# Nookala Setharamaiah vs Kotaiah Naidu & Ors on 31 March, 1970

## Equivalent citations: 1970 AIR 1354, 1971 SCR (1) 153, AIR 1970 SUPREME COURT 1354

## Author: J.C. Shah

## Bench: J.C. Shah, K.S. Hegde, A.N. Grover

PETITIONER:
NOOKALA SETHARAMAIAH

Vs.

RESPONDENT:
KOTAIAH NAIDU & ORS.

DATE OF JUDGMENT:
31/03/1970

BENCH:
SHAH, J.C.
BENCH:
SHAH, J.C.
HEGDE, K.S.
GROVER, A.N.

CITATION:
1970 AIR 1354 1971 SCR (1) 153
1970 SCC (2) 13
CITATOR INFO :
R 1972 SC1324 (11)

ACT:
Mineral Concession Rules, 1949--Rules 28(1-A), 57(1)--Scope of--Failure of the State Government to dispose of applications for grant of mining lease within the time prescribed by the rules--Whether the State Government is deemed to have refused the applications.
Review--If Central Government court review under rule 57(1) decision of State Government to grant leave pursuant to mandamus issued by High Court.

HEADNOTE:
In September, 1953, the first respondent applied for a

mining lease for over 900 acres in the then Hyderabad State. He was granted a lease of about 57 acres in January, 1954 by an order of the State Government which was silent as regards the other areas included in his application. While the respondent kept pressing' for a lease of the remaining areas, the State Government began to grant, some of these areas to other persons including the appellant. Meanwhile,, on December 8, 1955, the respondent moved the Central Government under Rule 57 of the Mineral Concession Rules, 1949, seeking a direction to the State to grant to him the lease of the areas sought by him and to stop granting further areas to other applicants. This review petition was dismissed on the basis that the order of the State Government granting only 57 acres by implication amounted to a rejection of the respondent's claim for the balance area.

On September 15, 1956, the Mineral Concession Rules were amended and a new sub rule 28(1) (A) was introduced which provided that every application under Rule 27 shall be disposed of within 9 months from the date of its receipt. The amended Rule 57 provided that the failure of the State Government to dispose of an application within the prescribed period would be deemed to be a refusal to grant a lease and that the aggrieved person may, within two months, apply to the Central Government for a review. A further amendment of Rule 57(2) provided that any application pending with the State Government an 14th September, 1956 and remaining undisposed of on the 24th August, 1957, shall be disposed of by the State Government within 6 months from the latter date. Prior to this amendment the respondent had filed another review petition before the Central Government and on September 26, 1957, that petition was dismissed by the Government as being premature; this was on the basis that the respondent's original application was pending on 31st August, 1957, and the period of 6 months from that date, as prescribed by the amended Rule 57(2) had not yet expired.

The respondent then moved the High Court by a petition under Article 226. making the State Government alone party and seeking a writ of mandamus to the Government to dispose of his application of September, 1953, expeditiously. The High Court allowed this petition and did not accept the contention, on behalf of the State Government that in view of section 57(2) the respondent's application must be

L11Sup CI/11

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deemed to have been rejected. it held that section 57(2) was intended to be for the benefit of the applicant and did not relieve the State Government from performing the statutory function imposed on it under rule 17 of granting or refusing the licence. During the pendency of the first petition, the respondent had also filed a second petition seeking the same relief and this was disposed of in August, 1959 on the basis of a statement by the Government Advocate that the State

Government was prepared to dispose of the first respondent's application on the merits without relying on rule 57(2).

By an order on May 27, 1961, the State Government granted on. mining lease to the, respondent all the areas for which he had applied in September, 1953 excluding those areas which had been earlier leased to others., However. the Central Government allowed a review petition under Rule 57 filed by the appellant and set aside the order on the ground that the application made by the appellant, the first respondent, as well as others which were pending before the State Government 'should be deemed to have been rejected on 1st March, 1958 in view of rule 57(2).

