

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 5TH DAY OF MARCH, 2026

PRESENT

THE HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE

AND

THE HON'BLE MR. JUSTICE C.M. POONACHA

WRIT PETITION NO. 2922 OF 2023 (GM-MM S)

C/W

WRIT PETITION NO. 10370 OF 2022 (GM-MM S)

IN WP No. 2922/2023

BETWEEN:

M/S VIVEK EXPORTS
REG UNDER THE INDIAN
PARTNERSHIP ACT, 1932
HAVING ITS REGISTERED
OFFICE AT NO. 30/1, 2ND CROSS
CHIKKANA GARDEN, SHANKARPURA
BANGALORE - 560032
REP BY ITS MANAGING PARTNER
SHRI N NANDA KUMAR

...PETITIONER

(BY SRI. D.L.N. RAO, SENIOR ADVOCATE A/W
SRI. SRINIVASA C, ADVOCATE)

AND:

1. THE STATE OF KARNATAKA
DEPT OF COMMERCE AND INDUSTRIES
VIKASA SOUDHA
BANGALORE - 560001
REP BY ITS SECRETARY



2. THE DIRECTOR
DEPARTMENT OF MINES AND GEOLOGY
KHANIJA BHAVAN,
RACE COURSE ROAD
BANGALORE - 560001

...RESPONDENTS
(BY SMT. NILOUFER AKBAR, AGA FOR R1 & R2)

THIS WP IS FILED UNDER ARTICLES 226 & 227 OF THE CONSTITUTION OF INDIA PRAYING TO ISSUE WRIT IN THE NATURE OF CERTIORARI OR ANY WRIT OR ORDER AND QUASH THE IMPUGNED ORDER DATED 20/01/2016 PASSED BY THE RESPONDENT NO.2 BEARING NO.SAM.GA.BHUE/C.M.N/KA GA GU-/KA GA GU SAM-439/01, 2015-16 VIDE ANNEXURE-A AND ETC.

IN WP NO. 10370/2022

BETWEEN:

KUM INTERNATIONALS
SY. NO. 439/2, 9TH K.M.
BADANAGUPPE VILLAGE
MYSORE ROAD,
CHAMARAJANAGARA 571313
REPRESENTED BY ITS MANAGING PARTNER
SRI. V.ANANTHA KUMAR
AGED ABOUT 62 YEARS
R/O BILIGIRI, B.R. HILLS ROAD,
CHAMARAJANAGARA 571313

...PETITIONER
(BY SRI. B V VIDYULATHA.,ADVOCATE)

AND:

1. THE STATE OF KARNATAKA
DEPARTMENT OF COMMERCE
AND INDUSTRIES

VIKASA SOUDHA
BANGALORE 560 001
BY ITS SECRETARY

2. THE DIRECTOR
DEPARTMENT OF MINES AND GEOLOGY
KHANIJA BHAVANA
RACE COURSE ROAD,
BANGALORE 560 001

...RESPONDENTS

(BY SMT. NILOUFER AKBAR, AGA)

THIS WP IS FILED UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA PRAYING TO ISSUE A WRIT OF CERTIORARI OR ANY OTHER SIMILAR WRIT, ORDER OR DIRECTION, QUASHING THE ORDER DATED 10/12/2020 OF THE 2ND RESPONDENT BEARING NO.GABHUUE/UUNI(KKA.AA)/KAGAGUASA-58/08-09/2020-21/4782 ISSUED BY THE 2ND RESPONDENT AT ANNEXURE-M TO THE WRIT PETITION AND ETC.

THESE WRIT PETITIONS HAVING BEEN HEARD AND RESERVED FOR ORDERS, COMING ON FOR PRONOUNCEMENT THIS DAY, ORDER WAS PRONOUNCED AS UNDER:

CORAM: HON'BLE MR. VIBHU BAKHRU ,CHIEF JUSTICE
and
HON'BLE MR. JUSTICE C.M. POONACHA

CAV ORDER

(PER: HON'BLE MR. JUSTICE C.M. POONACHA)

1. Writ Petition No.10370/2022 [subject 'A' writ petition] is filed calling in question the endorsement dated 10.12.2020 issued by the Director, Department of Mines and Geology, whereunder the

application for grant of quarry lease [Quarry Lease Application No.58/2008-2009 dated 13.08.2008] filed by the writ petitioner - M/s KUM Internationals [**KUM**] was rejected. In the said writ petition a direction was also sought for execution of the Quarry Lease Deed in respect of the area applied for by KUM.

