

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

TUESDAY THE TWENTYFIFTH DAY OF AUGUST
TWO THOUSAND AND FIFTEEN

PRESENT
HONOURABLE SRI JUSTICE A.V. SESA SAI

WRIT PETITION NO.26901 OF 2015

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Between:

M/s. KPC Projects Limited
Represented by its Executive Director
K.Susheel Kumar, Hyderabad. ... Petitioner

V/s.

The State of Andhra Pradesh
Represented by its Prl. Secretary
Industries & Commerce Department
Secretariat, Hyderabad & Ors. ... Respondents

Counsel for the Petitioner: Sri Suresh Kumar Reddy Kalava

Counsel for the Respondents: GP for Mines & Geology [AP]

The Court made the following: [order follows]

HONOURABLE SRI JUSTICE A.V. SESA SAI

WRIT PETITION NO. 26901 OF 2015

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ORDER:

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

To declare the action of the respondents and its subordinates in issuing instructions to recover the seigniorage charges on sand with one time penalty from the bills and deposits of the petitioner, where permits for sand issued by the Mines Department are not produced as illegal, arbitrary and unjust and consequently to direct the respondents to drop all further proceedings in this regard against the petitioner and to pass such other suitable as this court deems fit and proper in the circumstances of the case.

2. Heard Sri Suresh Kumar Reddy Kalava, learned counsel for the petitioner and the learned Government Pleader for Mines and Geology [AP] for respondents 1 to 3 and Sri Shyam, S. Agarwal for respondents 4 and 5. Perused the material available before this Court.

3. When the matter is called, it is represented by the learned counsel for the petitioner that in similar set of circumstances this court passed an order dated 05/12/2012 in WP.No. 37397 of 2012, which reads as under:

“The petitioner is a Contractor and he 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 A.P. Minor Mineral Concession Rules, 196 [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 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 it 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 him 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 shall also stand disposed of. There shall be no order as to costs.”

4. Following the above order dated 05/12/2012 passed by this Court in WP.No. 37397 of 2012, this writ petition is also disposed of in terms thereof.

5. As a sequel, miscellaneous petitions if any, pending in this writ petition shall stand closed.

JUSTICE A.V.SESHA SAI

25/08/2015
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HONOURABLE SRI JUSTICE A.V. SESHAI SAI

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