

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

WRIT PETITION NOS.7495, 7496, 7510 AND 7525 OF 2012

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W.P.No.7495 of 2012:

Between:

P. Krishna Nand Swamy

.. Petitioner

and

Government of Andhra Pradesh rep. by its
Secretary Ind. & Commerce (Mines) Dept.
Hyderabad and others

.. Respondents

DATE OF JUDGMENT PRONOUNCEMENT
2015

: 20th JULY,

SUBMITTED FOR APPROVAL:

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THE HON'BLE SRI JUSTICE SANJAY KUMAR

1. Whether Reporters of Local newspapers
may be allowed to see the judgment?

Yes/No

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| 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

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WRIT PETITION NOs.7495, 7496, 7510 AND 7525 OF 2012

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COMMON ORDER

The petitioners in this batch of cases constructed buildings. The mining authorities called upon them to produce proof of payment of seigniorage fee on the material used in the construction, viz. sand and metal. Upon the petitioners submitting explanations along with certain details of the purported payment of seigniorage fee on the material utilized, the mining authorities issued demand notices to them requiring them to pay normal seigniorage fee and five times penalty thereon. The quantification appears to have been done on the basis of the built up area of the buildings in question and it is not the case of the mining authorities that actual stocks statistics were available for determination of the quantities of sand and metal involved in the construction. Aggrieved by the demand notices, the petitioners came before this Court by way of these writ petitions.

By individual interim orders dated 19.03.2012, this Court granted interim stay of further proceedings pursuant to the impugned demand notices taking note of the statement made by the learned counsel for the petitioners that normal seigniorage fee and one time penalty had already been paid.

It is not forthcoming from the material on record as to when the buildings were completed by the petitioners. Admittedly, the mining authorities visited the petitioners' buildings only in May, 2011 and

initiated proceedings thereafter.

Sri Ravi Kondaveeti, learned counsel for the petitioners, would contend that sufficient material was placed before the mining authorities in proof of the payment of seigniorage fee on the material utilized in the construction. He states that details were furnished as to the vehicles in which the mineral was transported and therefore, it was for the mining authorities to verify the same.

On the other hand, the learned Assistant Government Pleader for Mines and Geology, would contend that the documents produced by the petitioners were found to be unreliable and therefore, the authorities eschewed the same from consideration and issued the impugned demand notices.

In the light of the aforestated narration, several disputed questions of fact would arise for consideration. It is not known as to in what manner of determination, the mining authorities quantified the sand and metal utilized in the construction of the buildings by the petitioners. Once actual physical stocks or the statistics thereof were not available for verification, this kind of quantification is highly unreliable and lacks scientific foundation. Further, the veracity of the claims put forth by the petitioners as to the material utilized by them having already suffered payment of seigniorage fee cannot be examined by this Court in exercise of writ jurisdiction.

It is noticed that the petitioners are afforded an efficacious alternative remedy, be it by way of appeal or revision, under the provisions of the Andhra Pradesh Minor Mineral Concession Rules, 1966.

In that view of the matter, this Court is of the opinion that the petitioners ought to have availed the statutory remedy as aforestated and ought not to have approached this Court by invoking its extraordinary jurisdiction. However, as the matters have been pending before this Court since 2012 and the petitioners enjoyed the protection of the interim order, this Court is of the opinion that the writ petitions can be disposed of

as follows:

The petitioners are given liberty to avail the statutory remedies provided under the Andhra Pradesh Minor Mineral Concession Rules, 1966, within four weeks from the date of receipt of a copy of this order. In the event such statutory remedies are availed of, the mining authorities shall not give effect to the impugned demand notices pending disposal of the statutory remedies invoked by the petitioners. The remedies so invoked shall be dealt with in accordance with law by the competent authority and disposed of by way of appropriate reasoned orders in accordance with law after giving due notice and opportunity of hearing to all the parties concerned.

This order will however cease to be operative in the event the petitioners fail to invoke the statutory remedies within the time stipulated above and it would then be open to the mining authorities to give effect to the demand notices and implement the same.

The writ petitions are disposed of with the above directions. Pending miscellaneous petitions shall stand closed. No order as to costs.

SANJAY KUMAR, J

20th JULY, 2015

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