

HON'BLE SRI JUSTICE VILAS V.AFZULPURKAR

W.P.No.8697 of 2015

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ORDER:

Heard.

The petitioner herein claims that the lease with respect to A.4-94 cents in Sy.No.77/7(P) of Decherla Village, Kovvuru Mandal, West Godavari District, for a period of ten years from 22-11-2006 to 21-11-2016 was granted to the 5th respondent. As per the permission granted by the 3rd respondent on 22-07-2010, the said lease is transferred in his favour for an unexpired period and accordingly, the 3rd respondent executed a lease deed, dated 02-08-2010 in his favour. While the petitioner is carrying on the mining activity, he was issued a notice, dated 10-10-2014 by the 4th respondent alleging that the petitioner has operated road metal quarry by using one procline and the quantity of road metal excavated from his quarry lease was 72,226 cubic meters, but he has paid seigniorage fee in respect of 17,121.5 cubic meters, as such, the petitioner was required to submit his explanation on evasion of payment of seigniorage fee to the Government. The petitioner gave his explanation on 27-10-2014 inter alia claiming that the said pits were already dug before the lease was transferred in his favour and denied the allegations made against him. The 4th respondent appears to have submitted a report to the 3rd respondent, based on which, the impugned notice, dated 11-03-2015 is issued to the petitioner claiming that the petitioner has excavated and transported 55,105 cubic meters of road metal from the leased area unlawfully and, therefore, required the petitioner to show cause as to why seigniorage fee together with penalty should not be levied in terms of Rule 26(3) of the A.P.Minor Mineral Concession Rules, 1966 (for short "the Rules"). The petitioner has not submitted any explanation, but questioned the said show-cause notice in this writ petition inter alia contending that the petitioner was not given any show-cause notice prior to conducting of survey by the 4th respondent and that the explanation given by him is not considered.

Obviously, the impugned proceeding is a show-cause notice requiring the

petitioner to show cause and it is open for the petitioner to submit his explanation by raising all pleas, which he proposes to raise. Since the statutory notice under Rule 26(3) of the Rules is issued by the 3rd respondent, there is no reason to entertain the writ petition, as the 3rd respondent has necessary power to issue such notice.

The petitioner, therefore, is at liberty to submit his explanation and the 3rd respondent shall consider the same in accordance with the provisions of Rule 26 of the Rules and allied Rules under the A.P.Minor Mineral Concession Rules, 1966 and take appropriate decision in the matter.

Accordingly, the writ petition is disposed of. No order as to costs.

Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

VILAS V.AFZULPURKAR, J

Date: 31-03-2015

Prv

HON'BLE SRI JUSTICE VILAS V.AFZULPURKAR

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31-03-2015