

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF
ANDHRA PRADESH

WRIT PETITION No.24219 of 2015

Between:

A. Srinivasulu

... Petitioner

and

The State of Andhra Pradesh,
Rep. by its Principal Secretary,
Industries & Commerce Department,
Secretariat, Hyderabad
and others

... Respondents

DATE OF JUDGMENT PRONOUNCED: 04-08-2015

SUBMITTED FOR APPROVAL:

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

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|--|--------|
| 1. Whether Reporters of Local newspapers
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 Lordship wish to see the
fair copy of the Judgments? | Yes/No |

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

WRIT PETITION No.24219 of 2015

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ORDER:

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

"To issue a Writ, Order or direction, more particularly one in the nature of Writ of Mandamus, calling for the records relating to the Demand Notice No. 1833/Q/2006, dt.09.07.2015 from the file of the 4th Respondent and after perusing the same, set aside the said notice dt.09.07.2015, by declaring it as arbitrary, discriminatory, violative of the principles of natural justice and

illegal and consequently direct the 4th Respondent to issue dispatch permits to the Petitioner for transportation of Road Metal & Building Stone, during the subsistence of the lease sanctioned by the 3rd Respondent vide Proceedings No.1833/Q/2006, dt.24.01.2008 and with all other consequential benefits."

Heard Sri V.Jagapathi, learned counsel for the petitioner, and learned Government Pleader for Mines and Geology for the respondents, apart from perusing the material available before this Court.

The petitioner herein is a lease holder for extraction and transportation of road metal and building stone admeasuring 4.000 hectares in Sy.No.26 of Rajanam village, Hamlet of Krishnadasanapalli village accounts, Kuppam Mandal, Chittoor District. The authority has granted the said quarry lease in the year 2008 and the said lease is valid till 15.02.2018.

The Assistant Director of Mines and Geology, Palamaner, Chittoor District – 4th respondent herein issued a show cause notice, vide Lr.No.1833/Q/06 dated 24.06.2015, calling upon the petitioner to show cause as to why action should not be initiated against the petitioner for collection of seigniorage fee along with penalty as per the relevant provisions of Andhra Pradesh Minor Mineral Concession Rules, 1966, alleging extraction and transportation of minerals outside the leased area. In response to the said show cause notice dated 24.06.2015, the petitioner herein submitted an elaborate explanation on 02.07.2015 to the Assistant Director of Mines and Geology, Palamaner, stating various aspects. Thereafter, the Assistant Director of Mines and Geology, Palamaner – 4th respondent herein issued a demand notice No.1833/Q/2006 dated 09.07.2015 to the petitioner to pay Rs.96,17,400/-, i.e., Rs.9,52,900/- towards normal seigniorage fee and Rs.86,64,500/- towards penalty.

Calling in question the validity and legal sustainability of the said

demand notice, the present writ petition has been filed.

There is absolutely no controversy with regard to the fact that responding to the show cause notice dated 24.06.2015, the petitioner submitted an elaborate explanation dated 02.07.2015, narrating various aspects and pointing out various infirmities during survey. A perusal of the impugned demand notice dated 09.07.2015 manifestly discloses that except showing the explanation as one of the references in the demand notice, the Assistant Director of Mines and Geology, Palamaner, who is statutory authority, did not advert to the contents of the explanation offered by the petitioner herein. In the considered opinion of this Court, the impugned order is highly unreasonable besides being arbitrary and in violation of Article 14 of the Constitution of India and in contravention of the provisions of the Andhra Pradesh Minor Mineral Concession Rules, 1966. Non-consideration of the contents of the explanation offered by the petitioner herein is undoubtedly fatal to the entire exercise undertaken by the 4th respondent herein pursuant to the show cause notice. Therefore, this Court is of the considered opinion, in the facts and circumstances of the case, that the matter requires fresh consideration by the Assistant Director of Mines and Geology – 4th respondent herein by taking into consideration the contents of the explanation submitted by the petitioner herein.

For the foregoing reasons, the writ petition is allowed, setting aside the demand notice No.1833/Q/2006, dated 09.07.2015 issued by the Assistant Registrar of Mines and Geology – 4th respondent herein and the matter is remanded to 4th respondent for fresh consideration of the explanation submitted by the petitioner and for passing appropriate orders thereon, pursuant to the show cause notice dated 24.06.2015, after giving notice and opportunity of being heard to the petitioner, within a period of one (01) month from the date of receipt of a copy of this order. Till such exercise attains finality, no coercive action shall be taken against the petitioner pursuant to the show cause notice dated

24.06.2015.

As a sequel, miscellaneous petitions, if any pending in this writ petition, shall stand closed. There shall be no order as to costs.

A.V.SESHA SAI, J

Date: 04.08.2015

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