

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

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WRIT PETITION No. 25566 OF 2015
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ORDER:

In the present writ petition, challenge is to the proceedings bearing Demand Notice No.2443/Vg-1/2010, dated 27.02.2012 issued by the Deputy Director of Mines and Geology – 4th respondent herein and the final order No.117/2015, dated 17.04.2015 passed by the 1st respondent herein.

2. Heard Smt.N.Shoba, learned counsel for the petitioner, Sri B.Narayana Reddy, Assistant Solicitor General, learned counsel for the 1st respondent and learned Government Pleader for Mines and Geology for the respondents 2 to 5.

3. The State Government vide G.O.Ms.No.170, Industries and Commerce (Mines II) Department, dated 23.07.1997, granted mining lease in favour of the petitioner herein for Laterite mineral for a period of twenty years in respect of an extent of Acres 12.05 guntas in Survey No.2/2, 3/2, 4/2 and 5/2 of Mallampally Village, Mulugu Mandal, Warangal District. The said lease is valid till 17.11.2017. The Deputy Director of Mines and Geology – 4th respondent herein issued show cause notice No.711/Vg/2007, dated 28.05.2010, asking the petitioner to show cause as to why the action should not be taken for recovery of Royalty @ Rs.28/- per MT and price thereof @ Rs.92/- per MT of Laterite (Royalty Rs.6,10,820/- + Price Rs.20,06,980/-, total Rs.26,17,800/-) as per Section 21(5) of Mines and Minerals (Development and Regulation) Act, 1957 (hereinafter, called 'the Act'). In response to the said show cause notice, the petitioner herein submitted explanation on 11.06.2010 to the Deputy Director of Mines and Geology. The Deputy Director of Mines and Geology, by virtue of Demand Notice No.2443/Vg/2010, dated 27.02.2012, directed the petitioner herein to pay an amount of Rs.26,17,800/-, as demanded in

the show cause notice as per Section 21(5) of the Act, 1957, for the alleged violation of Section 4 of the Act, 1957.

4. Petitioner herein filed statutory revision under Rule 54 of the Act, 1957 on 11.04.2012 before the Union of India – 1st respondent herein. The Central Government by virtue of final order No.117/2015, dated 17.04.2015, remanded the matter to the State Government, in view of the declaration by the Union of India that the subject mineral is minor mineral, for fresh consideration and further directed to await the orders in W.P.12331 of 2012.

5. Calling in question the validity and legal sustainability of the said order passed by the Union of India – 1st respondent herein to the extent of directing the State Government to await the disposal of W.P.No.12331 of 2012, the present writ petition has been filed.

6. It is contended by the learned counsel for the petitioner that the impugned action on the part of the Union of India/Revisional Authority to the extent of directing to await the disposal of W.P.No.12331 of 2012 for disposal of the statutory revision filed by the petitioner herein is highly illegal, arbitrary, unreasonable and opposed to the very spirit and object of the provisions of the Act, 1957 and Andhra Pradesh Minor Mineral Concession Rules, 1966 (hereinafter, called 'the Rules').

7. It is further contended by the learned counsel for the petitioner that the subject matter in the W.P.No.12331 of 2012 has absolutely nothing to do with the subject matter under revision. It is the further submission of the learned counsel for the petitioner herein that the petitioner herein filed said writ petition i.e., W.P.No.12331 of 2012, when there was a refusal on the part of the 5th respondent herein to issue despatch permits for transportation of the minerals.

8. Per contra, it is contended by the learned Assistant Solicitor General, appearing for 1st respondent and the learned Government Pleader for Mines and Geology appearing for respondents 2 to 5, that

there is no illegality nor there is any procedural infirmity in the impugned order, as such, the present writ petition is not maintainable and the petitioner herein is not entitled for any relief from this court under Article 226 of the Constitution of India.

9. The information available before this court manifestly discloses that as against the orders passed by the Deputy Director of Mines and Geology – 4th respondent herein, demanding a sum of Rs.26,17,800/-, the petitioner herein preferred a statutory revision before the Union of India under Rule 54 of the Mineral Concession Rules, 1960. The Revisional Authority – 1st respondent herein by virtue of the impugned final order No.117/2015, dated 17.04.2015, remitted the matter to the State Government obviously in view of the declaration made by the Union of India that the Laterite mineral is a Minor Mineral. There is absolutely no dispute with regard to the fact that, in view of the said declaration, the competent authority is the State Government now for entertaining the revision under Rule 35-A of the Rules. The only grievance of the petitioner obviously in the present writ petition is the direction of the 1st respondent herein to the State Government to await the orders in W.P.No.12331 of 2012 for disposal of Revision.

10. In order to demonstrate that the subject matter in the said writ petition has nothing to do with the present issue. The affidavit filed in support of the said writ petition and the petition filed under Article 226 of the Constitution of India have been placed on record by the learned counsel for the petitioner herein along with the present writ petition. A perusal of the affidavit filed in support of the W.P.No.12331 of 2012 in clear and unequivocal terms, discloses that the petitioner herein filed the said writ petition pending revision before the Union of India when there was refusal by the Assistant Director of Mines and Geology to issue despatch permits. In the said writ petition, this court in W.P.M.P.No.15474 of 2012, passed the following interim order:

“There shall be interim direction to the 5th respondent to issue dispatch permits to the petitioner for transporting the

mineral laterite in over an extent of Ac.12.05gts. in S.No.2/2, 3/2, 4/2 and 5/2 of Mallampally Village, Mulugu Mandal, Warangal District, subject to the condition that the petitioner shall deposit 25% of the demanded amount within a period of four weeks from the date of receipt of a copy of this order.”

11. A perusal of the impugned order manifestly shows that the Union of India was obviously under an impression that the petitioner herein questioned the demand issued by the Deputy Director of Mines and Geology in the said writ petition No.12331 of 2012. It is very much obvious from the perusal of the affidavit and the petition filed in the said writ petition that the cause which compelled the petitioner herein to file the above said writ petition has nothing to do with the subject matter in the revision and pendency of this writ petition, in the considered opinion of this court, does not come in the way of the disposal of the revision filed by the petitioner herein, which is now pending consideration before the State Government under Rule 35-A of the Rules.

12. In view of the above reasons, the writ petition is disposed of, directing the State Government – 2nd respondent herein to pass appropriate orders on the revision filed by the petitioner herein against the demand notice No.2443/Vg/2010, dated 27.02.2012 issued by the Deputy Director of Mines and Geology – 4th respondent herein within a period of two months from the date of receipt of revision papers from the 1st respondent – Union of India.

13. 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

13th August, 2015

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