The 1st respondent then challenged this order by a writ petition in the High Court which was allowed and the order was quashed. The court held that rule 57(2) was enacted only for the benefit of the applicants and did not take away the power of the State Government to dispose of applications even after expiry of the prescribed period; that in view of the Government Advocate's concession the State Government Was stopped from contending that the respondent's application of September, 1953 must be deemed to have 'been refused; and furthermore that in view of the writ of mandamus issued in the first writ petition, the State Government was bound to consider the application of the 1st respondent and the decision of the State Government taken in obedience to the order of the High Court could not have been set aside by the Central Government.

HELD : (Per Hedge and Grover, JJ); The appeal must be allowed (By the Court) (1) Reading rule 28 (1-A) and rule 57 (2) together, there is no doubt that after the period prescribed, the State Government is incompetent to deal with the applications' pending before it. The High Court was, therefore, wrong in holding that even if an application stands rejected for failure to pass an order within the time prescribed, the State Government has power to issue a licence. [164 C]

Dey Gupta & Company vs. State of Bihar A.I.R. 1961 Pat. 487; referred to.

(2) There can be no estoppel against a statute. Rule 28(1-A) and rule 57(2) are statutory rules. They bind the Government as much as they bind others. The requirement of those rules cannot be waived by the State Governments. Therefore the fact that the Government Advocate represented to the Court that the 1st respondent's application was still pending could not change the legal position nor could it confer on the State Government any power to act in contravention of those rules. [165 A-B]

(3)Per Hegde and Grover JJ.); As far as the State Government was concerned the writ issued was binding whether the decision rendered by the Court was correct in law or not; but that decision could not bind the appellant or the Central Government who were not parties to that writ petition.. It was not a judgment in rem. In obedience to

the writ issued by the court, the State Government did consider the
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application of the 1st respondent and granted him the lease asked for by him. The Central Government had been constituted as the revisional authority under rule 57. That authority is a quasi-judicial body created by statutory rules. It is bound by law to discharge the duties imposed on it by rule 57. Therefore it had to obey the mandate of rule 57. In so doing it cannot be said that it had infringed the mandamus issued by the High Court. [165 D-F]

(Per Shah J, dissenting) : The appeal must be dismissed,

Granting that the High Court erroneously issued a writ of mandamus directing the State Government to perform its functions it was, not open to the Central Government in effect to exercise appellate authority over the judgment of the High Court. To accede to the contention that the executive has the power, when exercising quasi-judicial functions, to sit in appeal over the decision of the High Court is to destroy the scheme of division of powers under our Constitution. There was no distinction between the effect of an order made by the High Court and carried out by the State, and an order made by the High Court and confirmed in appeal by this Court and carried out by the State. Article 141 of the Constitution has no bearing on that question. If this Court decided a question of law or of fact or a mixed question of law and fact arising in an appeal against an order passed by the High Court in a writ petition against the action of the State Government granting or refusing to grant a licence, it would not be open to the Central Government, hearing a review petition against the order of the State Government in compliance with the order of this Court, to set aside the order so as to upset the order of this Court. [156 H]

It is well settled that a person who has not been made a party to a proceeding may still appeal with leave of the Appellate Court provided he might have properly been made 'a party to the proceeding. The appellant could undoubtedly have been made a party to the petition before the High Court. He could, therefore, challenge the correctness of the order and no objection could be raised against the granting of leave to him to appeal on the ground that he was not a party to the writ petition. [157 F, 158 C]

Re. "B" an Infant [1958] 1 Q.B. 12 C.A., The Province of Bombay v. Western India Automobile Association I.L.R. [1949] Bom. 591; Ponnalagu v. State of Madras I.L.R. [1953] Mad. 808; Pullayya v. Nagbhushanain I.L.R. 1962 A.P. 127 F.B.; referred to.

JUDGMENT:

CIVIL APPELLATE JURISDICTION: Civil Appeals Nos. 2 1 21 and 2122 of 1969.

Appeals from the judgment and order dated July 18, 1969 of the Andhra Pradesh High Court in W. P. Nos. 464 and 602 of 1965.

