

HON'BLE SRI JUSTICE VILAS V.AFZULPURKAR

W.P.No.11154 of 2015

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ORDER:

Heard.

The petitioner is one of the leaseholders for ballast, road metal and boulders over an extent of Ac.7-99 cents in Sy.No.1 of Kondagudem Village, Devarapally Mandal, West Godavari District. A demand notice, dated 22-02-2013 was served on the petitioner by the 3rd respondent herein alleging that the petitioner has extracted large quantity of road metal without obtaining dispatch permits and transported the same, as such he was directed to pay normal seigniorage fee together with five times penalty. Questioning the same, the petitioner has preferred a revision along with the application for stay and the same are pending before the 1st respondent since 13-03-2013.

It is not disputed that the Government has already ordered a joint survey to be conducted as per request of the petitioner and a team of officers was constituted for that purpose. It is also stated that similarly situated quarry owners, who were given demand notices approached the Government by filing revisions and the Government vide Memo No.6326/M.II(1)/2010-3, dated 19-08-2010 while ordering re-survey and re-calculation, the demand notices were suspended till re-survey and re-calculation are made.

The petitioner, however, states that in the present case no such suspension order was passed and according to the petitioner, the re-survey is still pending. However, the demand notice is now sought to be enforced against the petitioner. Hence, the petitioner has filed this writ petition alleging inaction on the part of the 1st respondent in considering the stay application filed along with the revision.

Learned Government Pleader for Mines, who has received instructions, stated that as the petitioner extracted and transported large quantity of road metal without obtaining dispatch permits, the impugned demand notice was issued to the petitioner directing to pay normal seigniorage fee together with five times penalty.

However, on the petitioner's request for appointment of independent technical expert for conducting re-survey, the matter is pending with the Government and since no order of stay is passed, the demand notice is being enforced.

As is evident from the orders of the Government, dated 19-08-2010 referred to above, similar demand notices were suspended with respect to similarly situated quarry owners pending re-survey and recalculation. In view of that, there is no reason why the petitioner is left out and the demand notice becomes enforceable against him.

Since the 1st respondent is seized of the matter and is awaiting for re-survey and re-calculation, it is appropriate that till the Government passes appropriate final orders in the said revision, the impugned demand notice is suspended, so that the petitioner's case can also be considered along with other similarly situated quarry owners, whose revisions are pending with the 1st respondent.

Accordingly, the writ petition is disposed of. No order as to costs.

Miscellaneous applications, if any, shall stand closed. No order as to costs.

VILAS V.AFZULPURKAR, J

Date: 27-04-2015

Prv

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