2. Writ Petition No.2922/2023 [subject 'B' writ petition] is filed calling in question the endorsement dated 22.01.2016 issued by the Director of Department of Mines and Geology, whereunder the revision petition filed by the writ petitioner - M/s Vivek Exports [**Vivek Exports**] has been rejected. The said writ petitioner has also sought for consideration of the representation made by it seeking to grant extension of Quarry Lease No.439 for a period of 50 years from the date of original grant.

3. Since the land which is the subject matter of leases/applications in both writ petitions overlap, they are taken up together for consideration.

Background facts

4. Vide Quarry Lease No.1915, one Mr.Zia-Ul-Haq was granted permission for quarrying ornamental stone and black granite over an area of 50 acres in Survey No.184 of Jyothigondanapura

Village, Chamarajanagar Taluk, Mysore District [**subject property**] for a period of 5 years from 27.02.1978, which expired on 27.02.1983. The renewal was granted on 18.01.1983 for a period of 5 years w.e.f., 27.02.1983 (Quarry Lease No.3765). It is contented that a second renewal was applied for on 24.11.1987. Writ Petition No.4717/1987 was filed by the said Mr.Zia-UI-Haq to consider his renewal application.

5. The Karnataka Minor Mineral Concession Rules, 1969 [**KMMC Rules 1969**] was amended vide KMMC (Amendment) Rules, 1979 and Rule 3A was introduced to prevent quarry lease to be granted to private persons. The said Mr.Zia-UI-Haq filed Writ Petition No.20544/1990 challenging the validity of Rule 3A of the KMMC 1969 Rules (Amended in 1990). A learned Single Judge of this Court vide interim order dated 16.10.1990 granted stay of Rule 3A and permitted the writ petitioner to carryon quarrying operations subject to payment of royalty. Vide order dated 18.04.1991, the said writ petition [WP No.20544/1990] was disposed of permitting the writ petitioner to file a fresh application on or before 30.04.1991 and directed the State Government to consider the same within 3 months. Till then, it was ordered that *status quo* as on the said date

should continue. It is contented that the writ petitioner had filed an application for renewal on 30.04.1991.

6. On 18.06.1991, a Government Order [GO] was issued relaxing Rule 3A of the KMMC Rules. Based on the said GO, leases were granted including Quarry Lease Nos.6270 and 6271 in favour of Mr.Zia-UI-Haq. A public interest litigation in Writ Petition No.14783-14241/1991 was filed challenging the said GO dated 18.06.1991, which relaxed Rule 3A of the KMMC Rules. The said writ petition [WP No.14783-14241/1991] was allowed by a learned Single Judge on 13.03.1992 and the said GO dated 18.06.1991 was quashed. Mr.Zia-UI-Haq and some other lease holders from amongst the 203 persons, who were granted leases, filed Writ Appeal No.1464-65/1993 challenging the order of the learned Single Judge. The said appeal [WA No.1464-65/1993] was dismissed by a Co-ordinate Bench on 25.06.1993. The challenge made before the Supreme Court by some of the lease holders [Civil Appeal Nos.1683-1716/1996 with Nos.1717 to 1789/1996] was rejected by the Supreme Court on 18.01.1996 [**Alankar Granites Industries and others vs. P.G.R.Scindia, MLA and others: (1996) 7 SCC 416**].

7. In the meanwhile, the KMMC Rules, 1994 came into force and 1969 Rules were repealed. Writ Petition No.4717/1987 c/w Writ Petition No.2072/1988, whereunder the said Mr.Zia-UI-Haq had sought for issuance of quarrying permit pursuant to Quarry Lease No. 3765 and for striking down Rule 3A of the KMMC Rules 1969 was disposed of by a learned Single Judge of this Court, vide order dated 20.02.1995 permitting the petitioner to make an application under the KMMC Rules, 1994, within 2 months, which was required to be disposed of in accordance with law. Until the applications were disposed of, *status quo* as on the said date was ordered to be continued.