D. Narasaraju, A. Subba Rao and K. R. Sharma, for the appel- lant (in both the appeals) M. C. Setalvad P. Parameswara Rao, V. Rajagopal Reddy, S, L. Setia and K. C. Dua, for respondent No. 1 (in both the appeals).

V. A. seyid Muhammad and S. P. Nayar, for respondent No. 2 (in both the appeals).

P. Ram Reddy and A. V. V. Nair, for respondents Nos. 3 and 4 (in C.A. No. 2121 of 1969) and respondent No. 3 (in C.A. No. 2122 of 1969).

The Judgment of HEGDE and GROVER, JJ. was delivered by HEGDE, J. SHAH, J. delivered a dissenting opinion :

> Shah, J. I agree that Appeal No. 2122 of 1969 must be dismissed. I also agree that if the states to dispose of the application for grant of a mining lease within the time prescribed by the rules, the failure,results in refusal to grant the lease. The High Court was in error in holding that in the absence of a provision enacting, that even if the application stands rejected for failure to pass an order within the time prescribed, the State Government has power to issue a licence. The High Court was again in error in holding that because of the representations made by the State before Bhimasankaran, J., in Writ Petition No. 1237 to 1957 the State Government were estopped from contending that the application was by the first respondent must be deemed to have been refused.
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> But I am unable to agree that the Central Government was competent in exercise of its power of review, against the order of the State Government made in compliance with the order of Basi Reddy, J. in Writ Petition No. 888 of 1957, to set aside the order so as in effect to overrule the, judgment of the High Court.
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> The relevant facts may be recalled. The Central Government made an order on September 25, 1957, in the review application filed by the first respondent holding that his application was premature and that it was for the State Government to dispose of the application within six months of August 31, 1957. The first respondent then moved Petition No. 888 of 1957 for a mandamus directing the State Government to dispose of his application. By order dated November 4, 1958, Basi Reddy, J., observed that r. 57(2) as amended by S.R.O. No. 2753 "is intended for the benefit of the applicant, and does not relieve the State from per- forming the statutory functions imposed on it under rule 17(1) and 17(2) viz. of granting or refusing the licence". The State Government then heard the application and granted the mining lease for which the first respondent had applied on September 15, 1953. Against that

order the appellant moved a review petition. The Central Government by order dated February 15, 1965, allowed the review petition and set aside the grant in favour of the first respondent. Granting that the High Court erroneously issued a writ of mandamus directing the State Government to perform its func- tions it was, in my judgment, not open to the Central Government in effect to exercise appellate authority over the judgment of the High Court. If the order was erroneous it could be set aside by an appropriate proceeding before a Division Bench- of the High Court or before this Court. But the Central Government had no power to set aside the order on the view that the High Court had reached an erroneous conclusion. To accede to the contention that the executive has the power, when exercising quasi-judicial functions, to sit in appeal over the decision of the High Court is to destroy-the scheme of division of powers under our Constitution. I see no reason for making a distinction be- tween the effect of an order made by the High Court and carried out by the State, and an order made by the High Court and confirmed in appeal by this Court and carried out by the State. In my view Art. 141 of the Constitution has no bearing on that question. If this Court decided a question of law or of fact or a mixed question of law and fact arising in an appeal against an order passed by the High Court in a writ petition against the action of the State Government granting or refusing to grant a licence, it would not, in my judgment, be open to the Central Government, hearing a review petition against the order of the State Government in compliance with the order of this Court, to set aside the order so as to upset the order of this Court. That is so,; not because of Art. 14 1, but I because neither the Legislature nor the executive is invested with powers to supersede judgments of Courts. The Legislature may if competent in that behalf change the law but cannot supersede a judgment of the Court. The executive has no power to change the law, and no power to supersede the judgment of the Court.

