

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

W.P.No.14448 of 2010

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ORDER:
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This writ petition is filed seeking Mandamus to declare the action of the respondents and their subordinates in proposing to recover the seigniorage charges on sand with one time penalty from the bills and deposits of the petitioners, where permits for sand issued by the Mines Department are not produced as illegal, arbitrary and unjust and consequently direct the respondents to drop all further proceedings in this regard against the petitioner.

2. It is submitted by the counsel for the petitioners that in identical circumstances, this Court passed an order dated 5.12.2012 in W.P.No.37397 of 2012, which reads as under:

“The petitioner is a Contractor and he was awarded a civil contract, which involves utilization of sand. It is stated that in the estimates itself, the seigniorage fee payable on the sand was included and in the bills paid to the petitioner, the component of seigniorage fee is deducted. The grievance of the petitioner is that the respondents are levying one time penalty, equivalent to seigniorage fee by invoking Rule 9-Y(2) of the Andhra Pradesh Minor Mineral Concession Rules, 1966 (for short ‘the Rules’).

Heard the learned counsel for the petitioner and the learned counsel for the respondents.

It is no doubt true that Rule 9-Y(2) of the Rules provides for levy of seigniorage fee as well as one time penalty on the sand utilized for the Government works in case the procurement of sand is without valid permits issued by the Assistant Director of Mines and Geology concerned.

The question as to whether the sand that it utilized in such contracts was quarried on the basis of specific permits accorded by the Assistant Director of Mines and Geology would have been considered if only inspection was conducted at the relevant point of time. A contractor or for that matter, the Government Department concerned cannot be endowed with the duty to verify the existence of such permits. From the point of view of the Department of Mines and Geology, it should be sufficient in case the seigniorage fee is paid or deducted from the bills. The penalty cannot be levied on the presumption that the sand was quarried without the permission of

Hence, the writ petition is disposed of directing that in case the seigniorage fee on the sand utilized by the petitioner in the works executed by him is deducted from the bills and proof thereof is filed before the Assistant Director of Mines and Geology, the penalty shall not be levied.

3. Following the above order dated 5.12.2012 passed by this Court in W.P.No.37397 of 2012, this writ petition is also disposed of in terms of thereof. As a sequel, the miscellaneous petitions, if any, shall stand closed. There shall be no order as to costs.

Date: 26.3.2015
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Between:

M/s Engineering Projects (India) Ltd.,
represented by GPA holder K.Amarnath & another.

... Petitioners

and

Government of A.P., rep. by its
Secretary, Industries & Commerce Department,
Secretariat, Hyderabad & others.

... Respondents