

THE HON'BLE SRI JUSTICE A.V. SESA SAI

WRIT PETITION No.23496 of 2015

ORDER:

This writ petition is filed under Article 226 of the Constitution of India seeking the following relief:

“to issue Writ of Mandamus declaring the final orders passed vide Memo No.10960/M.I(1)/2008-3, Industries and Commerce (Mines-I) Department, Government of Andhra Pradesh dated 07.05.2015 of the 1st respondent as illegal and arbitrary”.

Heard Sri Pannala Srinivas, learned counsel for the petitioner and learned Government Pleader for Mines and Geology.

The petitioner is a company incorporated under the provisions of the Companies Act. The Assistant Director of Mines and Geology, Rajahmundry-3rd respondent by way of notice bearing No.3921/Vg/2008, dated 25.06.2008 demanded an amount of Rs.15,00,399/- towards normal seigniorage fee and an amount of Rs.75,01,995/- towards 5 times penalty, totalling to Rs.90,02,394/-, on the ground that the petitioner failed to produce documentary evidence in token of having paid the seigniorage fee against the quantities mentioned in the said notice. Aggrieved by the said notice, the petitioner preferred a statutory appeal dated 04.08.2008 before the 1st respondent-State Government. Subsequently, the State Government by way of memo No.10960/M.I(1)/2008-2, dated 28.01.2015 fixed the date of hearing as 10.02.2015 at 10.00 A.M.

Learned counsel for the petitioner filed a memo on 10.02.2015 giving certain particulars while requesting the 1st respondent authorities to adjourn the case to a future date. Thereafter, the State Government by virtue of an order *vide* memo No.10960/M.I(1)/2008-3, dated 07.05.2015 disposed of the said revision application by reducing

the penalty by two times instead of five times together with normal seigniorage fee.

Calling in question the validity and legal sustainability of the said order passed by the 1st respondent *vide* memo No.10960/M.I(1)/2008-3, dated 07.05.2015, the present writ petition has been filed.

Reiterating the contents of the affidavit filed in support of the writ petition, it is submitted by the learned counsel for the petitioner that the impugned memo dated 07.05.2015 is *ex facie* illegal, arbitrary and in total violation of principles of natural justice. Learned counsel for the petitioner also submitted that the impugned memo is totally vitiated in view of non-application of mind.

The information available before this Court manifestly discloses that as against the notice dated 25.06.2008 issued by the 3rd respondent asking the petitioner to pay Rs.90,02,394/- towards normal fee and 5 times penalty, the petitioner preferred a statutory appeal, obviously, under the provisions of Rule 35 of the A.P.M.M.C. Rules, 1966.

A perusal of the memorandum of grounds of appeal filed along with the present writ petition candidly discloses that the petitioner raised various aspects and urged number of grounds for impugning the notice issued by the 3rd respondent.

It is a settled and well established proposition of law that the orders of the quasi judicial authorities should be supported by valid and cogent reasons. In the instant case, the same is conspicuously absent as evident from the impugned memo.

A reading of the impugned memo dated 07.05.2015 makes it abundantly clear that the 1st respondent did not consider the grounds

of appeal filed by the petitioner and the said non-consideration would undoubtedly render the impugned proceedings void and invalid. Therefore, the impugned memo dated 07.05.2015 is liable to be set aside.

For the aforesaid reasons, the Writ Petition is allowed setting aside the memo No.10960/M.I(1)/2008-3, dated 07.05.2015 issued by the 1st respondent and the matter is remanded for fresh consideration and for passing appropriate orders in the appeal filed by the petitioner within a period of three months from the date of receipt of a copy of this order after giving notice and opportunity of hearing to the petitioner. Till such exercise attains finality, no action shall be taken against the petitioner pursuant to the notice bearing No.3921/Vg/2008, dated 25.06.2008 issued by the Assistant Director of Mines and Geology -3rd respondent. No costs.

As a sequel, the miscellaneous applications, if any, shall stand closed.

A.V. SETHA SAI, J

Date : 29.07.2015

Note : Issue C.C. in three days.

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