

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

WRIT PETITION Nos.18052, 18074, 18091

AND 21450 OF 2015

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COMMON ORDER:

Since in all these writ petitions a common issue is raised, this Court deems it appropriate to dispose of these writ petitions by way of common order.

Heard Sri Vedula Srinivas, learned counsel for the petitioners and learned Government Pleader for Mines and Geology.

The petitioners are engaged in the business of mining and are having a mining lease in their favour in various survey numbers of Vinjamur Village, SPSR Nellore District. The common grievance of the petitioners is that without giving any notice and without giving any opportunity of being heard to them, the Assistant Director of Mines and Geology enhanced the rate of royalty with retrospective effect from the year 2011 in violation of the principles of natural justice and violative of Articles 14 and 19(1)(g) of the Constitution of India.

Counter affidavit is filed by the Assistant Director of Mines and Geology-3rd respondent herein stating that the impugned action is only a consequential exercise by the respondents in compliance of the directions of the Auditor General while conducting Audit; that these directions inturn are in accordance with the instructions and for the rates fixed by the Indian Bureau of Mines which are updated from time to time on the website of IBM; that the 3rd respondent is bound to carry out the directions of the Auditor General; and that the system of dispatch permits is now made online, as such the redressal of the issue agitated by the petitioners is not under the jurisdiction or competence of the 3rd respondent.

It is the contention of the learned Government Pleader that there is absolutely no illegality nor infirmity in the impugned action.

It is a settled proposition of law that any action of the authorities, which has civil and penal consequences, should necessarily be preceded by notice and

opportunity of being heard to the persons likely to be effected by such action. In the instant case it is the grievance of the petitioners that no notice nor any opportunity was afforded to the petitioners before resorting to the impugned action.

It is submitted by the learned counsel for the petitioners that if proper notice is given by the respondent authorities, petitioners will be in a position to explain the situation. It is also submitted by the learned counsel for the petitioners that if an opportunity is given to the petitioners, the petitioners are ready to continue to pay enhanced rates of royalty pending such exercise. This Court considers the said request as reasonable.

For the aforesaid reasons, the Writ Petitions are disposed of, setting aside the revised assessment orders and the 3rd respondent is directed to issue show-cause notice to the petitioners calling for explanation and if any such notice is issued the petitioners are entitled to submit their explanations within a period of two weeks from the date of receipt of such show-cause notices. On receipt of the explanations, the Assistant Director of Mines and Geology-the 3rd respondent shall consider the same and pass appropriate orders in accordance with law, within a period of one month from the date of submission of explanations. The petitioners shall pay the enhanced rates of royalty as is now being paid by them till such exercise attains finality. The same however be subject to the result of the said exercise. No costs.

Miscellaneous petitions, if any, pending in these writ petitions shall stand closed.

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A.V. SETHA SAI, J

Date : 28.07.2015

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