

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION NO.5937 of 2011

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Between:

1. B. Narayana and another

PETITIONERS

AND

1. The Government of A.P., rep. by its Principal Secretary, Finance & Planning Department, Secretariat, Hyderabad, and others.

RESPONDENTS

ORDER:

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

Though notice before admission was ordered in the year 2011, no counter affidavit has been filed till today. Learned counsel for the petitioners relied on the order of this Court in W.P.No.17998 of 2012 dated 15.11.2012 and following the said order similar writ petitions have also been disposed of and the said orders have

become final as there was no contra material. The order in W.P.No.17998 of 2012 reads as under:

“The petitioner is a Contractor and it was awarded a civil contract, which involves utilization 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 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 utilized 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 utilized 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 contractor 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, in case 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 utilized 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. There shall be no order as to costs.”

Following the above order this writ petition is disposed of. No costs. As a sequel, miscellaneous petitions, if any, shall stand closed.

CHALLA KODANDA RAM, J.

5th June, 2015

Js.

