Supreme Court of India
Premium Granites vs State Of T.N on 4 February, 1994
Equivalent citations: 1994 AIR 2233, 1994 SCR (1) 579
Author: G Ray
Bench: Ray, G.N. (J)

PETITIONER:
PREMIUM GRANITES

Vs.

RESPONDENT:
STATE OF T.N.

DATE OF JUDGMENT04/02/1994

BENCH:
RAY, G.N. (J)
BENCH:
RAY, G.N. (J)
VENKATACHALLIAH, M.N.(CJ)

CITATION:
1994 AIR 2233 1994 SCR (1) 579
1994 SCC (2) 691 JT 1994 (1) 376
1994 SCALE (1)393

ACT:

HEADNOTE:

JUDGMENT:

The Judgment of the Court was delivered by RAY, J.- This appeal and the connected matters are directed against the judgment dated June 16, 1993 passed by the Division Bench of the Madras High Court in Writ Petition No. 5793 of 1993. The writ petitioner Durai Raju Naidu moved the aforesaid writ petition before the Madras High Court for a decision that Rule 39 of the Tamil Nadu Minor Mineral Concession Rules, 1959 (hereinafter referred to as the Mineral Concession Rules) as unconstitutional and void. The said writ petitioner contended inter alia that he was granted lease with respect to quarry in Survey No. 782/1 in Kulathur Village and he had been agitating before the State Government for the renewal of the said lease but he apprehended that the authorities concerned were likely to exercise their prerogative under the said Rule 39 to grant lease to somebody else and in order to safeguard his interest, the writ petition was moved by him for the aforesaid declaration.

2. To sustain the challenge to the said Rule 39, the writ petitioner Shri Naidu, urged two main grounds, namely, (a) The State Government had no power to frame a rule deviating from the Mineral Concession Rules already made in exercise of the powers conferred under Section 15(1) of the Mines and Minerals (Regulation and Development) Act, 1957 (hereinafter referred to as MMRD Act) and (b) Rule 39 had conferred arbitrary, uncanalised and unguided power on the executive thereby offending Article 14 of the Constitution of India. The expression "public purpose and interest of mineral development" as referred to in the said Rule 39 is vague and does not constitute sufficient guidelines. The said writ petition was contested by the State of Madras and also by other respondents who were impleaded in the writ proceedings, namely, the Tamil Nadu Granites Quarry Owners and Exporters Association, Shanthi Granites and the Premium Granites.

3. The Division Bench of the Madras High Court by the impugned judgment did not accept the first contention of the writ petitioner but upheld the second contention and declared that Rule 39 of the Mineral Concession Rules was unconstitutional and void.

4. Premium Granites and Shanthi Granites preferred a Special Leave Petition No. 10306 of 1993 before this Court inter alia challenging the impugned decision of the Madras High Court impleading the State of Tamil Nadu represented by its Commissioner and Secretary to the Government, Industries Department, Shri Durai Raju Naidu, the writ petitioner and the Tamil Nadu Granites Quarry Owners and Exporters Association. As aforesaid, Civil Appeal No. 4157 of 1993 arises on such special leave petition filed by the said applicants. The State of Madras has also preferred special leave petition challenging the said decision of the Madras High Court and some other parties also made applications before this Court for leave to move special leave petitions and to intervene either to oppose the said appeals or to support the decision of Madras High Court and all these matters have been analogously and are being disposed of by this common judgment.

5.To appreciate the contentions raised by the contesting parties, certain dates and events may be stated as hereunder:

6. In 1957 the Mines and Minerals (Regulation and Development) Act (MMRD Act) was passed by Parliament. In 1959, the Tamil Nadu Minor Minerals Concession Rules were issued under Section 15 of the MMRD Act. Rule 8 of the Mineral Concession Rules provided for the grant of quarry leases in respect of all minor minerals. On December 16, 1972, GO No. 1932 was issued by the State of Madras inserting Rule 8(A) of the Mineral Concession Rules providing grant of lease to persons for quarrying minerals for their existing industries or having industrial programmes. It is the case of some of the parties in the above matters before this Court that they had set up industries based on the above rules and obtained leases of land for quarrying granite for specified period. On August 25, 1975 by GOMs No. 993 Rule 8(A) was amended thereby enabling the State Government to grant leases for quarrying black granite subject to the applicant having an industry or agreeing to set up an industry within two years.

7.On December 2, 1977 by GOMs No. 1312, Rule 8(C) was inserted there by prohibiting grant of leases in Government lands for quarrying black granite for private persons. Since such Rule 8(C) provided for exclusive exploitation of black granite by the State Government, the validity of Rule

8(C) was challenged in a writ proceeding before the Madras High Court. The validity of Rule 8(C) was ultimately upheld by this Court on February 5, 1981 in the case of Hind Stone'. Some of the lessees whose leases had expired by efflux of time, made applications for renewal of their leases but no renewal was granted. In 1984 Writ Petition No. 12267 of 1984 was filed by one of such applicants for renewal before this Court for a mandamus to direct State Government to grant renewal of lease for a further period of ten years and similar writ petitions were also moved before this Court for the aforesaid relief by some of the lessees whose leases had also expired. In such writ petitions this Court has passed ad interim order of status quo on May 3, 1984 as regards possession. Applications were also filed before this Court for vacating status quo order but such applications were dismissed by this Court on September 28, 1984 and the writ petitioners who were lessees but whose leases had expired, continued to remain in possession of land in terms of the interim order of this Court without, however any right to quarry operations. On December 9, 1988, by GO No. 1273 Rule 8(C) was amended thereby providing for grant of lease to quarry black granite to private persons for their existing industries or having industrial programme. A number of lessees whose leases had expired made applications for grant of lease to quarry black granite. Their claims were considered by the department concerned and were recommended to the State Government. It appears that on September 2, 1989, the rules were further 1 State of T.N. v. Hind Stone, (I 981) 2 SCC 205: AIR 1981 SC 711 thereby providing for lease for quarrying black granite only to persons having industries but the said grant was made under a tender system. On June 10, 1992 by GOMs No. 214, Rule 8(C) was amended. Rule 8(C) as amended provides for grant of quarry lease to Government Company and Rule 8(A) as amended by GO 214 provides for quarry lease to be granted only to persons having "Letter of Commitment". The said GO also provided for canalisation of granite quarried. The validity of Rule 8(D) containing canalising provisions were challenged before the High Court of Madras and such Rule 8(D) was struck down by the High Court. On March 5, 1993, this Court, in Writ Petition No. 12267 of 1984 and connected matters passed an order to the effect that the State Government could consider and pass orders in respect of relief sought for by the petitioners for lease of quarrying black granite. On March 8, 1993, GO No. 97 was passed introducing Rule 39 of the Mineral Concession Rules providing for grant of leases "in special circumstances in the interest of mineral development" and "in public interest" otherwise than in accordance with the Mineral Concession Rules. As stated earlier, the validity of Rule 39 was challenged in a writ petition before the Madras High Court.

