

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

* * * *

WRIT PETITION Nos.4991 and 4992 OF 2012

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Between:

T. Rambabu

.. Petitioner

And

The Government of Andhra Pradesh
Industries & Commerce (SPIU&SAND) Department,
Rep. by its Principal Secretary and another.

.. Respondents

DATE OF JUDGMENT PRONOUNCED: 04-08-2015

SUBMITTED FOR APPROVAL:

THE HON'BLE SRI JUSTICE SANJAY KUMAR

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|---|--------|
| 1. Whether Reporters of Local newspapers
may be allowed to see the Judgment? | 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 Judgment? | Yes/No |

THE HON'BLE SRI JUSTICE SANJAY KUMAR

WRIT PETITION Nos.4991 and 4992 of 2012

COMMON ORDER:

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The petitioner in these two cases was granted a lease to
undertake sand quarrying operations in Godavari River at

Karnamamidi Reach, Mancherial Mandal, Adilabad District. During the subsistence of the quarrying lease, the mining authorities undertook an inspection and claimed that the petitioner had undertaken illegal excavation of sand outside the leased area. Show-cause notices were issued to the petitioner in January, 2012 and as the petitioner failed to respond thereto, final demand notices were issued to him calling upon him to pay certain amounts towards normal seigniorage fee and ten times penalty. Under demand notice dated 07.02.2012, the petitioner was asked to pay a sum of Rs.19,56,240/- in total while under demand notice dated 09.02.2012, he was called upon to pay a sum of Rs.6,90,360/- in total.

W.P.No.4991 of 2012 was filed challenging the demand notice dated 07.02.2012 while W.P.No.4992 of 2012 pertains to the demand notice dated 09.02.2012.

Interim orders were granted by this Court in both the writ petitions staying further action pursuant to the impugned demand notices subject to the petitioner depositing 25% of the amount demanded thereunder.

It is stated by Sri Gaddam Srinivas, learned counsel for the petitioner, that the said condition has been complied with.

Sri Gaddam Srinivas, learned counsel, raised various contentions touching upon the factual aspects of the matter in support of his challenge to the impugned demand notices. He however admits that there was a lapse on the part of his client in not responding to the show-cause notices within the stipulated time and in not even asking for extension of time to do so.

The learned Assistant Government Pleader for Mines and Geology pointed out that the petitioner was issued four demand notices but only two have been subjected to challenge. He further states, on instructions, that the other two unchallenged demand notices have not even been acted upon by the petitioner by remitting the amounts due thereunder. As the said demand notices are not

subjected to challenge in these writ petitions, this Court need not go into the said issue. Needless to state it is open to the mining authorities to take action in accordance with law in the event the said demand notices have attained finality.

Insofar as the two demand notices, which are the subject matter of these writ petitions, are concerned, this Court cannot undertake an enquiry on facts. The petitioner was afforded efficacious alternative remedies under the statute as Rules 35 and 35-A of the A.P. Minor Mineral Concession Rules, 1966 (for short 'the Rules of 1966'), permit him to file either an appeal or a revision before the competent authority against the demand notices impugned in these writ petitions. Such statutory authorities will be at liberty to undertake a factual enquiry, which this Court would normally not do in exercise of its extraordinary writ jurisdiction under Article 226 of the Constitution. The petitioner would therefore be better off in pursuing the statutory remedy and he unnecessarily approached this Court by way of writ petitions. However, as he would be required to pay large sum of money pursuant to the impugned demand notices and as this Court not only entertained these writ petitions but also granted interim protection to him, the interest of justice would be adequately served by relegating the petitioner to the statutory remedies available to him at least at this stage. As the petitioner filed these two writ petitions in February, 2012 itself i.e. less than a month after the issuance of the impugned demand notices, the time consumed in pursuing these writ petitions would have to be excluded under the provisions of Section 14 of the Limitation Act, 1963, while computing the period within which the petitioner would have to avail his remedies under the statute.

The writ petitions are accordingly disposed of permitting the petitioner to avail his remedies under the statute, be it under Rule 35 or 35-A of the Rules of 1966, within two weeks from the date of receipt of a copy of this order. The statutory authority shall entertain the appeal or revision, as the case may be, filed by the petitioner challenging the

demand notices impugned herein and adjudicate the matter on merits in accordance with law. The interim protection granted by this Court shall continue to operate till the disposal of the statutory remedy by the authority concerned. In the event the petitioner fails to file an appeal or revision, as the case may be, within the time stipulated above, this order shall stand recalled and the mining authorities would be at liberty to enforce the demand notices in accordance with law.

Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

JUSTICE SANJAY KUMAR

4th August, 2015
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