8. In the proceedings of the meeting of the Committee constituted under Rule 11 of the KMMC Rules, 1994 held on 11.06.1999 with regard to grant of quarry leases over the subject property, the application pertaining to QL No.3765 (QLR/44/94) of Mr.Zia-UI-Haq, whereunder an extent of 25 acres of the subject property was applied for, was recommended to be granted for an extent of 10 acres; the application pertaining to QL No.6271 (QLR/27/94), whereunder an extent of 25 acres of the subject property was applied for, was recommended to be rejected since the same exceeded the limit. Vide notification bearing No.CI 400

MMN 99 dated 21.12.2000 lease over an extent of 15 acres was granted in the subject property in favour of Mr.Zia-UI-Haq, Partner of Vivek Exports, for quarrying black granite for a period of 10 years, consequent to which, Quarry Lease Deed [QL No.439] was executed on 21.05.2001. It is pertinent to note here that in the proceedings of the Rule 11 Committee, the name of the applicant was Mr. Zia-UI-Haq whereas the notification and the lease deed was issued in favour of Mr.Zia-UI-Haq, Partner, Vivek Exports.

9. An application was filed by KUM for grant of quarry lease over an extent of 20 acres in the subject property on 06.08.2008 [which included an area of 5 acres, which was granted vide QL No.439]. An endorsement dated 11.01.2010 was issued rejecting the application filed by KUM on the ground that the applied area overlaps with the existing quarry lease of Vivek Exports. Being aggrieved, KUM preferred Writ Petition No.9325/2009 seeking to quash QL No.439. A Coordinate Bench of this Court vide order dated 04.01.2011 disposed of the said writ petition. The relevant portion of the said order is as under:

"4. The aforestated facts are relevant because the petitioner had applied for a quarrying lease, and the claim of the petitioner was declined through the impugned order dated 11.1.2010 (Annexure-L) on account of the fact, that the Presiding Officer (Mines) was of the view, that "the Committee resolved to reject

the application because the applied area overlaps with the existing leases". It is not disputed that reference in the impugned order in respect of "existing lease", was in respect of none other but respondent no.3.

5. The facts narrated hereinabove reveal, that the lease granted to respondent no.3 on 26.6.1991 was invalid, as a natural consequence thereof, the renewal of the lease dated 26.6.1991 on 21.12.2000 was implicitly invalid and the same is accordingly liable to be set aside, and as such, is hereby set aside. Thus viewed, there was no subsisting valid lease over the applied area. As such, we are satisfied, that the rejection of the claim of the petitioner through the impugned order dated 11.1.2010(Annexure-L) was based on an invalid consideration. Thus, viewed, the order dated 11.1.2010 is liable to be set aside and the same is accordingly hereby set aside.

6. In view of the above, we hereby direct the competent authority to reconsider the claim of the petitioner in accordance with law. Needless to mention, that if respondent no.3 has a subsisting valid claim, it will be open to respondent no.3 to substantiate his claim before competent authority.

7. Disposed of in the aforesaid terms.

8. Since the main petition has been disposed of, pending Misc.Writ Nos. 10382/10, 11973/10, 10082/09 are accordingly, disposed of."

(emphasis supplied)

10. The said order [Order dated 04.01.2011 passed in WP No.9325/2009] was challenged by Vivek Exports [SLP (Civil) No.5123/2011 - numbered as Civil Appeal No.7773/2014] before the Supreme Court. Vide judgment dated 19.08.2014, the Supreme Court dismissed the said appeal. Thereafter, the Director, Department of Mines and Geology vide endorsement dated

22.01.2016 rejected the application filed by Vivek Exports, which has been called in question in Writ Petition No.2922/2023 [subject 'B' writ petition].

11. In the meanwhile, KUM had filed Writ Petition No.2060/2015 for a direction to consider its application dated 06.08.2008 for grant of quarry lease over an area of 20 acres. A Coordinate Bench of this Court vide order dated 05.02.2015 disposed of the said writ petition by recording the submission of the State that the said application would be considered within six weeks. Subsequently, the Committee constituted as per Rule 11(4) of the KMMC Rules recommended for rejection of the application of KUM, which was communicated vide communication dated 11.01.2016.