8.It may be stated here that by GO Nos. 125 and 197 the State of Madras granted quarry leases in favour of some persons who had established industries and had been granted quarry leases earlier and who had been allowed to continue in possession all through. After Rule 39 was struck down by the Madras High Court two writ petitions were filed before the Madras High Court for cancelling leases granted by the said GO Nos. 125 and 197 in exercise of the power under Rule 39 of the Mineral Concession Rules. The State Government opposed such writ petitions for cancelling the leases and inter alia contended that the grant of leases to existing industries was traceable to Rule 8(A) as amended by GO No. 214 dated June 10, 1992 and such grant of lease could be sustained without reference to Rule 39 since struck down by the Madras High Court but the High Court allowed the said writ petitions and set aside GO Nos. 125 and 197 by which the leases were granted in favour of some persons. It has been held by the High Court that the grant of leases cannot be sustained under Rule 8(A) of the Mineral Concession Rules and such grant of leases can be referable

only to Rule 39 and since Rule 39 has been struck down, the grant made under the said Rule 39 is also liable to be set aside. Such grantees, therefore, have also moved special leave petitions before this Court inter alia challenging the decision of the Madras High Court striking down Rule 39.

9. To appreciate the rival contentions raised by the parties either in support or against the validity of Rule 39 of the Mineral Concession Rules, the provisions of Rule 39 are set out as hereunder:

"In exercise of the powers conferred by sub-

> sections (1) and (I-A) of Section 15 of the Mines and Minerals (Regulation and Development) Act, 1957 (Central Act 67 of 1957) the Governor of Tamil Nadu hereby makes the following amendment to the Tamil Nadu Minor Mineral Concession Rules, 1950.
>
> The amendment hereby made shall come into force on March 8, 1992.
>
> AMENDMENT In the said rules, after Rule 38, the following rule shall be added, namely : `39. Powers of State Government to grant or renew quarry lease or permission etc. in special cases : Notwithstanding anything contained in these rules, the State Government, if in any case, are of opinion that in the interest of mineral development and in the public interest it is necessary so to do, they may, by order and for reasons to be recorded
>
> (a) grant or renew a lease or permission to quarry any mineral; or
>
> (b) allow the working of any quarry for quarrying any mineral;
>
> on terms and conditions different from those laid down in those rules."'

10. The learned counsel challenging the correctness of the decision of the Division Bench of the Madras High Court striking down Rule 39 as arbitrary, have urged a number of points. Since all the matters are being disposed of by common judgment, we do not propose to deal with the contentions made by each of the learned counsel challenging or supporting the impugned decision of the Madras High Court separately in view of the fact that the grounds urged by the learned counsel are more or less similar and at times overlapping. We, therefore, propose to deal with the contentions raised by the learned counsel not individually but generally.

11. As already indicated, the only ground on which Rule 39 of the Mineral Concession Rules has been struck down by the Madras High Court is that such rule gives unguided and uncanalised powers to the State Government. The arguments advanced by the learned counsel challenging the decision of the Madras High Court striking down Rule 39 may be summarised to the following effect :

(1) Rule 39 contains the guidelines, viz., the grant under Rule 39 can be made only "in the interest of mineral development" and "in public interest" for reasons to be recorded in writing.

(2) The object of the MMRD Act itself is for regulation of mining and " mineral development". The rules framed under the MMRD Act are also intended to subserve the said object, namely, mineral development. The provisions of the MMRD Act and the rules framed by the Central and the State Governments clearly furnish the scope and purport of the words "mineral development". Scientific exploitation of the minerals without waste is undoubtedly an exercise for mineral development envisaged by the Act and the rules.

(3) Since reasons are to be recorded in writing while exercising the power under Rule 39, it can always be ascertained from the order that may be passed under the said provisions of Rule 39 as to whether the grant is one for furthering mineral development or not.

(4) The word "public interest" is a word of definite concept which has been referred to in the Constitution and in many other Acts. The import of the expression "public interest" has been considered and noted in the decisions of this Court. Hence, the said expression does no longer suffer from any vagueness or indefiniteness. (5) Power under Rule 39, being controlled by such consideration "in the interest of mineral development" and in "public interest", cannot be exercised arbitrarily and capriciously but such exercise has to be made with definite objective purpose. There is, therefore, no occasion to strike down Rule 39 on the score of being potentially arbitrary and capricious and open to unguided and uncanalised exercise of power. If in any particular case, the aforesaid purposes are not followed in exercising power under Rule 39, then such improper action, and not Rule 39 itself, can be challenged.

(6) In different Acts and rules, both Central and State including rules framed by some other States under MMRD Act, provisions similar to Rule 39 have been made and such provisions have been noticed by courts of law but for good reasons have not been struck down as violative of Article 14 of the Constitution.

12. We have already indicated the outlines of various Government orders amending the Mineral Concession Rules from time to time. The picture which emerges from the aforesaid amendments made in the Mineral Concession Rules may be stated as hereunder:

13. The Mineral Concession Rules were framed under Section 15 of the MMRD Act providing for grant of quarry leases and permission in respect of minor minerals both in revenue lands and patta lands. In the year 1972 the Mineral Concession Rules were amended and under such amendment, the grant of lease of revenue land to quarry granite could be made in favour of private persons only if they had industries or industrial programmes indicating that the policy of the Government to exploit black granite scientifically to avoid wastage was being implemented. A number of persons including some of the appellants in these proceedings had established industries pursuant to the Rules as amended and applied and obtained leases for quarrying black granite for a period of ten years in 1973 - such leases being valid up to 1983. In December 1977, Rule 8(C) was introduced prohibiting grant of leases for quarrying black granite by private persons and confining exploitation

only by the Government. The validity of such rule was challenged but as aforesaid the said rule was upheld by this Court in the case of Hind Stone'. When the leases for quarrying black granite in revenue lands for a period of ten years expired in 1983, the lessees including some of the appellants made applications for grant of renewal but they were not eligible for getting such renewal in view of Rule 8(C) the validity of which was upheld by this Court. The applicants for getting such renewal of lease including some of the appellants filed writ petitions before this Court and as indicated hereinbefore orders for maintaining status quo as to the possession of the lands were passed by this Court without however giving any right to quarry. In 1988, Rule 8(C) was amended whereby provision was made for grant of leases for quarrying black granite to private persons having industries or having industrial programmes. Such amendment of Rule 8(C) virtually restored the position as was prevailing in 1972. The persons who had set up industries or had industrial programmes for quarrying black granite scientifically as desired by the Government, made applications for grant of renewal of leases. Such applications were scrutinised by the department concerned and recommendations for grant of renewal of leases were made by the department. At that stage, in 1989 the Mineral Concession Rules were further amended inter alia providing that quarry leases were to be granted to industries only under tender system. Tenders were floated and some of the aspirants for getting leases participated in such tenders and those who had participated and were successful were given the letters of commitment assuring grant of lease to them if they would set up industries. In 1992, the Rules were amended again by GOMs No. 214 drastically. As per the amended rules, grant of quarry leases to quarry black granite were to be made only to government companies and the companies having letters of commitment.

