

THE HON'BLE SRI JUSTICE A.V. SESA SAI

WRIT PETITION No.28521 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 declare the memo No.5557/M.I(1)/2015-2 dated 10.08.2015 of the 1st respondent as illegal, arbitrary and against the A.P.M.M.C. Rules, 1966 and consequently set aside the same.”

Heard Sri Goalla Seshadri, learned counsel for the petitioner and learned Government Pleader for Mines and Geology for respondents, apart from perusing the material available before this Court.

The Assistant Director of Mines and Geology (Vigilance) issued a demand notice bearing No.973/V&E/RMQ/2013, dated 27-01-2014, asking the petitioner herein to pay a sum of Rs.7,93,550/- towards normal seignorage fee and Rs.39,67,750/- towards 5 times penalty, totaling Rs.47,61,300/- on the ground of alleged variation found in stocks during inspection.

As against the said demand notice the petitioner herein preferred a statutory revision under Rule 35-A of A.P. Miner Mineral Concession Rules, 1966 (for short, 'the Rules') before the State Government – first respondent herein. The first respondent vide memo No.5557/M.I(1)/2015-2, dated 10-08-2015 passed an order on the said revision directing the petitioner herein to pay one time penalty instead of five times penalty as directed by the Asst. Director of Mines and Geology

together with normal seigniorage fee.

Calling in question the validity and legal sustainability of the said order passed by the State Government vide memo No.5557/M.I(1)/2015-2, dated 10-08-2015, the present writ petition has been filed.

It is contended by the learned counsel for the petitioner that the order passed by the State Government is highly illegal, arbitrary, unreasonable and is violative of Articles 14 and 19 (1)(g) of Constitution of India besides being opposed to the very spirit and object of the provisions of the Rules. It is also submitted by the learned counsel for the petitioner that order of the State Government is non-speaking order and on this ground alone the impugned order is liable to be set aside.

Per contra, it is vehemently contended by the learned Government Pleader for Mines and Geology that there is no illegality nor there is any procedural infirmity in the order passed by the State Government, as such, the present writ petition is not maintainable and the petitioner herein is not entitled for any relief under Article 226 of the Constitution of India. It is also submitted by the learned Government Pleader that since the State Government reduced the penalty by one time from five times imposed by the Asst. Director of Mines and Geology, the order passed by the 1st respondent herein is not amenable for any judicial review under Article 226 of the Constitution of India.

Followed by a show cause notice, the Assistant Director of Mines and Geology issued a demand notice bearing No.973/V&E/RMQ/2013, dated 27-01-2014, asking the petitioner

herein to pay a sum of Rs.7,93,550/- towards normal seignorage fee and Rs.39,67,750/- towards 5 times penalty and as against the said demand notice issued by the Assistant Director of Mines and Geology the petitioner herein preferred a statutory revision under the provisions of Rule 35-A of the Rules.

The State Government by way of memo, dated 10-08-2015 confirmed the demand raised by the Assistant Director of Mines and Geology to the extent of normal seignorage fee but reduced the penalty imposed from five times to one time.

It is a settled and a well-established proposition of law that the orders passed by the quasi-judicial authorities should necessarily be supported by reasons. A perusal of the impugned memo, dated 10-08-2015 vividly discloses that except indicating the revision filed by the petitioner herein as one of the references, the 1st respondent herein did not consider the contents of the said revision filed by the petitioner herein. Being a quasi-judicial authority it is incumbent and obligatory on the part of the 1st respondent to consider the contents of the revision filed by the petitioner herein. In the instant case the said exercise is conspicuously absent.

In view of the said reason, this Court is of the considered opinion that the ends of justice would be met if the matter is remanded to the 1st respondent for fresh consideration.

For the aforesaid reasons, the writ petition is allowed, setting aside the memo No.5557/M.I(1)/2015-2, dated 10-08-2015 issued by the first respondent herein and the matter is

remanded to the first respondent herein for fresh consideration of the revision, dated 16-03-2015 filed by the petitioner herein against the demand notice bearing No.973/V&E/RMQ/2013, dated 27-01-2014 issued by the Assistant Director of Mines and Geology after giving notice and opportunity of being heard to the petitioner herein. This exercise shall be completed within a period of two (2) months from the date of receipt of a copy of this order. This arrangement is however subject to the petitioner paying the normal seigniorage fee. It is also made clear that till such exercise attains finality there shall be no coercive action against the petitioner herein with regard to payment of penalty. It is also made clear that in the event of non-payment of normal seigniorage fee as directed above, this order will not enure to the benefit of the petitioner. There shall be no order as to costs.

The Miscellaneous Petitions, if any, pending in this Writ Petition shall stand closed.

A.V. SETHA SAI, J

September 11, 2015
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THE HON'BLE SRI JUSTICE A.V. SETHA SAI

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