

THE HONOURABLE SRI JUSTICE A.V. SESA SAI

WRIT PETITION No.26577 of 2015

ORDER:

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

“to issue Writ of Mandamus to direct the 2nd respondent not to recover the amount from the petitioner in terms of the demand notice dated 24.11.2014 bearing No.2161/M/2012, during the pendency of the revision petition before the 1st respondent vide Revision Petition No.02/(08)/2015 /RC-II and further direct the 1st respondent to dispose of the said revision petition”.

Heard Sri B.Raveendranadha Reddy, learned counsel for the petitioner and Sri B.Narayana Reddy, Assistant Solicitor General for respondent No.1 and the learned Government Pleader for Mines and Geology for respondent No.2.

The State Government *vide* G.O.Ms.No.173, dated 15.03.2001 granted mining lease in favour of the petitioner in respect of the area admeasuring 88.395 hectares in Survey No.320 of Chaball Village, Pendlimarri Mandal, Kadapa District for a period of 20 years.

The Deputy Director of Mines and Geology, Kadapa-2nd respondent issued show-cause notice bearing No.2161/M/2012 dated 18.12.2013 calling upon the petitioner to show-cause as to why action should not be taken under the Mines and Minerals (Development and Regulation) Act, 1957, and Mineral Concession Rules, 1960 (for short ‘the Act and Rules’) for determination of the said lease and to forfeit the security deposit. In response to the said show-cause notice, petitioner submitted an explanation dated 18.01.2014. Subsequently, the 2nd respondent issued a revised show-cause notice bearing No.2161/M/2012, dated 25.04.2014, asking the petitioner to show-

cause as to why action should not be taken with regard to the breaches as indicated in the earlier show-cause notice. Responding to the said revised show-cause notice, petitioner submitted explanation dated 06.05.2014. Subsequently, the 2nd respondent issued a demand notice dated 24.11.2014, directing the petitioner to remit an amount of Rs.49,50,484/- towards royalty and cost of the mineral of 7212.24 MT iron ore lumps alleging illegal transportation of the mineral from outside the mining lease. Aggrieved by the said demand notice, the petitioner filed a statutory revision under the provisions of Rule 54 of the Mineral Concession Rules, 1960 on 24.03.2015. According to the petitioner, no orders have been passed by the

1st respondent-Revisional Authority on the said revision, and in view of the same, the 2nd respondent is now initiating coercive steps against the petitioner basing on the demand notice issued by him.

In the above background, the present writ petition has been filed for a direction to the 2nd respondent not to recover the amount from the petitioner, covered by the demand notice dated 24.11.2014.

It is contended by the learned counsel for the petitioner that this action on the part of the 2nd respondent in seeking to recover the amount covered by the demand notice dated 24.11.2014, pending consideration of the statutory revision before the 1st respondent, is highly illegal, arbitrary and unreasonable and opposed to the very spirit and object of the Act and Rules framed thereunder. It is further submitted by the learned counsel for the petitioner that if the 2nd respondent is permitted to recover the amount pending revision before the Union of India, the very purpose of filing the revision would get frustrated.

Per contra, it is vehemently contended by the learned Assistant

Solicitor General appearing for 1st respondent and the learned Government Pleader for Mines and Geology that there is no illegality nor any procedural infirmity in the impugned action. As such, the present writ petition is not maintainable and the petitioner is not entitled for any relief under Article 226 of the Constitution of India. It is further submitted that instead of pursuing revision before the Union of India, the petitioner has come to this Court only for the purpose of protracting the matter to the extent possible.

The information available before this Court manifestly discloses that as against the demand notice dated 24.11.2014 issued by the 2nd respondent, the petitioner filed a statutory revision under the provisions of Rule 54 of the Mineral Concession Rules, 1960 on 24.03.2015 and along with the said revision, the petitioner also filed an application, seeking stay of all further proceedings pursuant to the demand notice in proceedings No.2161/M/2014, dated 24.11.2014. There is absolutely no dispute with regard to the fact that no orders have been passed either on the said revision or on the stay application filed by the petitioner, so far.

Rule 55(5) of the Mineral Concession Rules, 1960 empowers the Central Government to stay the execution of the order impugned. In the instant case though the petitioner filed stay application also as long back as on 24.03.2015, so far no orders have been passed by the Union of India.

In the affidavit filed in support of the writ petition, it is categorically stated that the 2nd respondent is initiating coercive action against the petitioner basing on the demand notice dated 24.11.2014. Having regard to the nature of controversy, this Court is of the view that the ends of justice would be met if a direction is given to the 1st respondent to pass appropriate orders on the revision dated

24.03.2015 filed by the petitioner under the provisions of Rule 54 of the Mineral Concession Rules, 1960 by fixing some time frame.

For the aforesaid reasons, the Writ Petition is disposed of, directing the 1st respondent to pass appropriate orders on the revision dated 24.03.2015 filed by the petitioner against the demand notice dated 24.11.2014 issued by the 2nd respondent within a period of two months from the date of receipt of a copy of this order after giving notice and opportunity of being heard to the petitioner. Till such exercise attains finality, no coercive action shall be taken against the petitioner pursuant to the demand notice dated 24.11.2014.

As a sequel, the miscellaneous applications, if any, shall stand closed. There shall be no order as to costs.

A.V. SETHA SAI, J

Date : 21.08.2015

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