14. It does not require any imagination to note that there was frustration and resentment of such persons like some of the appellants who had set up industries based on the old rules and who had been starving for raw materials but who had become disabled from getting any lease in view of restriction of granting of such lease and confining the grant of lease in favour of only such private persons who held the letters of commitment.

15. It has been contended by the learned counsel in support of Rule 39 that the State Government having realised the injustice and unmerited hardship to be suffered by some persons and also having realised that for furthering mineral development which will be in the public interest, it was desirable to make suitable provisions so that the rigours created because of the amendment made by GOMs 214 in 1992 confining grant of leases to private persons holding letters of commitment, should be relaxed. It was on such perception that Rule 39 was introduced in the Mineral Concession Rules enabling the Government to grant quarry leases to private persons in appropriate cases in the interest of mineral development and in public interest for reasons to be recorded in writing. It is, therefore, necessary to decide whether introduction of Rule 39 in the Mineral Concession Rules was justified and desirable and even if it may be justified or desirable, as a matter of policy, whether in law such amendment can be sustained.

16. Elaborating the contentions made before this Court in support of Rule 39, it has been contended by the learned counsel that Rule 39 does not confer an uncanalised power and does not suffer from the vice of want of guidelines. It has been urged that Rule 39 contains the guidelines, viz., that the grant must be for mineral development and "in public interest". In other words, Rule 39 has been

inserted to provide for grant of lease which may not be done strictly under Rule 8(A) or 8(C) but which is warranted for mineral development and "in public interest" for good reasons to be recorded.

17. It has been urged that mineral development is not a vague concept but has a definite meaning which can be tested objectively particularly when reasons are to be recorded in writing under Rule 39.

18. The learned counsel have contended that the object of the MMRD Act is for regulation of mineral development and the Rules framed under the MMRD Act both by the Central and State Governments clearly furnish the scope and support of the word "mineral development". It has been strongly contended that scientific exploitation of minerals without waste is undoubtedly a part of mineral development as envisaged by the MMRD Act and the rules framed thereunder. It has been urged by the learned counsel that the word "public interest" having been referred to in the Constitution and in many enactments is a word of definite concept.

19. The validity of Service Rules including Fundamental Rule 56(j) empowering the Government to terminate the service by way of premature retirement had been challenged before this Court as ultra vires Articles 14 and 16 of the Constitution but this Court in a series of decisions has held that if the power to retire prematurely in public service is exercised in "public interest" the provision empowering such premature retirement does not become invalid on the score of offending Articles 14 and 16 of the Constitution. The Constitution Bench of this Court in T.G. Shivacharana Singh v. State of Mysore2 in upholding Rule 285 of Mysore Civil Services Rules, 1958, providing for premature retirement in 'public interest' has held that Rule 285 authorising the Government to retire a government servant compulsorily in public interest did not offend Articles 14 and 16 of the Constitution. It was indicated by the Constitution Bench that the law in relation to the validity of the rules permitting compulsory premature retirement of government servants had been well settled by a series of prior decisions of this Court in Moti Ram Deka v. General Manager, North East Frontier Railway3 and Shyam Lal V. State of U. P. 4

20. The learned counsel have further contended that the guidelines need not be expressly found in the impugned provisions but such guidelines can be gathered from the setting of the Acts and the rules framed thereunder. In support of this contention reference has been made to the decision of this Court made in the case of P.J. Irani v. State of Madras5. Section 13 of Madras Buildings (Lease and Rent Control) Act, 1949 was challenged as ultra vires Article 14 of the Constitution as the said provisions gave uncontrolled and unguided discretion to the Government to exempt any 2 AIR 1965 SC 280: (1967) 2 LLJ 246 3 AIR 1964 SC 600: (1964) 5 SCR 683: (1964) 2 LLJ 467 4 (1955) 1 SCR 26: AIR 1954 SC 369 5 (1962) 2 SCR 169: AIR 1961 SC 1731 building from all or any of the provisions of the said Act. It was held in the said decision that enough guidance was given in the preamble and the operative portion of the Act to exercise the discretion of exemption. The decision in P.J. Irani case5 was followed by this Court in the decision in S. Kandaswamy Chettiar v. State of T.N.6 Section 29 of Tamil Nadu Buildings (Lease and Rent Control) Act, 1960 providing for discretion to the State Government to grant total exemption to buildings belonging to public trust from the purview of the Rent Act was held valid and not offending Article 14 of the Constitution on the ground of giving

unbridled discretion. It was held that sufficient guideline was afforded by the preamble and the operative provisions of the Rent Act for the exercise of discretionary power vested in the Government.

21. Reference has also been made to the decision of this Court in Ram Dial v. State of Punjab7. In the said decision the expression "public interest" has been explained at page 866 of the Report. It has been held that while considering the power given to the Government to remove a member under Section 14(e) of the Punjab Municipalities Act, the expression "public interest" would necessarily depend upon the time, place and circumstances with reference to which the consideration was made. It may be noted here that Section 14(e) was struck down not on the score that the expression "public interest" is vague and it introduces unguided, and unbridled power but the same was struck down in view of the fact that Section 14(e) providing for removal without a hearing circumvents Section 16(1) which contemplates a hearing to be given to the members to be affected.

22. The learned counsel have also referred to the decision of this Court made in the case of Harakchand Ratanchand Bahthia v. Union of India8. In considering the expression "so far as it appears to be necessary or expedient for carrying out the provisions of the Act (Gold Control Act), the Constitution Bench in the said decision held that the said phrase was not subjective in the context of the scheme and object of the legislation. The opinion of the administrator as to the necessity of making the order must be made objectively and must be reasonably tenable in a court of law. Reference has also been made to another decision of this Court made in Jalan Trading Co. (P) Ltd. v. Mill Mazdoor Union9. In the said decision validity of several provisions of the Payment of Bonus Act including Section 36 were taken into consideration by the Constitution Bench of this Court. It has been held that the power to exempt certain establishments from the operation of the Act given to the appropriate Government under Section 36 was not an unguided power because the Government was enjoined to take I public interest', the financial position 'of the establishment, and other relevant circumstances into consideration before exercising the said power. 6 (1985) 1 SCC 290 7 (1965) 2 SCR 858: AIR 1965 SC 1518 8 (1969) 2 SCC 166: (1970) 1 SCR 479 9 (1967) 1 SCR 15: AIR 1967 SC 691: (1966) 2 LLJ 546 There was therefore no excessive delegation of legislative authority by Section 36 and the section was held valid.

