

HON'BLE SRI JUSTICE VILAS V.AFZULPURKAR

W.P.No.1627 of 2015

ORDER:

Heard the learned counsel for the petitioner and the learned Government Pleader for the respondents.

The question raised by the petitioner in the present writ petition is the notice given by the fourth respondent under Section 91 Cr.P.C. calling upon him to produce the records before the Regional Vigilance and Enforcement Officer, Ongole, Prakasam District – Respondent No.2. The said notice is questioned *inter alia* on the ground that Section 91 Cr.P.C. has no application and also on the ground that the respondent No.2 has no jurisdiction as petitioner was transporting only finished granite products and he has got necessary VAT registration and all the books are properly maintained and the petitioner is carrying on business at Chilakaluripet, Guntur District, whereas, the 4th respondent is working in Ongole, Prakasam District. Hence, there is no territorial jurisdiction.

On receipt of written instructions, learned Government Pleader for respondents 2 to 4 states that the Officials of both Mining and Vigilance Departments intercepted 22 vehicles which were transporting granite slabs to other States without transit passes issued by the Department of Mines and Geology with a dishonest intention of evading royalty to the Government, hence they intercepted. As a part of their exercise, the Director of Mines & Geology delegated the powers to the subordinate officers including the Police Officers not below the rank of Circle Inspectors working in the Vigilance & Enforcement Department. It is stated that suffices were conducted by the officials of A.P.Mining Department in Prakasam District within the jurisdiction of the respondents. It is also stated that the enquiries of

Vigilance Department reveals that 17 companies have been carrying the illegal trading with an intention of evading royalty payment to the State and so far as the petitioner is concerned, he has stated to have exported 691 loads of granite slabs to other states in India during the period 01.06.2014 to 30.11.2014. Hence, he was required to produce the documents pertaining to mining permission and transit passes. But since the petitioner did not give any information and allegedly gave evasive replies, the impugned notice was given but by mistake instead of Rule 26 of A.P.Mining and Mineral Concession Rule, 1966, Section 91 Cr.P.C. was referred.

Learned counsel for the petitioner after going through the afore said written instructions submits that an appropriate notice under Section 26 of A.P.Mining & Mineral Concession Rules, 1966 is given to the petitioner and he will respond upon accordingly.

In the sum and substance, the writ petition is disposed of permitting the respondents 2 and 4 to issue appropriate fresh notice to the petitioner under Rule 26 of A.P.Mining & Mineral Concession Rules and grant him reasonable time to respond for the said notice and thereafter take further steps in accordance with law. No order as to costs. Miscellaneous Petitions pending if any in this writ petition shall stand closed.

VILAS V.AFZULPURKAR, J

Date: 26-02-2015

Rns.

HON'BLE SRI JUSTICE VILAS V.AFZULPURKAR

W.P.No.1627 of 2015

26-02-2015

Rns