

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

WRIT PETITION No.20619 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 declaring the notice No.329/RV & EO/SRPT/2015, dated 12-05-2015 issued by the 3rd respondent to the petitioner, as illegal and arbitrary and set aside the same and further direct the 3rd respondent to take into consideration the letter No.Dy.EE/R&B/NH/SRPT/2014-15/130, dated 12-03-2015 and Lr.No.Supt./NH/Seignorage/2015/617, dated 15-06-2015 issued by the 2nd respondent and re-examine the issue.”

Heard Sri C. Raghu, learned counsel for the petitioner and learned Government Pleader for Mines and Geology for respondents.

The petitioner herein is a Contractor and the Central Government awarded a project of Rehabilitation and Upgradation of Nakrekal to Nagarjuna Sagar Section of NH-565 from KM 1.000 to KM 86.057 in the station of Telangana in favour of the petitioner.

According to the petitioner, it entered into an agreement with the leaseholder, M/s.Sri Venkateswara Stone Crusher, in Sy.No.379 of Charla Gouraram village, Kanagal Mandal, Nalgonda District, for extraction of stone boulders which will be crushed in the crusher owned and erected by the petitioner company. It is further stated that for the said exclusive purpose the petitioner company set up a crusher and the petitioner company is not carrying on any commercial activity in relation to the said crusher.

It is also stated that it has been erected only for the purpose of crushing the stone (metal) for its own purpose i.e., execution of the aforesaid contract.

While the things being so, the Assistant Director of Mines and Geology, Vigilance, Suryapet – 3rd respondent herein issued a show cause notice No.329/RV&EO/SRPT/2015, dated 12-05-2015, asking the petitioner to show cause as to why action should not be initiated against the petitioner for realization of normal seigniorage fee of Rs.8,39,223/- along with five times penalty of Rs.41,96,115/- , totaling Rs.50,35,338/- for the alleged unauthorized procurement of minor mineral.

Responding to the said show cause notice issued by the 3rd respondent, the petitioner herein submitted an explanation, dated 02-07-2015, requesting the 3rd respondent to drop further action in the matter while referring to the letter of the Deputy Executive Engineer (R&B), NH Sub-Division, Suryapet, dated 12-03-2015 addressed to the 3rd respondent.

Even according to the petitioner, no final orders have been passed so far pursuant to the show cause notice issued by the 3rd respondent. It is brought to the notice of this Court during the course of hearing that vide letter No.Dy.EE/R&B/NH/ SRPT/2014-15/130, dated 12-03-2015 the Deputy Executive Engineer – 2nd respondent herein informed the 3rd respondent herein that the seigniorage charges for the construction material consumed in the work would be deducted from the work bills of the Contractor and

remitted to the Mines and Geology department from time to time.

Learned counsel for the petitioner also brought to the notice of this Court a letter, dated 15-06-2015 addressed by the Executive Engineer (R&B), N.H. Division, Hyderabad to the Assistant Director of Mines and Geology. By virtue of the said letter the Executive Engineer (R&B) sent a demand draft for an amount of Rs.10,67,408/- towards the seigniorage charges.

The apprehension obviously in the present writ petition is that the 3rd respondent may not take into consideration the said letters. Since no final orders have been passed by the 2nd respondent pursuant to the show cause notice, this Court deems it appropriate to dispose of the present writ petition with a direction to the 3rd respondent – Assistant Director, Mines & Geology to consider the explanation submitted by the petitioner on 02-07-2015 and the contents therein and take appropriate action, in accordance with law.

For the afore said reasons, the writ petition is disposed of, directing the Assistant Director of Mines and Geology – 3rd respondent herein to consider the explanation submitted by the petitioner herein vide Lr.No.GVRIPL/NH/NNR/PM/289, dated 02-07-2015 and pass appropriate orders pursuant to the show cause notice bearing No.329/RV&EO/SRPT/2015, dated 12-05-2015 issued by the 3rd respondent herein within a period of two (2) weeks from the date of receipt of a copy of this order. Till such exercise attains finality, there shall be no coercive action against

the petitioner herein in pursuance to the show cause notice, dated 12-05-2015. 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

July 07, 2015

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

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