23. The learned counsel have again relied on recent decision of the Constitution Bench of this Court made in the case of Workmen v. Meenakshi Mills Ltd.10 The vires of Section 25-N of the Industrial Disputes Act (as prevalent at the relevant time) was considered in the said decision. It has been held that powers conferred under sub-section (2) of Section 25-N to grant or refuse permission for retrenchment has to be exercised in accordance with objective indicated and Statement of Objects and Reasons given in the Amending Act 32 of 1976 and also the basic idea of settlement of industrial disputes and maintaining industrial peace. It has been held that in exercising power under sub-section (2) of Section 25-N, with the requirement of passing a speaking order containing reasons does not amount to unreasonable restriction. It has also been held that the requirement of reasons for exercise of such power by itself excludes chances of arbitrariness. It has also been held in the said decision that Section 25-N is not vitiated on the ground of absence of a provision for appeal or review of the order passed by the Government or authority as the order is required to be a speaking order to be passed on objective considerations. It has been further held that the remedy of

judicial review available under Article 226 cannot be said to be inadequate because even in a case of refusal of permission for retrenchment on policy considerations, it is open to the Court to examine whether policy is in consonance with the object and purport of the Act.

24. The learned counsel have also contended that Entry 54 List I of Seventh Schedule to the Constitution of India enables the Central Government to regulate mines and mineral development in "public interest" by making a declaration of such intention and Parliament has in fact made such declaration by Section 2 of the MMRD Act. By the said MMRD Act, Parliament has left the power of regulating quarry leases in respect of minor minerals to the State Governments under Section 15 of the MMRD Act. The State Government has the authority to deal with the minor minerals under which the Mineral Concession Rules have been framed by the Government of Tamil Nadu. It is by the said rules that the State Government has been regulating grant of leases from time to time. In 1992 the Government thought it fit to prohibit grant of quarry leases to private persons except in patta lands and providing for grant of quarry leases to revenue lands only to government companies in terms of Rule 8(C). On a reconsideration and as a part of policy decision, the Government thought it fit to introduce Rule 39 providing for the grant of quarry leases to private persons "in the interest of mineral development" and "in public interest" by indicating reasons in writing by relaxing the rigours of other provisions of the Mineral Concession Rules. Rule 39 is a part of the policy underlying the Mineral Concession Rules which is consistent with the object of the MMRD Act. As exercise of relaxation for grant of quarry leases under Rule 39 can only be made within 10 (1992) 3 SCC 336: 1992 SCC (L&S) 679 the parameters of public interest and for the mineral development by recording the reasons in writing, Rule 39 does not suffer from arbitrariness or unguided or unbridled power offending Article 14 of the Constitution. It has also been contended that the power exercised under Article 39 is not an absolute, discretionary power of the State Government unfettered by any valid consideration but exercise of such power within the aforesaid parameter is always open to judicial scrutiny thereby affording ample safeguard against any abuse in exercising the power under Article 39.

25. Commenting on the reasons for which Article 39 was introduced in the Mineral Concession Rules, it has been submitted by the learned counsel that various persons under the existing rules had set up industries by incurring substantial costs for sizing and polishing granites for export and sale in the domestic market. Such scientific exploitation and ancillary steps in that regard are undoubtedly right steps for mineral development. The cases of some of the persons who had set up proper industrial establishments for quarrying granites and for polishing and sizing them for effective user under the existing rules and had been possessing lands and were reasonably aspiring for renewal of leases required proper consideration. Although their cases were recommended on scrutiny of relevant facts by the department concerned, no such lease could be granted because of the amendment effected in 1992 in the Mineral Concession Rules. As not only injustice was meted out to such persons but non-renewal of leases to such persons was also considered to be not "in the interest of mineral development" and "in the public interest". The State Government, therefore felt that Rule 39 containing provision for relaxation in the matter of grant of quarry leases should be introduced so that in an appropriate case in the greater interest of mineral development and in public interest, grant of lease can be made notwithstanding other provisions in the Mineral Concession Rules. In the aforesaid facts, it cannot be contended that Rule 39 was introduced

without any justification whatsoever or the same suffers from any excessive delegation or vice of uncanalised and unbridled power or the same was introduced to give favours to a chosen few.

26. The High Court in striking down Rule 39 has held that Rule 39 provides for an arbitrary power and the guidelines of public interest and in the interest of mineral development do not provide any objective standard. For such finding, the High Court has relied on the decision of this Court made in Dwarka Prasad Laxmi Narain v. State of U. P. II; R. M. Seshadri v. District Magistrate, Tanjore 1 2; Harakchand Ratanchand Banthia v. Union of India7 and Jalan Trading Co. (P) Ltd. v. Mill Mazdoor Union8. It has been contended by the learned counsel that all the said decisions do not support the proposition that Rule 39 is ultra vires Article 14 of the Constitution. The decisions relied on by the High Court primarily relate to laws or rules which seeks to prohibit a person from carrying on a legal trade or profession except 11 1954SCR803:AIR 1954SC224 12 AIR 1954 SC 747: (1955) 1 SCR 686 on licences. Such laws prescribing the restriction require to be precise and objective so that the prohibitions would clearly be understood and made enforceable. Provisions enabling a grant have necessarily different import.

27. It may be noted here that the decision in Dwarka Prasad case11 relates to a case where the power is given under clause 4(3) of the Uttar Pradesh Coal Control Order to grant or refuse to renew, suspend, revoke or cancel or modify any licence issued under the said control order. The said clause further authorised the Controller to delegate such power in favour of any person. Such provision was held unreasonable and invalid. The decision in R.M. Seshadri v. District Magistrate, Tanjore12 relates to the validity of condition 5(a) and special condition 3 which required a licence under Cinematograph Act to exhibit at each performance one or more approved films of such length and for such time as the Provincial Government or the Central Government may direct. Under special condition 3 the licensee was required to exhibit at the commencement of each performance not more than 2000 feet of one or more approved films. It was held by this Court that such conditions did not amount to reasonable restrictions with the meaning of Article 19(6) of the Constitution and therefore was ultra vires Article 19(1) of the Constitution.

28. The decision made in Harakchand Ratanchand Banthia8 was a case where the validity of various sections of the Gold Control Act and the Regulations made thereunder fell for consideration. Section 5(2)(b), Section 27(2)(d), Section 27(6)(a), Sections 32, 46, 88 and 100 were held ultra vires for reasons indicated therein. Indeed this decision is relied on to support the validity of Rule 39 of the Mineral Concession Rules. Some of the sections of the said Gold Control Act were held valid. The reasons for which the said other sections were held invalid are entirely different and do not apply so far as Rule 39 is concerned. Moreover, considerations as to public interest and for furtherance of mineral development as essential requirement to grant exemption under Rule 39 make the said rule wholly objective. The decision in Banthia case8 has no application in interpreting Rule 39.

29. It has been further contended that where in respect of prohibited categories, the law carves out an exception or relaxation, the rule to be applicable should be appreciated on a different perception. There the question of unbridled power being allowed to be exercised does not arise. The question is of taking out certain exceptions from the prohibited area and keeping certain categories outside the prohibited area for being allowed to exercise freedom of trade or business from the restrictions

imposed.

