

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

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WRIT PETITION No. 24184 OF 2015
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ORDER:

This writ petition is filed under Article 226 of the Constitution of India, challenges the order passed by the 1st respondent – State, vide Memo No.18466/M.I(1)/2011-2, dated 22.05.2015.

2. Heard Sri P.N.Murthy, learned counsel for the petitioner and learned Government Pleader for Mines and Geology for the respondents.

3. Petitioner herein was granted quarry lease for gravel over an extent of Acres 4.24 cents in Sy.No.89/3 of Kondruprole Village, Tadepalligudem Mandalam, West Godavari District, for a period of five years, commencing from 13.04.2010 to 12.04.2015.

4. The 2nd respondent – Assistant Director of Mines and Geology, Eluru, West Godavari District, issued a notice bearing No.4556/Q/2007, dated 08.12.2011, calling upon the petitioner to show cause as to why action should not be initiated under Rules 26(2) and (3) of the Andhra Pradesh Minor Mineral Concession Rules, 1966 (herein after, 'the Rules'), alleging excavation and transportation of 31.430 Cums of gravel from the leased area without paying the Seigniorage Fee and further alleging transportation of 18,538M³ and 742 M³ gravel from outside the leased area. Responding to the same, petitioner herein submitted an explanation on 14.12.2011.

5. The Assistant Director of Mines and Geology, Elugu, West Godavari District – 2nd respondent herein, by virtue of notice bearing No.4556/Q/2009, dated 16.12.2011, asked the petitioner to pay a sum of Rs.41,48,700/- i.e., Rs.6,91,450/- towards normal Seigniorage fee and five time penalty of Rs.34,57,250/-. Aggrieved by the said demand dated 16.12.2011, the petitioner herein filed a statutory revision under Rule 35-A of the Rules before the State Government – 1st respondent

herein. The 1st respondent herein by way of Memo No.18466/M.I(1)/2011-2, dated 22.05.2015, disposed of the said revision, reducing the penalty by two times while keeping the rest of the demand intact.

6. Calling in question the validity and legal sustainability of the said order passed by the 1st respondent herein, vide the impugned memo dated 22.05.2015, the present writ petition is filed. It is contended by the learned counsel for the petitioner that the questioned memo dated 22.05.2015 is highly illegal, arbitrary, unreasonable and violative of Articles 14, 19(1)(g) of the Constitution of India and opposed to the very spirit and object of the provisions of Andhra Pradesh Minor Mineral Concession Rules, 1966. It is further submitted that being a Quasi-Judicial Authority, the 1st respondent herein is required to assign reasons for arriving at the conclusions and the 1st respondent herein did not adhere to the same, as such, the impugned memo is liable to be set aside.

7. Per contra, it is strenuously contended by the learned Government Pleader that the orders impugned in the present writ petition are in accordance with the Andhra Pradesh Minor Mineral Concession Rules, 1966 and there is no illegality nor there is any infirmity in the impugned orders, as such, the present writ petition is liable to be dismissed and petitioner herein is not entitled for any relief from this court under Article 226 of the Constitution of India.

8. The information available before this court reveals that as against the demand dated 16.12.2011, raised by the Assistant Director of Mines and Geology-2nd respondent herein, vide Notice No.4556/Q/2009, the petitioner herein preferred a statutory revision under the provisions of Rule 35-A of the Andhra Pradesh Minor Mineral Concession Rules, 1966. It is a settled and well established proposition of law that the orders of the Quasi-Judicial Authorities should necessarily be supported by valid and cogent reasons, and in

the instant case, as evident from the impugned memo dated 22.05.2015, the same is conspicuously absent. Being a statutory Quasi-Judicial Authority, the 1st respondent herein ought to have dealt with the grounds of revision filed by the petitioner herein and should have considered the same, while passing the impugned orders.

9. In the instant case, the 1st respondent herein did not undertake such exercise and the same would be very much obvious on the face of the impugned memo dated 22.05.2015. Except recording the finding that the Revisional Authority has partly convinced with the contention of the Revision Petitioner and decided to award two times penalty, no other reason whatsoever is assigned by the 1st respondent herein in the impugned memo. Thus, in the considered opinion of the court, the impugned memo is neither sustainable nor tenable in the eye of law. The absence of valid and convincing reasons is fatal to the impugned memo issued by the 1st respondent herein. In view of the same, this court is inclined to remand the matter to the 1st respondent herein for fresh consideration by setting aside the impugned memo dated 22.05.2015.

10. For the aforesaid reasons, the writ petition is allowed, setting aside the impugned memo vide Memo No.18466/M.I(1)/2011-2, dated 22.05.2015 passed by the 1st respondent herein and the matter is remanded to the 1st respondent herein for passing appropriate orders, in accordance with law, after giving notice and opportunity of being heard to the petitioner herein. This is, however, subject to the payment of normal Seigniorage fee of Rs.6,91,450/- by the petitioner herein, within a period of two months from the date of receipt of this order. It is also made clear that in the event of non-compliance of the said condition, this order will not ensure to the benefit of the petitioner herein.

11. Miscellaneous petitions pending consideration, if any, in the Writ Petition shall stand closed in consequence. No order as to costs.

A.V.SESHA SAI, J

11th August, 2015
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