12. KUM preferred Writ Petition No.14403/2016 to quash the recommendation of the Rule 11 Committee. In the meanwhile, vide notification dated 22.11.2000 an extent of 5 acres in the subject property was notified for grant of quarry lease to quarry black granite. A Coordinate Bench of this Court vide order dated 26.09.2016 disposed of the said writ petition by directing the authorities to consider the application of KUM to an extent of 5 acres as covered in the notification dated 20.11.2000. Vide endorsement dated 25.03.2017/04.04.2017 the application of KUM

was rejected as the same was ineligible under Rule 8B(1) of the KMMC (Amendment) Rules, 2016. Being aggrieved, KUM preferred Writ Petition No.29691/2017. A Coordinate Bench of this Court vide order dated 09.10.2018 disposed of the writ petition by directing consideration of the application of KUM. Subsequently, an endorsement dated 10.12.2020 was issued, whereunder the application of KUM for grant of quarry lease to quarry black granite over 5 acres of land in the subject property was rejected as the same does not come under Rule 8B(2)(a) to (e) of the KMMC (Amendment) Rules, 2016. The same has been challenged by KUM in Writ Petition No.10370/2022 [subject 'A' writ petition].

Discussion & Reasoning:

I. Re. the application of Vivek Exports (WP.No.2922/2023):

13. At the outset, it is pertinent to note that the right sought to be asserted by Vivek Exports pursuant to the renewal of the lease on 21.12.2000 has been adjudicated by this Court vide order dated 04.01.2011 passed in Writ Petition No.9325/2009, whereunder it was held that the lease was "implicitly invalid" and was set aside. It was also held that the said lease "was not a subsisting valid lease". Although the said order dated 04.01.2011 passed in Writ Petition No.9325/2009 was challenged by Vivek Exports before the

Supreme Court [SLP (Civil) No.5123/2011 - numbered as Civil Appeal No.7773/2014], the same was dismissed vide judgment dated 19.08.2014. Hence, the finding that QL No.439 was invalid has attained finality.

14. The subject 'B' writ petition was filed by Vivek Exports calling in question the endorsement dated 22.01.2016 passed by respondent No.2 - Director, Department of Mines and Geology as also to consider the representations of Vivek Exports to extend QL No.439 for 15 acres of the subject property up to 50 years from the date of the original grant as per Rule 8A(2) of the KMMC (Amendment) Rules, 2016. In this context, it is pertinent to note that vide the endorsement dated 22.01.2016 it was noticed that QL No.439 granted to Vivek Exports was *void ab initio* and hence, it was decided that the area of lease under QL No.439 has to be notified under Rule 8A and 8B of the KMMC Rules 1994 and disposed of vide tender-cum-auction.

15. As rightly noticed by the official respondents, the claim of Vivek Exports for renewal of lease was decided vide to the judgment of the Coordinate Bench of this Court (order dated 04.01.2011 passed in Writ Petition No.9325/2009). It has been categorically held "that the renewal of QL No.439 on 21.12.2000

was implicitly invalid and the same is accordingly, liable to be set aside and as such, set aside". The challenge made by Vivek Exports to the said order has been rejected by the Supreme Court (order dated 19.08.2014 passed in SLP (C) No.5123/2011 numbered as Civil Appeal No.7773/2014).

16. It is sought to be contended on behalf of Vivek Exports that QL No.439 is eligible for an extension of 30 years from 21.12.2000 as per Rule 8A(2) of the KMMC (Amendment) Rules 2016 or alternatively as per Rule 6 of the Granite Conservation and Development Rules,1999 [**GCD Rules**]. It is also contended that the KMMC Rules was amended vide GO dated 17.03.2023, whereunder quarry leases granted before the commencement of the KMMC (Amendment) Rules, 2016 shall be deemed to have been granted for 50 years. Hence, it was contended that Vivek Exports was entitled to statutory grant of lease for a period of 50 years from 27.02.1978. It was also contended that the Supreme Court vide order 19.08.2014 passed in Civil Appeal No.7773/2014, held that Vivek Exports has to establish a subsisting valid claim before the competent authority. Hence, it was contended that it had sought for the statutory extension of QL No.439 for 30 years w.e.f., 27.02.1978 and subsequent to the KMMC (Amendment) Rules,

2023, it sought for a further period of 50 years. It was also contended that a renewal can be granted from an original grant and it is to be considered as a fresh lease/fresh grant.