It was, however, said that the appellant was not impleaded as a party to Writ Petition No. 888 of 1957, and he could not seek redress in a superior court against the order of Basi Reddy, J. But it is settled by a long course of authorities that a person who has not been made a party to a proceeding may still appeal with leave of the appellate Court, provided he might have properly been made a party to the proceeding : see Re. "B " an Infant.(1). In In re. Securitie Insurance Company(2) Lindley, L.J., observed at p. 413 :

"I understand the practice to ' be perfectly well settled that a person who is a party can appeal (of course within the proper time) without any leave, and that a person who without being a party is either bound by the order or is aggrieved by it, or is prejudicially affected by it, cannot appeal without leave. It does not require. much to obtain leave. If a person alleging him- (1) [1958] 1 Q.B. 12 C.A. (2) [1894] 2 Ch. 410.

self to be aggrieved by an order can make out even a prima facie case why he should have leave he will get it; but without leave he is not entitled to appeal."

The rule has been accepted by the High Courts in India : see The Province of Bombay v. Western India Automobile Associa- tion;(1) Ponnalagu v. State of Madras;(2) and Pullayya v. Nagbhushanam. (3) The appellant could undoubtedly have been made a party to a petition before the High Court. lie could, therefore, challenge the correctness of the order made by Basi Reddy, J. No objection could be raised against the grant of leave to him to appeal ,on the ground that he was not a party to the Writ Petition No. 888 of 1957. In my judgment, therefore, Appeal No. 2121 of 1967 must also fail. Hegde, J. These appeals by certificate arise from the common judgment of the High Court of Judicature at Andhra Pradesh in Writ Petitions Nos. 464 and 602 of 1965. The appellant herein was the petitioner in Writ Petition No. 602 of 1965 and the 5th respondent in Writ Petition No. 464 of 1965. In this case, it will be convenient to formulate the issues arising for' decision after setting out the relevant facts. Amrutham Kotaiah Naidu, the 1st respondent in these appeals applied for the grant of a mining lease in respect of 915 acres and 18 cents of lands in Appalanarasinmhapuram hamlet of Cheruvumadhavaram in Khammameth Teluqa of Warangal District of the then Hyderbad State, on September 15, 1953. After production of agreement with the pattedars lease in respect of lands comprising 57 acres 25 Gunthas was granted to him as per the order of the Director of Mines and Geology dated January 9, 1954. That order is silent as regards the other areas included in his application. Thereafter the respondent was pressing the State Government to ,-rant him on lease the remaining areas included in his application. Meanwhile on November 21, 1955, the appellant applied for the grant of a mining lease of a portion of the area for which the respondent had earlier submitted his application. The State Government granted on mining lease to various persons some of the areas in respect of which the respondent had asked for a mining lease. Obviously aggrieved by those grants the respondent moved (1) I.L.R. [1949] Bom. 591. (2) I.L.R. [1953] Mad. 808. (3) I.LR. [1962] A.P. 127 F.B. the Central Government under rule 57 of the Mineral Concession Rules, 1949 (to be hereinafter referred to as 'rules on December 8, 1955, seeking a directicon to the State Government to grant to him the lease asked for by him by his application of September 15, 1953. He further requested the Central Government to direct the State Government to stop granting further areas to other appli- cants in Appalanarasimhapuram village pending investigation of the matter and pending decision of the Central Goverrunent. Meanwhile on December 27, 1955, the State Government granted on mining lease 1 acre and 20 cents of land to the appellant from out of the area included in the 1st respondents application. On July 18, 1956, the Central Government dismissed the review petition made by the 1st respondent on December 8, 1955 with these observations "Sir, I am directed to refer to your application dated the 8th December, 1955, on the subject and to say that after careful consideration of the facts stated therein, the Central Government have come to the conclusion that there is no valid ground for interfering with the decision of the Government of Hyderabad, rejecting your application-for grant of mining lease for iron ore in Appanarasimhapuram and Raigudam villages, Khammameth district. Your application for revision is, therefore, rejected.

Yours faithfully, Sd/- G. C. Jerath, Under Secretary to the Government of India." Evidently the Central, Government proceeded on the basis that the order of the State Government dated January 9, 1954 granting 57 acres and 20 cents of land to the 1/st respondent, by implication amounted to a rejection of his claim in respect of the other areas.

Meanwhile on September 15, 1956, some of the rules were amended. After rule 28(1) anewsub-rule 28(1-A)was inserted. That sub-rule reads :

> "Every application under rule 27 shall be disposed of by the State Government within 9 months from the date of receipt of the application."

