

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

WRIT PETITION No.24412 of 2015

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ORDER:
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This writ petition filed under Article 226 of the Constitution of India, challenges the Memo.No.474/Q/Sand/2014 dated 29.05.2015 issued by the Joint Collector, Khammam/third respondent herein.

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

3. The State Government/first respondent herein, in exercise of the powers conferred under Rule 9 of the Rules notified vide G.O.Ms.No.186, Industries & Commerce (M.I) Department, dated 17.12.2013, permitted the petitioner herein to quarry the balance quantity of 1,11,946 cubic meters sand to which the segniorage fee of Rs.50.00 lakhs was already paid to the Government. Subsequently, the District Collector, Khammam/second respondent herein, vide LR.No.474/Sand/2014 dated 13.05.2015, solicited clarification from the State Government. In pursuance of the said clarification sought by the second respondent/District Collector, the State Government/first respondent herein, by virtue of Memo No.15580/M.1 (1)/2013-6, dated 03.03.2015, issued directions to the District Collector, Khammam, to implement the earlier orders of the Government issued vide Memo No.15580/M.1(1)/2013-4 dated 26.09.2014. Thereafter, vide proceedings No.474/Sand/2014 dated 13.05.2015, the Assistant Director of Mines and Geology, Kothagudem, granted permission in favour of the petitioner herein for extraction of ordinary sand in Sarapaka Sand Reach, Burgampahad Mandal, Khammam District for a period of six months from 13.05.2015 to 12.11.2015 or till exhaustion of quantity of 1,11,946

Cu meters of sand subject to certain conditions stipulated therein.

4. Later, the Joint Collector, by way of a Memo dated 29.05.2015, instructed the petitioner herein to stop the quarrying operations on the ground that the petitioner herein did not enter into M.O.U with M/s. TSMDC Limited for selling the sand as per Telangana State Sand Mining Rules, 2015 (new sand mining rules) and also on the ground of non submission of Gram Panchayat Resolution/Gram Sabha as per PESA Act. By virtue of the said Memo dated 29.05.2015, the Joint Collector, Khammam, also instructed the Assistant Director of Mines and Geology, Kothagudem, not to issue permits to the petitioner/lessee until fulfillment of two conditions stipulated therein.

5. Calling in question, the validity and legal sustainability of the said Memo dated 29.05.2015, the present writ petition came to be filed.

6. It is submitted by the learned counsel for the petitioner that the impugned action on the part of the Joint Collector, Khammam is illegal, arbitrary, unreasonable, without jurisdiction and violative of Articles 14 and 19 (1) (g) of the Constitution of India. It is further submitted that it is obligatory and incumbent on the part of the respondent authorities to implement the orders of the State Government, which are neither modified nor superseded so far. It is further submitted that the impugned action on the part of the Joint Collector is also in contravention of Rule 18 of Telangana State Sand Mining Rules, 2015 as notified vide G.O.Ms.No.3, Industries and Commerce (M.1) Department, dated 08.01.2015.

7. On the contrary, it is vehemently contended by the learned Government Pleader that there is no illegality nor there is any statutory 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 the Constitution of India. It is the further submission of the learned Government Pleader that it is obligatory on the part of the petitioner herein to adhere to the statutory rules notified vide G.O.Ms.No.3, dated

08.01.2015.

8. The information available before this Court manifestly discloses that earlier on 26.09.2014, the State Government issued order, permitting the petitioner herein to quarry the balance quantity of 1,11,946 Cu. Meters of sand, and pursuant to the clarification sought by the District Collector vide letter dated 30.01.2015, once again, the State Government vide Memo dated 03.03.2015, specifically directed the District Collector to implement the orders issued vide Memo dated 26.09.2015. Therefore, in the considered opinion of this Court, it is obligatory and incumbent on the part of the subordinate authorities to give effect to the orders passed by the State Government.

9. It is to be noted that the State of Telangana framed the Telangana State Sand Mining Rules, 2015. It is the contention of the learned counsel for the petitioner that the question of entering into M.O.U with the Telangana State Mineral Development Corporation does not arise in the instant case in view of the express provisions of Rule 18 of the said Rules. At this juncture, it is appropriate to refer to the provisions of Rule 18 of the said Rules, which read as under:

“18. Saving Clause:

- (1) Leases which have not yet started shall be continued by the terms and conditions of the grant until expiry of lease except in those cases wherein the Government in the public interest decides otherwise.
- (2) Leases under operation shall be continued by the terms and conditions of the grant until expiry of lease except in those cases wherein the Government in the public interest decides otherwise.

10. It is very much evident from a reading of the above said Rule that there is absolutely no justification on the part of the respondent authorities in insisting upon the petitioner herein to enter into an agreement with the Telangana State Mineral Development Corporation as per the new sand policy. There is absolutely no justification on the

part of the respondent authorities in insisting on such contingency in view of the saving clause as stipulated under Rule 18 of Telangana State Sand Mining Rules, 2015.

11. For the aforesaid reasons, writ petition is allowed, setting aside the impugned Memo No.474/Q/Sand/2014, dated 29.05.2015 and the respondents 2 to 4 are directed to adhere to the orders of the State Government issued vide Memo No.15580/M.I(1)/2013-4, dated 26.09.2014 and the Memo No.15580/M.I(1)/2013-6 dated 03.03.2015 and to issue dispatch permits, in accordance with the said orders of the State Government. This action shall be taken within a period of two weeks from the date of receipt of this order. As a sequel, the miscellaneous petitions, if any, shall stand disposed of. There shall be no order as to costs.

A.V.SESHA SAI, J

Date:31-08-2015
grk

WRIT PETITION No.24412 of 2015

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Dated 31st August, 2015
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**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD FOR
THE STATE OF TELANGANA AND THE STATE OF ANDHRA
PRADESH**

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

WRIT PETITION No.24412 of 2015

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Between:

Sondi Ravi Kumar, S/o Veeraiah,

Aged 29 years, R/o. 17-1-57,
Bhagawan Das Colony, Bhadrachalam,
Village and Mandal, Khammam District.

... Petitioner

and

State of Telangana,
Represented by its Principal Secretary,
Industries & Commerce Department,
Secretariat, Hyderabad and four others.

... Respondents

JUDGMENT PRONOUNCED ON: 31st August, 2015

THE HONOURABLE SRI JUSTICE A.V.SESHA SAI

1. Whether Reporters of Local Newspapers
May be allowed to see the Judgment?

Yes/No
2. Whether the copies of judgment may be
Marked to Law Reporters/Journals?

Yes/No
3. Whether Their Lordship wish to see the
Fair copy of the judgment?

Yes/No