17. The thrust of the contention of Vivek Exports is that the original lease (QL No.1915) granted on 27.02.1978 was being periodically renewed and under the said circumstances, QL No. 439 was granted. In this context, it is pertinent to note that subsequent to QL No.1915, QL No.3765 was granted for a period of 5 years, which was valid till 26.02.1988. Under Rule 16 of the KMMC rules 1969, an application for renewal of lease was to be made 90 days before the expiry of the lease and if such an application is not disposed of within that period, it shall deemed to have been refused. Further, Rule 3A of the KMMC (Amendment) Rules, 1979 specifically provided that no lease for quarrying black granite shall be granted to private persons. Writ Petition No.4717/1987 c/w Writ Petition No.2072/1988 was filed by Mr.Zia-UI-Haq to strike down the said Rule 3A. During the pendency of the said writ petition, on 22.05.1990 Rule 3A was substituted, whereunder it was stipulated that no lease for quarrying black, pink, green, yellow or multicolour granite shall be granted for renewal. The said Rule 3A was challenged by Mr.Zia-UI-Haq in Writ Petition

No.20544/1990. Vide interim order dated 16.10.1990, a learned single judge of this Court granted stay of the said Rule 3A. Vide order dated 18.04.1991, Writ Petition No.20544/1990 was disposed of by the learned Single Judge noticing the Division Bench judgments of this Court and accordingly, granted liberty to Mr.Zia-UI-Haq to file a fresh application for grant of lease within 30.04.1991.

18. Mr.Zia-UI-Haq was granted QL Nos.6270 and 6271 pursuant to GO dated 18.06.1991. The said GO dated 18.06.1991 was quashed by a learned single judge of this Court, which decision was affirmed by the Division Bench of this Court as well as the Supreme Court. Subsequently, Mr.Zia-UI-Haq has sought for renewal of QL No.6270. The said renewal was sought by placing reliance on Rule 59 of the KMMC Rules 1994, which came into force on 28.04.1994. Rule 59 dealt with transitional provisions and stipulated as under:

"59. Transitory Provisions - (1) Where any person who had already applied under the repealed rules for obtaining a quarrying lease or permit and such application is pending consideration immediately prior to the commencement of these rules, such person may, within thirty days from such commencement, apply afresh for grant or renewal of quarrying lease or permit under these rules."

19. The GO dated 18.06.1991 on the reliance of which QL Nos.6270 and 6271 was granted, having been quashed by the Supreme Court, the question of Mr.Zia-Ul-Haq taking the benefit of Rule 59 of the KMMC Rules, 1994 does not arise. Further, as already noticed, a Coordinate Bench of this Court vide order dated 04.01.2011 passed in Writ Petition No.9325/2009 had held that the lease granted to Vivek Exports was “invalid” and had quashed the same. The challenge made by Vivek Exports to the said order dated 04.01.2011 was dismissed by the Supreme Court. Hence, the order dated 04.01.2011 passed by this Court has attained finality.

20. Although, it is sought to be contended that the order dated 04.01.2011 passed in Writ Petition No.9325/2009 was under an erroneous presumption that the lease of Vivek Exports was a fresh lease and not a renewal, having regard to the findings recorded in the said order dated 04.01.2011 and the said findings not having been interfered with by the Supreme Court, the contention of Vivek Exports is untenable and liable to be rejected. The official respondents were justified in issuing the endorsement dated 22.01.2016 rejecting the application of Vivek Exports.

21. Another aspect which has to be noted is that the endorsement rejecting the application of Vivek Exports was passed on 22.01.2016 and the writ petition challenging the same was filed on 03.02.2023 i.e., after an inordinate delay of 7 years. This Court vide order dated 06.02.2023 passed in Writ Petition No.2922/2023 called upon the writ petitioner to file an additional affidavit explaining the delay. Although in the affidavit dated 29.11.2023 filed on behalf of Vivek Exports, it is sought to be contended that it learnt regarding the rejection in the second week of February, 2016 and that since a demand notice dated 31.12.2019 was issued seeking for dead rent, it was under the impression that the lease was subsisting. However, there is no explanation forthcoming as to why the rejection order dated 22.01.2016 was not challenged up to the year 2019. Further, it has been deposed that they have approached their legal team for legal opinion and in the meantime, the deponent (Managing Director of Vivek Exports) fell ill and remained inactive for about 6 months. There are no documents produced to demonstrate the same. It is deposed that thereafter they have filed the writ petition.

22. It is clear that there is no valid explanation set out for the inordinate delay of 7 years in filing the writ petition. The writ

petition filed by Vivek Exports (Writ Petition No.2292/2023) is liable to be rejected both on the ground of delay as well as on merits.