At the same time rule 57 was also amended. Amended rule 57 reads thus :

> (1) "Application for review.-(1) Where a State Government passes as under.-
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> (i) refusing to grant a certificate of approval, prospecting license or mining lease;
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> (ii)refusing to renew a certificate of approval, prospecting license or mining lease;
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> (iii) cancelling a prospecting license or mining lease;
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> (iv) refusing to permit transfer of a prospecting license or any right, title or interest therein under clause (iv) of sub-rule (1) of rule 23 or a niping lease or any right, title or interest therein under rule 37, it shall communicate in writing the reasons for such order to the person against whom the order is passed and any person aggrieved by such order may, within two months of the date of receipt of such order, apply to the Central Government for reviewing the same.
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> (2) Where a State Government has failed to dispose of an application for the grant or renewal of a certificate of approval or prospecting license or a mining lease within the period prescribed therefore in these Rules, such failure shall, for the purpose of these rules, be deemed to be a refusal to grant or renew such certificate, license or lease, as the case may be, and any person aggrieved by such failure may, within two months of the expiry of the period aforesaid apply to the Central Government for reviewing the case.
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> (3) An application for review under this rule may be admitted after the period of limitation prescribed under this rule, if the applicant satisfies the Central Government that he had sufficient cause for not making the application within the said period."

A further amendment to that rule 57(2) was made on August 31, 1957. The concerned notification No. S.R.O. 2753 reads "In exercise of the powers' conferred by section 5 of the Mines and Minerals (Regulation and Development) Act, 1948, the Central Government hereby makes the following further amendment in the Mineral Concession Rules, 1949, namely-

Provided that any such application pending with the State Government on the 14th September, 1956, and remaining undisposed of on the 24th August, 1957, shall be disposed of by the State Government within six months from the latter date."

On April 16, 1957, the 1st respondent filed another review petition before the Central Government. On September 26, 1957, that petition was dismissed by the Central Government as being premature. The relevant portion of that order reads "With reference to your application dated 16th April, 1957, on the above subject, I am directed to invite your attention to this Ministry's notification No., MII-152(26)/57 dated the 21-8-57 (copy enclosed) amending the Mineral Concession Rules, 1949. It will be noticed therefrom that the application for concessions received by the State Govt. prior to the 4th September, 1956 and remaining undisposed of on the 31st August 1957 shall be disposed of by them within six months from the latter date. Your application fo r review is therefore premature at this stage and in case your application for Mining Lease is not disposed of by the State Government within the prescribed period you may apply to the Central Government at the appropriate time."

While making this order, evidently the Central Government had overlooked its earlier order dated July 18, 1956. After the aforementioned order of the Central Government, the 1st respondent moved the High Court of Andhra Pradesh under Art. 226 of the Constitution in Writ Petition No. 888 of 1957 seeking a writ of mandamus to the State Government of Andhra Pradesh to dispose of his application for lease made on September 15, 1953, expeditiously. To that petition he made only the State of Andhra Pradesh as the respondent. Neither the Central Government nor the appellant herein were parties to that petition. That petition came tip for hearing before Basi Reddy J. on November 4, 1958. At the hearing the learned Government Pleader who appeared for, the State Government conceded that the application of the petitioner for mining lease on September 15, 1953 had not been disposed of by the State Government in the manner prescribed by rule 17 of the 'Rules' but he contended that that application must be deemed to have been rejected in view of rule 57(2). The learned judge rejected that, contention with the following observations:

> "In my opinion this deeming provision is intended for the benefit of the applicant add does not relieve the State Government from performing the statutory functions imposed on it by rules 17(1) and 17(2) viz., of granting or refusing the licence, and in case of refusal of recording in writing the reasons for the refusal and of refunding the application fee."

He accepted the petition and issued the mandamus prayed for.

