the petitioners, as illegal, improper, unjust, violate of principles of natural justice and consequently set aside the same..."

(Emphasis Supplied)

Factual Background and contention of the petitioners:

16. The facts are taken from W.P.No.28573 of 2019. The petitioners are partners of a firm. Petitioner No.1 is in peaceful possession and enjoyment of certain lands, description of which are given up to para 3 of the writ affidavit. The principal grievance of these petitioners is also same that after the floods, the sand is being accumulated in the patta lands. The power to de-cast the sand is given to the Corporation. The cumbersome procedure of seeking permission from District Level Sand Committee through Corporation causes serious problem to the petitioners.

17. Sri K.S. Suneel, learned counsel for the petitioners, submits that the impugned GO is detrimental to the interest of the owners of patta lands who had no liberty for the purpose of de-casting of sand and sell the same at market price. This infringes fundamental rights of the pattadars. Thus, impugned notification is arbitrary.

Contention of the Government:

18. Sri S. Rahul Reddy, Special Government Pleader representing learned Additional Advocate General for the respondents, supported the impugned GO and urged that the impugned rules are amended in consonance with rule making power and the object of the Act of 1957. In order to avoid illegal sale of sand and with a purpose to regulate the same, the impugned rules were brought into force and are successfully operating for couple of years. In addition, he submits that the petitioners in whose lands the sand is being accumulated will get a share of sale consideration, in case of sale of such sand. Thus, it cannot be said that policy decision of the Government is unjustifiable. The policy decision was taken and rule was amended in order to ensure black-marketing of sand and ensure uniform pricing of sand in the entire State of Telangana. Thus, no interference may be made.

19. No other point is pressed by learned counsel for the parties.

20. We have heard the learned counsel for the parties and perused the record.

FINDINGS:

21. By and large the grievance put forth in these Writ Petitions is same *qua* above four cases, although a different provision is called in question. Pertinently, 'no grounds' are pleaded separately in these Writ Petitions as well.

22. As noticed above, a rule cannot be interfered with and declared unconstitutional unless specific grounds are pleaded {see **Manjurani Routray** (supra)}. The test laid down by the Apex Court in **Manjurani Routray** (supra) is equally applicable to the instant case. Learned counsel for the petitioners could not make out a case on the strength of which the impugned rule can be declared as *ultra vires*. Thus, we find no reason to interfere with the impugned rule and the petitions are liable to be dismissed.

23. Resultantly, all the Writ Petitions are **dismissed**. There shall be no order as to costs. Miscellaneous applications, if any, shall stand closed.

SD/-MOHD.ISMAIL
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. One CC to SRI B.CHANDRASEN REDDY, Advocate [OPUC]
2. One CC to SRI K.S.SUNEEL, Advocate [OPUC]

PA

3. One CC to SRI K.DURGA PRASAD, Advocate [OPUC]
4. One CC to SRI BONDEMPALLY RAMULU, Advocate [OPUC]
5. One CC to M/s. CHANDRASEN LAW OFFICES, Advocate [OPUC]
6. Two CCs to ADDL ADVOCATE GENERAL, High Court for the State of Telangana at Hyderabad [OUT]
7. Two CD Copies

BSR

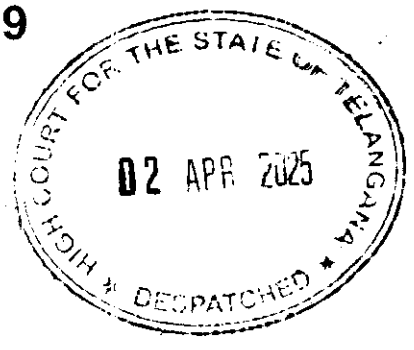
LS

HIGH COURT

DATED: 12/03/2025

COMMON ORDER

WP.Nos.11967 OF 2016; 40484 OF 2017; 2834, 6828 AND 7126 OF 2018 AND 28573 OF 2019



DISMISSING ALL THE WRIT PETITIONS,

WITHOUT COSTS

(10) PA 21/3/25