

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

WRIT PETITION No.27184 of 2015

ORDER:

This writ petition, filed under Article 226 of the Constitution of India, challenges the notice bearing No.903/Q1/2014, dated 27-07-2015 issued by the Assistant Director of Mines and Geology, Rajahmundry, East Godavari District – 4th respondent herein.

By virtue of the said notice the Assistant Director directed the petitioner herein to pay normal seigniorage of Rs.12,01,486/- along with penalty of Rs.72,13,470/- on the allegation of excavation and transportation of 43649 cubic meters of Gravel from the leased area over and above the permitted quantity and 10964 cubic meters of Gravel out side the leased area without any lawful authority.

Heard Smt. N. Shoba, learned counsel for the petitioner and learned Government Pleader for Mines and Geology for respondents, apart from perusing the material available before this Court.

Petitioner is the lessee in respect of the quarry lease for Gravel over an extent of Ac.11-00 in Sy.No.210/1(P) and 410/11(P) of G. Dontamuru village, Rangampta mandal, East Godavari District.

The Assistant Director of Mines and Geology, Rajahmundry, East Godavari District – 4th respondent herein issued a notice bearing No.903/Q1/2014, dated 06-07-2015, asking the petitioner to show cause as to why action should not be initiated under Rule 26 (1) read with 34 (1) of A.P. Minor Mineral

Concession Rules, 1966.

Petitioners herein by way of letter, dated 18-07-2015 requested the Assistant Director of Mines and Geology, Rajahmundry, East Godavari District – 4th respondent herein to furnish a copy of the proceedings bearing Lr.No.759/ADM&G(V)/2015, dated 03-07-2015 of the Asst. Director of Mines and Geology referred to in the show cause notice for enabling him to furnish explanation.

The Assistant Director of Mines and Geology, Rajahmundry by way of notice bearing No.903/01/2014, dated 27-07-2015 directed the petitioner herein to pay the normal seigniorage together with penalty. Calling in question the validity and legal sustainability of the said demand notice, 27-07-2015 the present writ petition has been filed.

It is submitted by the learned counsel for the petitioner that the questioned notice, dated 27-07-2015 is highly illegal, arbitrary, unreasonable and violative of Articles 14 and 19(1)(g) of Constitution of India besides being opposed the very spirit and object of the provisions of A.P. Minor Mineral Concession Rules, 1966 and the impugned action of the 4th respondent herein is in violation of the principles of natural justice. It is the further submission of learned counsel that without responding to the request made by the petitioner herein in his letter, dated 18-07-2015, wherein the writ petitioner sought for certain information, the Asst. Director issued the impugned notice, treating the same as an explanation and the said action on the part of the Asst. Director of Mines and Geology cannot be sustained in

the eye of law.

Per contra, it is vehemently contended by the learned Government Pleader that there is no illegality nor there is any jurisdictional infirmity in the impugned action and in the absence of the same, the present writ petition is not maintainable and the petitioner herein is not entitled for any relief from this Court under Article 226 of Constitution of India. It is the further submission of learned Government Pleader that having failed to furnish proper explanation in response to the show cause notice it is absolutely not open for the petitioner herein to seek any relief from this Court.

With the above background, now the issue that emerges for consideration by this Court under Article 226 of the Constitution of India is:

Whether the impugned notice, dated 27-07-2015 issued by the Asst. Director of Mines and Geology is in accordance with law or not?

The information available before this Court manifestly discloses that on receipt of the show cause notice, dated 06-07-2015 issued by the Assistant Director of Mines and Geology, the petitioner herein by way of a letter, dated 18-07-2015 made a request to the Assistant Director of Mines and Geology to furnish a copy of the proceedings issued bearing Lr.No.759/ADM& G(V)/2015, dated 03-07-2015.

A perusal of the impugned demand notice, dated 27-07-2015 candidly reveals that the Asst. Director of Mines and Geology treated the said letter of request as an explanation and issued the impugned notice. This action clearly shows that the

Asst. Director of Mines and Geology did not consider the issue from proper perspective.

This action on the part of the Asst. Director of Mines and Geology, in the considered opinion of this Court in not responding to the letter, dated 18-07-2015, wherein the petitioner requested the Asst. Director of Mines and Geology to furnish the information and treating the same as an explanation by the Asst. Director of Mines and Geology is highly illegal, arbitrary and unreasonable and cannot stand for the twin tests of reasonableness and rationality.

It is a settled and well established proposition of law that while dealing with the civil rights of the individuals the state and its instrumentalities are expected to adhere to the principles of natural justice. In the present case the same is conspicuously absent.

In view of the above reasons, this Court is of the considered view that the impugned notice, dated 27-07-2015 issued by the Asst. Director of Mines and Geology cannot stand for the judicial scrutiny.

In view of the above reasons, the writ petition is allowed setting aside the notice bearing No.903/01,2014, dated 27-07-2015 issued by the Asst. Director of Mines and Geology – 4th respondent herein. However, it is open for the 4th respondent to take appropriate action after furnishing the information sought by the petitioner in his letter, dated 18-07-2015 and after giving opportunity to the petitioner to file explanation thereafter.

It is also made clear that the Asst. Director of Mines and Geology shall furnish the above information within a period of one week from the date of receipt of a copy of this order and after receipt of the said information from the Asst. Director of Mines and Geology the petitioner herein shall file explanation to the show cause notice, dated 06-07-2015 within a period of 15 days thereafter and thereafter the Asst. Director of Mines and Geology shall pass appropriate orders within one month. Till the above exercise attains finality no coercive steps shall be taken against the petitioner herein pursuant to the show cause notice, dated 06-07-2015.

Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. There shall be no order as to costs.

A.V. SESA SAI, J

August 26, 2015

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

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