

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA & THE STATE OF ANDHRA PRADESH
(Special Original Jurisdiction)

TUESDAY, THE TWENTIETH DAY OF JANUARY
TWO THOUSAND AND FIFTEEN

PRESENT

THE HON'BLE SRI JUSTICE VILAS V. AFZULPURKAR

WRIT PETITION No.422 of 2015

BETWEEN

M/s.ACC Concrete Limited, rep. by its Authroised Signatory.

... PETITIONER

AND

The State of Telangana, and others

...RESPONDENTS

The Court made the following:

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ORDER:

Heard.

2. Petitioner questions the demand notice issued by the Assistant Director of Mines and Geology demanding a sum of Rs.1,33,770/- from the petitioner. The basis of the said demand notice, as it appears from the order, is the transit forms submitted by the petitioner in proof of having obtained the mineral after duly paying the seniorage fee therein by the vendors from whom the petitioner has procured the mineral.

3. According to the learned counsel for the petitioner all the transit forms and transit passes are duly authorized by the officer and competent authority

under the A.P. Mines and Minerals (Development and Regulation) Act and all the forms are genuine. The dispute raised in the impugned demand notice refers to the destination in the said transit forms and permits as 'Bollarum' instead of 'Bachupalli' and thereby, the transit forms and the transit passes are not accepted except for few. Learned counsel for the petitioner submits that the petitioner unit is situated on the border of Bollarum and Bachupalli and it is sometimes referred to by either of the names and that by itself cannot be a decisive factor.

4. After hearing learned counsel for the petitioner and learned Government pleader, it appears that the question raised is clearly factual. Under the jurisdiction exercised by this court under Article 226 of the Constitution, the factual questions cannot be decided by this court, particularly, when the petitioner has an efficacious alternative remedy of an appeal before the Director under rule 35 of the A.P. Minor Mineral (Concession) Rules, 1966.

5. Since the demand notice is questioned and resisted primarily on the ground that all the transit passes, issued by the authority, are genuine, in my view, it is appropriate that the claim of the petitioner is examined by the appellate authority. However, keeping in view that the demand is hardly for about Rs.1,34,000/- it would be appropriate that the enforcement of the said demand awaits the decision of the appellate authority.

Hence, petitioner is granted liberty to question the said demand notice by way of an appeal. The original impugned proceedings filed along with the writ petition shall be returned to the petitioner subject to substitution thereof by an authenticated copy. Respondent No.2, which is the appellate authority, therefore, is directed to entertain the appeal, if any, preferred by the petitioner within a week from today and the appellate authority shall hear and dispose of the said appeal, on merits, after duly considering the claim of the petitioner, expeditiously, preferably within a period of two (2) months from the date of filing of the appeal. Pending consideration of the said appeal, as above, the impugned demand shall remain stayed and shall be subject to the order of the appellate authority.

With the above direction, the writ petition is disposed of.

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

VILAS V. AFZULPURKAR, J

January 20, 2015
LMV