30. Elaborating on the contention that the power of relaxation as contained in Rule 39 is similar in various statutes it has been urged that the power granted under Section 31 of the MMRD Act confers identical power on the Central Government as Rule 39 confers the power on the State Government. Section 31 of the MMRD Act may be set out as hereunder:

> "31. Relaxation of rules in special cases.- The Central Government may, if it is of opinion that in the interests of mineral development it is necessary so to do, by order in writing and for reasons to be recorded, authorise in any case the grant, renewal or transfer of any prospecting licence or mining lease, or the working of any mine for the purpose of searching for or winning any mineral, on terms and conditions different from those laid down in the rules made under Section 13."

It has been submitted that the High Court while dealing with Section 31 of the MMRD Act, has not questioned the validity of the said section although it contains similar provisions. In this context reference to Section 29 of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960 has also been made. The provision of Section 29 is set out as hereunder:

> " Notwithstanding anything contained in this Act, the Government may, subject to such conditions as they deem fit, by notification, exempt any building or class of buildings from all or any of the provisions of this Act."

31. This provision has been upheld by the Supreme Court in the decisions S. Kandaswamy Chettiar v. State of T.N.6 and Prabhakaran Nair v. State of TN. 13

32. Reference was also made to Section 8-A of the Karnataka Sales Tax Act which is set out as hereunder:

> "8-A. (1) The State Government may, by notification make an exemption, or reduction in rate, in respect of any tax payable under this Act -
>
> (2) Any exemption from tax or reduction in the rate of tax, notified under sub-section (1) may be subject to such restrictions and conditions as may be specified in the notification.
>
> (3) The State Government may, by notification, transpose any entry or part thereof from one schedule to another schedule and alter the point of levy of sale or purchase, but not so as to enhance the rate of tax in any case."

Reference to Section 25(1) of the Customs Act, 1962 was also made. The provision is set out as hereunder:

> "If the Central Government is satisfied that it is necessary in the public interest so to do it may, by notification in the Official Gazette, exempt generally either absolutely or subject to such conditions (to be fulfilled before or after clearance), as may be specified in the notification goods of any specified description from the whole or any part of duty of customs leviable thereon."

This section has been upheld by this Court in Indian Express Newspapers (Bombay) P. Ltd. v. Union of India 14.

33.Section 14 of the Tamil Nadu General Sales Tax Act since referred is set out as hereunder 13 (1987) 4 SCC 238 14 (1985) 1 SCC 641: 1985 SCC (Tax) 121 "14. Power of Government to notify exemption and reductions of tax.- (1) The Government may by notification (issued whether prospectively or retrospectively) make an exemption of reduction in rate, in respect of any tax payable under the Act."

34. It is contended that Section 14 is quite similar to Rule 39 of the Mineral Concession Rules. In this connection, reference has also been made to Rule 66 of the Karnataka Minor Mineral Concession Rules, 1969, containing provisions for relaxation of rules in special cases. The said rule is set out as hereunder :

> "66. Relaxation of rules in special cases.- In cases where the Government is of the opinion that public interest so requires, it may authorise the grant of a quarrying lease or a quarrying permit on such terms and conditions other than those prescribed in the rules, as the Government may by order specify:
>
> Provided that notwithstanding anything contained in these rules such safeguards, territorial, financial or otherwise may be provided to the leases with a view to safeguarding the interests of any industry or trade in order to avoid unhealthy competition among the lessees and to prevent any fall in the trade and to see that minor mineral is exploited in a scientific and systematic manner."

Basing the arguments on the aforesaid contentions the learned counsel have submitted that there was no occasion to strike down Rule 39 by the High Court as invalid and ultra vires Article 14 of the Constitution by holding that the said rule conferred unguided and unbridled discretionary power on the State Government. The learned counsel have submitted that as the said Rule 39 is quite valid and has been inserted in the Mineral Concession Rules for a reasonable purpose, Rule 39 cannot perse be declared as ultra vires as sought to be done by the Madras High Court. If in any individual case, power has not been exercised properly and the reasons which have got to be recorded in writing do not stand the scrutiny of reasonableness and the purposes for which such power of exemption can be exercised, challenge for improper action in such individual cases before a court of law can always be made. The learned counsel have therefore submitted that the decision of the Madras High Court should be set aside thereby enabling the State Government to give effect to Rule 39 in appropriate cases.

35. Supporting the decision of the Madras High Court striking down Rule 39 of the Mineral Concession Rules, it has been urged by the learned counsel opposing the appeals that the High Court felt that if Rule 39 was to be interpreted to give a wide discretionary power to the authorities to overlook other provisions of the Mineral Concession Rules then it would be violative of Article 14 as being vague and unfettered and giving uncanalised power to the State Government. It was on such finding that Rule 39 was struck down as unconstitutional.

36. It has been very strongly contended that the submission that the words "public interest", "reasons to be recorded in writing" would be adequate to prevent arbitrary action is not tenable in view of the decision of this Court by the Constitution Bench in Delhi Transport Corpn. v. D.T.C. Mazdoor Congress 15. The attention of this Court has been drawn to paragraph 230 at page 716 in the majority decision. It has been held in the said paragraph :

> "There is need to minimise the scope of the arbitrary use of power in all walks of life. It is inadvisable to depend on the good sense of the individuals, however high placed they may be. It is all the more improper and undesirable to expose the precious rights like the rights of life, liberty and property to the vagaries of the individual whims and fancies. It is trite to say that individuals are not and do not become wise because they occupy high seats of power, and good. sense, circumspection and fairness does not go with the posts, however high they may be. There is only a complacent presumption that those who occupy high posts have a high sense of responsibility. The presumption is neither legal nor rational. History does not support it and reality does not warrant it. In particular, in a society, pledged to uphold the rule of law, it would be both unwise and impolitic to leave any aspect of its life to be governed by discretion when it can conveniently and easily be covered by the rule of law."

It has also been contended that it is also not factually correct that all the ten grantees (13 leases) are having their own industries or factories and they are not exporting any raw granite or raw block granite to foreign countries but they are processing and polishing after cutting them and sizing them and it was only the said polished goods that are being exported by them. It has been contended that only M/s Enterprising Enterprises and Gem Granite have their own factories at Madras. Pallavan Granite has a factory at Pondicherry. All other grantees do not possess any industry of their own either inside or outside the State of Tamil Nadu. It is also contended that 75% to 80% of the quarried materials are straight away exported abroad without cutting and polishing even by the persons who possess industries.

37. It has also been contended that although under GOMs No. 1273 introduced on December 9, 1989 which was in force on June 9, 1992 permitting grant of lease to persons with industries, M/s Enterprising Enterprises and Gem Granite did not choose to apply under that scheme which was in force for nearly 3 1/2 years only because the granites quarried must be captively used in their own industries for the purpose of polishing before the same are exported. It has been contended that relevant facts have not been taken into consideration for granting lease in the purported exercise of power of relaxation under Rule 39. Such factual contentions are, however, not admitted.