During the pendency of the writ petition No. 888 of 1957, ,the 1st respondent filed another writ petition on December 16, 1957 seeking the very relief that he had sought in his earlier writ ,petition. That petition was disposed of by Bhimasankaram J. ,on August 20, 1959, with these observations :

> "It is stated by the learned 3rd Government Pleader that the Government is prepared to dispose of the application of the petitioner on the merits without relying upon rule 57(2) of the Mineral Concession Rules, 1949. in the circumstances the petitioner does not want to press his petition. The writ petition is accordingly dismissed. There will be no order as to costs."

The State Government by its order dated May 27, 1961, :granted on mining lease to the respondent all the areas for which he had applied an September 15, 1953 less those areas which had been earlier

leased out to others. Aggrieved by the above order, the appellant moved the Central Government under rule 57 on July 7, 1961 for review- ing the said order. Even before that he had moved the Andhra Pradesh High Court under Art. 226 of the Constitution on June 13, 1961 to issue a writ of mandamus to the State Government .to consider his application for mining lease in preference to that of the 1st respondent as according to him the 1st respondent's application should be deemed to have been rejected under rule 57(2). The High Court rejected that application observing that the appropriate course for him was to move the Central Government under rule 57 against the order of the State Government. Thereafter on 15-2-1965, the Central Government allowed the review petition filed by the appellant and set aside the grant made in favour of the 1st respondent on May 27, 1961. It came to the conclusion that the applications made by the appellant, the 1st respondent as well as others which were pending before the Andhra Pradesh Government should be deemed to have been rejected on the 1st March 1958, in view of rule 57(2). Aggrieved by that order the 1st respondent filed Writ Petition No. 464 of 1965 praying that the High Court may be pleased to call for 'the relevant records from the Central Government by issuing a writ of certiorari and quash the order of the Central Government and issue a further writ to the Central Government and to the :State Government to grant the lease asked for by him. During ,the pendency of that petition the appellant filed Writ Petition 'No. 602 of 1965 seeking a writ of mandamus against the Central 'Government and the State Government to grant him the mining lease for which he had applied. The High Court has allowed 'the writ petition filed by the 1st respondent and dismissed that of the appellant. Hence these appeals.

So far as Civil Appeal No. 2122 of 1969 is concerned there is no merit in the same. No ground in support of that appeal was urged before us. Hence it fails and it is dismissed.

In Writ Petition No.. 464 of 1965 from which Civil Appeal' No. 2121 of 1969 arises, the High Court set aside the order of the Central Government on various grounds and upheld the grant made by the State Government in favour of the 1st res- pondent. We shall now proceed to consider the correctness of the reasons given by the High Court in support of its order.

The High Court was of the opinion that rule 57(2) was enacted only for the benefit of the applicants for lease, license etc. so that they may have an early opportunity to move the Central Government for appropriate orders. In the view of the High Court that rule does not take away the, power of the State Government to dispose of the applications made for mining lease etc. even after the period prescribed expires. In support of this conclusion, it relied on the decision of the Patna High Court in Dey Gupta and Co. v. State of Bihar and Anr.(1) as well as on the decision of Basi Reddy J. in Writ Petition No. 888 of 1957 to which reference has already been made. Neither the Patna decision nor the judgment of Basi Reddy J. nor the decision under appeal gives any cogent reason An support of the conclusion that the deemed dismissal under rule'57(2) does not take away the right of the State Government to grant the lease asked for. The Patina High Court in support of its conclusion observed "No doubt, reading rule 27(1-A) with rule 57(2) of the Rules, it is clear that, if the State Government fails to dispose of an application for the grant of a mining lease within nine months, it must be deemed to have been refused by it.

But this provision is made, in my opinion only for the purpose of filing a review application before the Central Government, so that an applicant desirous to have a mining lease may not have to wait unnecessarily for a long period without any order being passed on his application. That however, does not mean that after the lapse of nine months from the date of receipt of the application, the State Govt. ceases to have jurisdiction over the matter so as not to pass any order on any application after the lapse of nine months from the date of its receipt.

The expression "deemed to be a refusal" in rule 57(2) is only for the purpose of a review application to (1) A.I.R. 1961 Pat. 487.

be filed before the Central Government, and it-is not a part of rule 28(1-A). In this view of the matter the legality of the order passed by the State Government granting a mining lease to respondent No. 2 cannot be Challenged on the above ground."