II. Re. the application of KUM (WP.No.10370/2022):

23. With regard to the application made by KUM, it is to be noticed that the application was initially made for an extent of 20 acres of the subject land on 06.08.2008 which included an extent of 5 acres which was already part of the quarry lease which was granted to Mr. Zia-UI-Haq / Vivek Exports. Hence, vide endorsement dated 11.01.2010, application of KUM was rejected, which was called in question in W.P. No.9325/2009. Vide order dated 04.01.2011, a Coordinate Bench of this Court held that the lease executed in favour of Vivek Exports was 'invalid' and set aside the same and directed the consideration of application filed by KUM. The said order of this Court was upheld by the Supreme Court [Order dated 19.08.2014 passed in SLP (Civil) No.5123/2011].

24. Thereafter, vide endorsement dated 11.01.2016, the application of KUM was rejected holding that the applied area attracts Rule 8-A of the KMMC Rules, 1994 and was required to be auctioned as per Rule 8-B of the said Rules. The rejection was

called in question in W.P. No. 14403/2016. In the meanwhile, an extent of 5 acres of land in the subject property was notified vide notification dated 20.11.2000 for grant of quarry lease and applications for the same were called for. Vide order dated 26.09.2016, a Coordinate Bench of this Court disposed of the said petition (WP.No.14403/2016) directing that the application of the petitioner for grant of lease be considered for an extent of 5 acres as covered by the notification dated 20.11.2000.

25. Rule 8B(1) of the KMMC Rules (Amendment) Rules, 2016 (as amended on 12.08.2016) stipulates that all applications received and pending for grant of lease or license prior to the said Rule coming into force, shall become ineligible. However, Sub-rule 2 of Rule 8B provided exceptions to Sub-rule (1) whereunder, it was provided that the application shall remain eligible under certain situations namely, if they are received upon the notification issued under Rule 8B, which existed prior to the 2016 Amendment; where the Committee under Rule 11 had recommended for grant of lease or license before the commencement of the 2016 Rules; where the minerals are reclassified as minor minerals by the Central Government; where the applications were pending for which no

objection certificates have been received before commencement of the 2016 Rules; etc.

26. Vide endorsement dated 25.03.2017/4.4.2017, the application of KUM was rejected on the ground that it was not saved as per Rule 8-B(2) of the KMMC Rules, 1994 as amended under Rule 8-B(1) of the KMMC (Amendment) Rules 2016.

27. The rejection by endorsement dated 25.03.2017/04.04.2017 was called in question by KUM in W.P. No. 29691/2017. Vide order dated 09.10.2018, a Coordinate Bench of this Court allowed the said writ petition, set aside the endorsement and directed consideration of the application of the petitioner within 4 weeks. In the said order dated 09.10.2018, it was noticed that a batch of similar petitions, where applications were pending and where similar endorsements were issued, this Court had set aside the endorsements and directed consideration of the applications. It was noticed that under Rule 8(5), it was the responsibility of the authorities to furnish an NOC and the applications could not have been rejected for the omission of the said authorities. Hence, in parity with the other orders passed by this Court, the said order dated 09.10.2018 was passed. Pursuant to the same, by the endorsement dated 10.12.2020, the application of the petitioner

was considered and rejected. In the said endorsement, it was noticed that no objection reports were not received from the Deputy Commissioner and Deputy Conservator of Forest. Further, the application of KUM was required to be considered under the KMMC (Amendment) Rules, 2016 and it was held that since the no objection from the other Departments were not received prior to 12.08.2016, the same could not be considered. Hence, it was ordered that the applied area be granted only by way of auction as per Rule 9-A(2) of the KMMC (Amendment) Rules, 2016. The said endorsement dated 10.12.2020 is called in question in the subject 'A' writ petition.

28. Vide the endorsement dated 10.12.2020, it was held that “no objection letter/report” for the applied area had not been received prior to 12.08.2016 and that the area applied for was a held area prior to 2016. Basis the said reasoning, the official respondents had issued the endorsement dated 10.12.2020. It is clear that having regard to the order dated 9.10.2018 passed in WP no. 29691/2017, the official respondents were required to consider the application of KUM for quarrying black granite over 5 acres of the subject property. This Court, vide the said order dated 09.10.2018 had specifically set aside the endorsement in question and had directed

consideration of the application of KUM since under Rule 8(5) it was for the authorities concerned to request for the NOC from various departments. The application of the petitioner having been pending from the year 2010, non-consideration of the application of the petitioner for not having received No objection letter/report prior to 12.08.2016 does not arise.