38. We do not propose to scrutinise facts and circumstances concerning the grantees in favour of whom the exercise of power under Rule 39 had been made because we do not think that for deciding the validity of Rule 39 15 1991 Supp (1) SCC 600: 1991 SCC (L & S) 12 13 a case of improper exercise of power under Rule 39 in any particular case, is required to be considered by this Court.

39. It has been contended that even if it is held that consideration of public interest and the interest of mineral development coupled with requirement to record reasons provide guidelines under which power under Rule 39 is to be exercised, Rule 39 introduced on March 8, 1993 in the Mineral Concession Rules, if given an expansive introduction, would entitle the authorities concerned to disregard the various other provisions as contained in the Mineral Concession Rules framed under Section 15 of MMRD Act and would entitle the authorities concerned either to grant or renew a quarry lease contrary to the avowed policy of the State Government incorporated in certain other provisions of the Mineral Concession Rules.

40. It has been contended that when Rule 8(C) epitomises policy of the State Government reserving granite in all its uses to be exploited by the State Government or through its Corporation, in exercise of the powers under Rule 39, the State Government should not be permitted to give an interpretation to Rule 39 widely and grant a quarry lease contrary to the State policy. Mr Sibal, the learned counsel in this connection has referred to the decision in Gardner v. Jay16. Lord Justice Bowen in dealing with the judicial discretion has held that : "If a court is invested by Act of Parliament with a discretion, that discretion, like other judicial discretion, must be exercised according to common sense." The learned counsel has also contended that it is a settled principle of interpretation of statute that a court should not interpret a statute in such a fashion as to render other provisions redundant. There should always be an attempt to read different sections of a statute harmoniously so that one provision does not invalidate the other. It has been contended that the statutory rule should be considered as a part of an integrated scheme and no one provision should be so interpreted as to render the scheme as envisaged in other provisions inoperative. It has been submitted that Rule 8(C) represents the part of a scheme in respect of which the State Government does not allow exploitation of granite except by itself or through its Corporations. It must therefore be held that the authorities in framing Rule 39 could not have intended that such policy should be rendered inoperative and ineffective by interpreting Rule 39 in a wide manner. It has been further submitted that it is well-established rule of interpretation that courts must interpret an enactment in such a way as to implement rather than defeat its purpose. In this connection, reference has been made to the observation of Francis Bennion in Statutory Interpretation, Second Edn. at page 41 1. The learned author has indicated that : "An Act must be construed so that its provisions are given force and effect rather than being rendered nugatory." The learned author has also indicated that : "Ultra vires magis principle requires inconsistencies within an act to be reconciled." In this context, the learned author has referred to Blackstone to the effect that, "one part of the statute must be so construed by another, that the whole may, if 16 (1885) 29 Ch D 50, 58: 52 LT 395 possible, stand ut res magis valeat quam pereae" It has been further submitted that the principle of reconciling inconsistencies within an Act means that if the obvious intention of the enactment gives rise to difficulties in implementation, the court must do its best to find ways of resolving these. It has been submitted that looking from this angle, Rule 39 would only mean that the State Government is entitled to grant or renew a quarry lease if in a given case or in a special class of cases it is of the

opinion that in the interest of mineral development and in the public interest it is necessary to change the terms and conditions of the lease different from those statutorily prescribed under the rules. In no other circumstances, this power can be exercised. Such an interpretation would render Rule 39 consistent with the scheme formulated by the State Government under other provisions in particular Rules 8(A) and 8(C). It is contended that any other interpretation would render Rule 39 a Henry VIII clause.

41. It has been submitted that this Court had many occasions to deal with similar Henry VIII clauses (that king is regarded popularly as the impersonation of executive autocracy). In Central Inland Water Transport Corpn. Ltd. v. Brojo Nath Ganguly 17 (at pp. 220, 221) and in Delhi Transport Corpn. v. D.T.C Mazdoor Congress15 (at pp. 707 and

717) this Court held that such clauses are constitutionally impermissible.

42. It has been very strongly contended that in case this Court finds Rule 39 to be vague and ambiguous then this Court may, in the light of scheme of the entire rules, the policy of the State Government as expressed in the said rules, permit Rule 39 to be read down in such a manner so as to give effect to the policy of the Government and also to the scheme of the MMRD Act. It has been submitted that this Court has repeatedly followed doctrine of reading down in State of Karnataka v. Ranganatha Reddyl8, R.L. Arora v. State of U. P. 19, Jagdish Pandey v. Chancellor, University of Bihar2O, Sunil Batra v. Delhi Administration21.

43. It has been further submitted that as Rule 39 cannot be given a wide interpretation thereby giving extraordinary power to relax other provisions of the rules and consequently rendering the scheme of the entire rules ineffective. The only interpretation by reading down Rule 39 which can be given is that the said rule would permit the State Government under extraordinary circumstances or in special cases to vary certain terms and conditions of the lease in a given case. It has been submitted that therefore it becomes necessary to understand the import of the words "terms and conditions" in contradistinction to the policy of the Government as contained in the Mineral Concession Rules. The words "terms and conditions"

17 (1986) 3 SCC 156, 220, 221: 1986 SCC (L&S) 429: (1986) 1 ATC 103 18 (1977) 4 SCC 471: (1978) 1 SCR 641 19 (1964) 6 SCR 784: AIR 1964 SC 1230, following Kedar Nath Singh v. State of Bihar, 1962 Supp 2 SCR 769: AIR 1962 SC 955 20 (1968) 1 SCR 23 1: AIR 1968 SC 353 21 (1 978) 4 SCC 494: 1979 SCC (Cri) 155 according to the learned counsel would mean a stipulation or requirement, the failure of which would render the Act subject to repudiation.

44. It has been contended that the Mineral Concession Rules prescribe certain conditions as to the grant of leases - how an application is to be made, to whom it is to be made, the maximum period of lease, the extent of maximum area which can be leased out to the applicant etc. All these conditions are also provided in the MMRD Act itself. In D.K. Trivedi v. State of Gujarat 22 this Court has held that the rule-making power of the State Government under Section 15 is controlled by Sections 4 to 13 (now Sections 5 to 13) of the MMRD Act. On the principle of harmonious construction and reading down statutory provision for reconciliation in a special case, in the interest of mineral

development and in the public interest, the State Government may change or relax some of the conditions of lease e.g. may at the most grant a lease for more than ten years if the applicant satisfied the State Government of the necessity to do so. Similarly, in a given case, the Government may charge less seniorage fee, dead rent etc. in the interest of mineral development and in public interest. But the State Government cannot and should not utilize such an extraordinary power under Rule 39 to exempt few persons alone, while applying the policy to all others e.g. Dharmapuri District is completely reserved for exploitation by Government-owned Corporation. It has been contended that it has been demonstrated before this Court with the aid of the affidavit filed by the State Government in Civil Appeal No. 1655 of 1992 at pages 450 to 456 that more than 70 applications have been rejected on the sole ground that Dharmapuri District is reserved for State exploitation. Despite such avowed policy of reservation, the State Government in the purported exercise of a wide power under Rule 39 has granted three leases in the same Dharmapuri District only on the ground that there was a huge loss of foreign exchange. The learned counsel have contended that such an exercise in completely overlooking the other provisions will be wholly capricious and therefore impermissible under Article 14 of the Constitution and consideration of loss of foreign exchange is alien to the relevant considerations permissible under the Mineral Concession Rules.

