

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD

For the State of Telangana and the State of Andhra Pradesh

MAIN CASE W.P.NO:22350 of 2015

Between:

Rki builders

.. Petitioner(s)

And

The State of A.P. and others

.. Respondent(s)

DATE OF JUDGMENT PRONOUNCED: 21.7.2015

SUBMITTED FOR APPROVAL:

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

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|---|--------|
| 1. Whether Reporters of Local news papers
may be allowed to see the Judgments? | Yes/No |
| 2. Whether the copies of judgment may be
marked to Law Reporters/Journals | Yes/No |
| 3. Whether Their Ladyship/Lordship wish to
see the fair copy of the Judgment? | Yes/No |

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

W.P.No.22350 of 2015

O R D E R:

Heard Sri P.Gangarami Reddy, learned counsel for the petitioner, learned Government Pleader for Mines & Geology, and Sri Shyam S. Agarwal, learned counsel for the respondents 3 to 5.

When the matter is called, learned counsel for the petitioner has placed on record the earlier orders of this Court in W.P.No.3718 of 2013 dated 7.2.2013 passed in identical set of circumstances which reads as under :

“ The petitioner is a contractor and it was awarded a civil contract, which involves utilisation of sand. It is stated that in the estimates itself, the seigniorage fee payable on the sand was included and in the bills paid to the petitioner, the component of seigniorage fee is deducted. The grievance of the petitioner is that the respondents are levying one time penalty, equivalent to seigniorage fee by invoking Rule 9-Y(2) of the Andhra Pradesh Minor Mineral Concession Rules, 1966 (for short ‘the Rules’).

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

It is no doubt true that Rule 9-Y(2) of the Rules provides for levy of seigniorage fee as well as one time penalty on the sand utilised for the Government works in case the procurement of sand is without valid permits issued by the Assistant Director of Mines and Geology concerned.

The question as to whether the sand that is utilised in such contracts was quarried on the basis of specific permits accorded by the Assistant Director of Mines and Geology would have been considered if only inspection was conducted at the relevant point of time. A contract or for that matter, the Government Department concerned cannot be endowed with the duty to verify the existence of such permits. From the point of view of the Department of Mines and Geology, it should be sufficient if the seigniorage fee is paid or deducted from the bills. The penalty cannot be levied on the presumption that the sand was quarried without the permission of the Assistant Director of Mines and Geology.

Hence, the writ petition is disposed of directing that in case the seigniorage fee on the sand utilised by the petitioner in the works executed by it is deducted from the bills and proof thereof is filed before the Assistant Director of Mines and Geology, the penalty shall not be levied.

The miscellaneous petition filed in this writ petition also shall stand disposed of. There shall be no order as to costs."

Following the said judgment in W.P.No.3718 of 2013 dated 7.2.2013 and for the reasons given therein, the writ petition stands disposed of in terms thereof. As a sequel thereto, miscellaneous applications, if any pending in the writ petition, shall stand closed. There shall be no order as to cost.

A.V.SESHA SAI, J

Date:21.7.2015
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THE HONOURABLE SRI JUSTICE A.V.SESHA SAI

W.P.No.22350 of 2015

21.7.2015