29. Rule 8-B(1) of the KMMC (Amendment) Rules, 2016 (which came into effect from 12.08.2016) stipulated that all applications received and pending for grant of lease or license prior to the date of commencement of the said rules shall become ineligible including the applications received for minor minerals.

30. Rule 8-B(1) of the KMMC (Amendment) Rules, 2023 (which came into effect from 17.03.2023) stated that all applications received for grant of lease prior to the commencement of the 2016 Rules shall become eligible including the applications for grant of minor minerals.

31. A reading of the order dated 9.10.2018 passed in W.P. No.29691/2017 and taking into consideration the effect of the KMMC (Amendment) Rules, 2023, it is clear that the application of

KUM for grant of lease of 5 acres of the subject property as notified in the notification dated 20.11.2000 was required to be considered.

32. Another aspect to be noticed is that under Rule 8(5) of the KMMC (Amendment) Rules, 2013, which was noticed by this Court in its order dated 9.10.2018 passed in W.P No.29691/2017, the onus was on the Senior Geologist to request for NOCs from various other departments. However, by virtue of the KMMC (Amendment) Rules, 2024, which came into force w.e.f., 02.01.2025, the said Rule 8(5) has been amended and the onus of securing the NOCs from various departments is now put on the applicant. However, having regard to the fact that it is the Senior Geologist who is required to call for the NOCs from various departments/authorities and the said authorities were required to consider the same and give their response, the applicant for the lease can at best be a facilitator to the said process. The onus of requesting for the NOCs and consideration of the said request is clearly on the respective authorities.

33. The reliance sought to be placed on the order dated 16.08.2019 passed in Writ Petition No.10601/2019 wherein, Rule 8B of the KMMC (Amendment) Rules, 2016 has been held to be valid, would not aid the case of the official respondents having

regard to the fact that the application of KUM has been pending since the year 2010 and various orders have already been passed, as has been noticed above, for consideration of the said application. As also since the NOCs have already been submitted by KUM at the prior point of time. The onus is on the official respondents to secure the necessary reports / NOCs from the other departments.

34. It is also pertinent to note that KUM had made its application and had also furnished NOCs, which have been annexed with the writ petition (Annexure-J series).

35. At this juncture, it is pertinent to note that vide KMMC (Amendment) Rules, 2024 (which has come into effect from 02.01.2025), a proviso has been added to Rule 8(5), which reads as under:

"Provided also that, if the No Objection Certificates are not received to the Commissioner or Director or jurisdictional Deputy Director or Senior Geologist within a period prescribed in the said provisos, the application shall be deemed to have been rejected and the area shall be notified for grant of lease through auction."

36. The said proviso to Rule 8(5) contemplates that the grant of lease be notified through auction where NOCs are not received.

However, in the present case, as noticed above, NOCs have been placed on record in the writ petition.

37. Having regard to the aforementioned discussion, the relief sought for by KUM in the subject 'A' writ petition merits consideration.

38. It is also the contention of KUM that in similar matters, pursuant to the order of the Coordinate Bench of this Court setting aside the previous endorsements and directing consideration of the applications, the report of the relevant authorities were requested by the department of Mines and Geology, which was submitted by the relevant authorities and thereafter, it was recommended for grant of the quarry lease. Copies of the orders passed by this Court as well as the subsequent orders passed by the official respondents recommending the grant of lease, have been produced along with the writ petition (Annexure-N series).

39. In view of the aforementioned, Writ Petition No.2922/2023 (filed by Vivek Exports) is dismissed. Writ Petition No.10370/2022 (filed by KUM) is allowed. The endorsement dated 10.12.2020 passed by respondent No.2 - Director of Mines and Geology, is quashed. The respondents are directed to issue necessary

notification and execute the Lease Deed in favour of KUM with respect to the area notified under the notification dated 20.11.2000, within four weeks from date.

40. All pending applications are stand disposed of.

Sd/-
(VIBHU BAKHRU)
CHIEF JUSTICE

Sd/-
(C.M. POONACHA)
JUDGE

ND/BS/Vmb