45. It has been contended that in case the Government wants to grant leases in Dharmapuri District to persons who were not in possession of letters of commitment as on June 10, 1992, the only course open to the State Government is to change its policy of reservation as well as its policy in relation to letters of commitment and allow all individuals who are interested in a quarrying licence consistent with the concept of equal opportunity.

46. It has been further contended that the State Government is under a constitutional duty to act fairly and justly and give equal opportunity to every individual who seeks largess from the Government. The grant of licence to a few people and that also on grounds of loss of foreign exchange is totally obnoxious to the theory of just State action. The guiding principle 22 1986 Supp SCC 20 for interpretation of Rule 39 should be equality of opportunity to every person in the trade and at the same time imposing sufficient restrictions or guidelines or safeguards to prevent misuse of such a power and such interpretation must enable Rule 39 to coexist with the other rules as being not inconsistent with the other rules.

47. It is therefore only possible to reconcile Rule 39 by reading it down and indicating that in appropriate case by exercise of power conferred in Rule 39, it is permissible for the State Government only to vary the terms and conditions of the lease "in the interest of mineral development" and "public interest".

48. After considering the facts and circumstances of the case and giving our careful consideration to the arguments advanced by the learned counsel for the respective parties, it appears to us that the MMRD Act was enacted by Parliament under Entry 54 List I of the Seventh Schedule to the Constitution. The aforesaid entry enables the Central Government to regulate mines and mineral development in public interest by making such declaration and Parliament, has in fact, made such declaration by Section 2 of the MMRD Act. In respect of minor minerals, Parliament by the said MMRD Act has left the powers of regulating minor minerals to the State Governments under

Section 15 of the MMRD Act. Different State Governments have exercised such power under Section 15 of the MMRD Act and State of Tamil Nadu has enacted in 1959 the Mineral Concession Rules. There is no dispute that the MMRD Act and the rules framed thereunder either by the Central Government or by the State Government are for mineral development subserving the cause of public interest. It cannot also be disputed that mineral development is not a vague expression and the MMRD Act and the rules framed under it, clearly furnish the scope and purport of the word "mineral development". It has been very reasonably contended that scientific exploitation of minerals without waste is undoubtedly a part of mineral development as envisaged by the MMRD Act and the rules framed thereunder. The expression "public interest" finds place in the Constitution and in many enactments which have since been noted and considered by this Court in various decisions. The said expression is, therefore, a word of definite concept. There is also force in the contention of the appellants that the guidelines need not be expressly found in the impugned provisions but such guidelines can be gathered from the setting of the Act and the rules framed thereunder. Such contention gets support from the decisions of this Court in P.J. Irani5, S. Kandaswamy Chettiar 6, Jalan Trading Co. 9, Workmen of Meenakshi Mills Ltd.10

49. The power of relaxation under Rule 39 of Mineral Concession Rules is to be exercised for "mineral development" and "in public interest" after recording reasons for such exercise of power. In our view, it has been rightly contended by the learned counsel in support of the validity of Rule 39, that the exercise of power under the said Rule 39 cannot be made arbitrarily, capriciously and on subjective satisfaction of the authority concerned but the same is to be exercised within the parameters of "mineral development" and "in public interest" which as aforesaid, are not vague and indefinite concepts. Such exercise of power must satisfy the reasonableness of State action before a court of law if any challenge of improper action in exercise of the said power under Rule 39 in a given case is made. It has been held by the Constitution Bench of this Court in Meenakshi Mill case10 that if a speaking order is required to be passed on objective consideration, such provision is not vitiated on the ground of absence of a provision for appeal or review because the remedy available by way of judicial review is by itself an adequate safeguard against improper and arbitrary exercise of power. It has also been held by this Court in the said decision that requirement of giving reasons for exercise of the power by itself excludes chances of arbitrariness.

50. The observation made in the majority decision in Delhi Transport Corpn. case15 as referred to hereinbefore should be appreciated with reference to the facts and circumstances of a case and the true import of a provision under which a discretionary power is to be exercised. While no exception can be made to the observation of this Court in the said decision that "It would be both unwise and impolitic to leave any aspect of its life to be governed by discretion when it can conveniently and easily be covered by the rule of law", it should also be home in mind that it is not always feasible and practical to lay down such exhaustive written guidelines which can cover all contingencies. It has, therefore, become necessary to make provisions for exercise of discretion in appropriate cases by giving broad guidelines and indicating the parameters within which such power is to be exercised. In various decisions refer-red to hereinbefore, this Court has upheld such exercise of discretion if the same does not appear to be wholly uncontrolled, uncanalised and without any objective basis.

51. "Public interest" is a paramount consideration in the MMRD Act itself and the rules framed thereunder cannot but subserve "public interest" in furthering the cause of mineral development. We are, therefore, unable to hold that Rule 39 is per se obnoxious and having contained unbridled, unguided and uncanalised discretionary power offends Article 14 of the Constitution.

52. Although it does not appear that any argument on harmonious construction of the statute coupled with the principle of interpretation by reading down was advanced before the Madras High Court but since such contention has been raised before this Court and it appears to us that for considering the validity of Rule 39 and its true import, it may be necessary to consider the question of harmonious construction and the principle of reading down a statutory provision, we propose to examine the contentions made in that regard. It has been contended that all the provisions in the Mineral Concession Rules must be understood as an integrated scheme and no particular provision should be permitted to govern the field in isolation particularly when it runs counter to the scheme envisaged by the other provisions of the Mineral Concession Rules. It has been contended that since under the other provisions of the Mineral Concession Rules, exploitation of black granite in Dharmapuri District is restricted to a particular class of operators as a policy decision of the State Government, so long such policy decision remains in force no relaxation of the same is permissible in the purported exercise of power under Rule 39. Accordingly, Rule 39 may be held valid only if the same is interpreted as a provision having a limited application and being wholly confined in varying the terms and conditions of leases in appropriate cases.

53. Although, at the first glance, such argument appears to be reasonable but on closer scrutiny the same does not appear to be sustainable. The Mineral Concession Rules have been framed by the State of Tamil Nadu in exercise of power under Section 15() of the MMRD Act for development of minor minerals in the State "in public interest". The development of minor minerals cannot and should not be confined to a set principle or policy. With the advancement of technology and changes in the social, economic and political set-up in the country and also changes in the economic and political scenario in other countries, there are bound to be exigencies requiring reapreciation of the policy of the development of minor minerals in the State. As a matter of fact, the Government of Tamil Nadu has from time to time changed its policy as to the manner in which the exploitation of granite in the State should be made in respect of revenue lands by different agencies and under different operational methodology. It does not appear to us that consideration of foreign exchange and export of granite in the State by effective and scientific exploitation of quarrying, polishing, and sizing of the granite will be alien to the consideration of mineral development in "public interest".