We think that these observations are not correct. If it is otherwise, even when a review petition is pending before the Central Government under rule 57, the State Government can make an order on the application made and thus compel the parties to file another review petition. Further, if the Central Government gives one direction ins the review petition and the State Government passes an inconsistent order in the original petition, there is bound to be confusion. If we read rule 27(1A). and rule 57(2) together, there is hardly any doubt that after the period prescribed, the State Government is incompetent to deal with the applications pending before it. According to rule 57(2), where a State Government has failed to dispose of an application. for the grant of a mining lease within the period prescribed therefor in the rules, such failure shall, for the purpose of the rules be deemed: to be refusal to grant the lease. The rules referred therein include rule 28 as well. This deemed refusal, if read with the mandate given to the State Government under rule 28(1-A) requiring it to dispose of the applications within 9 months of the receipt of those applications, there can be hardly any doubt that if the State Government does not dispose of the applications within the time prescribed, it is deemed to have refused those applications, for the purpose of rule 28 as well as rule 57. The High Court was wrong in thinking that in the absence of a provision providing for deemed rejection in rule 28(1-A), the contravention of that rule does not take away the jurisdiction of the State Government. That conclusion ignores the words in rule 57(2) that deemed rejection is 'for the purpose of these rules'. In view of those words in rule 57(2), it was unnecessary for the rule making authority to prescribe in rule 28(1A) the consequences of the failure on the part of the State Government to implement the mandate of rule 28(1-A). Hence, in our opinion, the Central Government's decision that the applications made by the appellant, the 1st respondent and others for mining lease should be deemed to have been refused on March 1, 1958 is correct. Therefore the High Court was wrong in quashing the order of the Central Government on that ground.

The High Court was also wrong in opining that in view of the representations made by the learned Government Pleader before Bhimasankaran J. on August 25, 1959, in Writ Petition No. 1237 of 1957, the State Government is estopped from con-

tending that the application made by the 1st respondent on September 15, 1953 must be deemed to have been refused. There can be no estoppel against a statute. Rule 28(1-A) and rule 57 (2) are

statutory rules. They bind the Government as much as they bind others. The requirement of those rules cannot be waived by the State Governments. Therefore the fact that the learned Government Pleader represented to the Court that the petition filed by the 1st respondent on September 15, 1953 was still pending disposal cannot change the legal position nor could it confer on the State Government any power to act in contravention of those rules.

Yet another ground relied on by the High Court is that in view of the writ issued by Basi Reddy J. in Writ Petition No. 888 of 1957, the State Government was bound to consider the application of the 1st respondent and therefore the decision of the State Government taken in obedience to the order of the High Court could not have been set aside the Central Government. It is true that as far as the State Government is, concerned the writ issued was binding whether the decision rendered by the court was correct in law or not; but then that decision will not bind either the appellant herein or the Central Government who were not parties to that writ petition. It is not a judgment in rem. In obedience to the writ issued by the court, of the State Government did consider the application of the 1st respondent. It granted him the lease asked for by him. Therefore the State Government has complied with the direction issued to it by the High Court. The Central Government had been constituted as the revisional authority under rule 57. That authority is a quasi-judicial body created by statutory rules. It is bound by law to discharge the duties imposed on it by rule 57. Therefore it had to obey the mandate of rule 57. In so doing, it cannot be said that it had infringed the mandamus issued by the High Court in writ petition No. 888 of 1957 to which, as pointed out before, the appellant was not a party and the order made in which could not be 'binding either on the Central Government or the appellant.

For the reasons mentioned above, we allow Civil Appeal No. 2121 of 1969 and set aside the order of the High Court and dismiss the writ petition No. 464 of 1965 but in the circum- stances of the case, we make no order as to costs in these appeals.

ORDER In accordance with the opinion of the majority Civil Appeal No. 2121 of 1969 is allowed and Civil Appeal No. 2122 of 1969 is dismissed. No order as to costs in these appeals. R.K.P.S.