54. It is not the domain of the court to embark upon unchartered ocean of public policy in an exercise to consider as to whether a particular public policy is wise or a better public policy can be evolved. Such exercise must be left to the discretion of the executive and legislative authorities as the case may be. The court is called upon to consider the validity of a public policy only when a challenge is made that such policy decision infringes fundamental rights guaranteed by the Constitution of India or any other statutory right. In our view, it will not be correct to contend that simply because under Rule 8(C) of the Mineral Concession Rules, quarry leases are to be granted to particular agency or agencies, exemption from the operation of the said rule cannot be made with the aid of the other provisions of the Mineral Concession Rules. If all the provisions of the Mineral

Concession Rules are held to form an integrated scheme then each of such provisions must be held to be mutually complimentary. It will therefore, not be proper to hold that a policy decision envisaged in Rule 8(C) cannot be modified with the aid of the other provisions of the Mineral Concession Rules and in its field of operation, the said Rule 8(C) holds a supreme position. The application of Rule 8(C) should be understood and held as subject to other provisions in the Mineral Concession Rules.

55. In various statutes, the provision of relaxation or exemption finds place and it has been indicated that such provisions of relaxation and exemption have been noticed and upheld by this Court in some of the statutes. In the MMRD Act itself, there is such provision for relaxation, being Section 3 1. Such provision of relaxation in Karnataka Minor Mineral Concession Rules, 1969 is contained in Rule 66. It has been rightly contended that where in respect of prohibited categories, the law carves out restriction or relaxation, the purpose is to take out certain exceptions from the prohibited area and keeping certain categories outside the purview of restrictions imposed under other provisions in the statute. In such circumstances, it will not be appropriate to hold that the exception militates with other provisions and hence should not be permitted. In our view, in interpreting the validity of a provision containing relaxation or exemption of another provision of a statute, the purpose of such relaxation and the scope and the effect of the same in the context of the purpose of the statute should be taken into consideration and if it appears that such exemption or relaxation basically and intrinsically does not violate the purpose of the statute rendering it unworkable but it is consistent with the purpose of the statute, there will be no occasion to hold that such provision of relaxation or exemption is illegal or the same ultra vires other provisions of the statute. The question of exemption or relaxation ex hypothesi indicates the existence of some provisions in the statute in respect of which exemption or relaxation is intended for some obvious purpose.

56. There is no manner of doubt that for bringing harmonious construction, reading down a provision in the statute, is an accepted principle and such exercise has been made by this Court in a number of decisions, reference to which has already been made. But we do not think that in the facts and circumstances of the case, and the purpose sought to be achieved by Rule 39, such reading down is necessary so as to limit the application of Rule 39 only for varying some terms and conditions of a lease. If the State Government has an authority to follow a particular policy in the matter of quarrying of granite and it can change the provisions in the Mineral Concession Rules from time to time either by incorporating a particular rule or amending the same according to its perception of the exigencies, it will not be correct to hold that on each and every occasion when such perception requires a change in the matter of policy of quarrying a minor mineral in the State, particular provision of the Mineral Concession Rules has got to be amended. On the contrary, if a suitable provision empowering exemption or relaxation of other provisions in the Mineral Concession Rules is made by confining its exercise in an objective manner consistent with the MMRD Act and in furtherance of the cause of mineral development and in public interest, by giving proper guidelines, such provision containing relaxation or exemption cannot be held to be unjustified or untenable on the score of violating the other provisions of the Mineral Concession Rules.

57. It appears to us that because of the frequent changes in the policy as to the quarrying of black granite in the State in respect of revenue lands, persons who were otherwise eligible under some

existing rules before the change of policy and consequential change in rules and who can effectively quarry such granite with advanced technological set-up, in view of change of the policy and consequential incorporation of different provisions for grant of quarry lease, has suffered unmerited hardship by becoming ineligible for grant of a quarry lease. If in mitigating such unmerited hardship and in the greater interest for mineral development in the State and for better revenue earning from such developmental operation, the question of granting lease to such persons requires to be favourably considered in an objective manner with the aid of a general provision for relaxation or exemption in an appropriate case, without changing the general policy as a whole as contained in other provisions, it cannot be held that such provision is per se obnoxious or violates the principle of just and fair State action affording equal opportunity to all. It should be borne in mind that Article 14 has an inbuilt flexibility and it permits classification amongst persons if such classification has an objective basis consistent with the object and purpose for which the reasonable classification is intended.

58. In Ramana Dayaram Shetty v. International Airport Authority of India23 while discussing the power of discretion of the Government in the matter of grant of largesse etc., it has been held by the Supreme Court that (SCC p. 506, para 12) "The power of discretion of the Government in the matter of grant of largesse including award of jobs, contracts, quotas, licences etc. must be confined and structured by rational, relevant and non-discriminatory standard or norm and if the Government departs from such standard or norm in any particular case or cases, the action of the Government would be liable to be struck down, unless it can be shown by the Government that the departure was not arbitrary, but was based on some valid principle which in itself was not irrational, unreasonable or discriminatory." (emphasis supplied) It, therefore cannot be validly contended that in no case departure from a prescribed norm and standard is not possible. Consequently, if a provision empowers such departure from the prescribed norm by invoking discretionary power of relaxation or exemption, per se it cannot be held to be discriminatory and unfair State action as sought to be contended. Whether in a given case, such departure from the prescribed norm is based on some principle which is in itself irrational, unreasonable or discriminatory needs to be demonstrated before a court of law if any challenge of unfair and discriminatory action is made.

59. It appears to us that Rule 39 has been incorporated for a valid and reasonable purpose. Accordingly, such rule cannot be held per se invalid or ultra vires Article 14 of the Constitution. The said rule also is not required to be read down by limiting its exercise only in respect of variation in some terms of lease and not otherwise as sought to be contended. Such reading down of Rule 39 and limiting its application in the manner aforesaid will defeat the purpose for which Rule 39 has been incorporated. We, therefore set aside the decision of the Madras High Court since impugned in these 23 (1979) 3 SCC 489: AIR 1979 SC 1628 proceedings and declare that Rule 39 of the Mineral Concession Rules is legal and valid. In view of such declaration, the order of the High Court in cancelling leases which were granted in exercise of power under Rule 39, simply on the score that no such power could have been exercised under Rule 39 which had been declared ultra vires and invalid, is also set aside. It is, however, made clear that although a lease granted in exercise of power under Rule 39 cannot per se be held invalid, whether the exercise of power under Rule 39 in a given case has been properly made or not can always be questioned. If such question is raised in a case, it will be open to the High Court to decide the question on merits. In the facts and circumstances of

the case, there will be no order as to costs.