

THE HON'BLE SRI JUSTICE A.V. SESA SAI
WRIT PETITION No.18380 of 2016

ORDER:

In the present writ petition challenge is to the inaction of the 2nd respondent – the Director of Mines and Geology in passing any orders on the appeal, dated 07-04-2016 or on the interim request and the action of the 4th respondent – Assistant Director of Mines and Geology in not issuing the dispatch permits.

The Assistant Director of Mines and Geology, Karimnagar – 4th respondent herein issued a show cause notice bearing No.591/Vg-KNR/15-16, dated 13-02-2016, asking the petitioner to show cause as to why action should not be taken for realization of Mineral Revenue of Rs.1,42,021.08 Ps. towards Normal Seigniorage fee and Rs.6,87,436.69 Ps. towards five times penalty to the tune of total amount of Rs.8,29,457.77 Ps. for the alleged variation noticed for the transported Granite Blocks through M/s.Swetha Agencies, Raghavapuram Yard, Karimnagar District. In response to the same, the petitioner herein submitted an explanation, dated 25-02-2016. The Assistant Director of Mines and Geology (Vigilance) – 3rd respondent herein issued a demand notice bearing No.591/Vg-KNR/15-16, dated 26-03-2016, asking the petitioner to pay the amounts as indicated in the show cause notice, dated 13-02-2016.

Aggrieved by the said demand, dated 26-03-2016, the

petitioner herein filed statutory appeal before the 2nd respondent – the Director of Mines and Geology on 07-04-2016 under Rule 35 of the A.P. Minor Mineral Concession Rules, 1966 (hereinafter called, 'the Rules'). Complaining the inaction on the said appeal and also on the request made therein for stay and assailing the action of the 4th respondent – the Assistant Director of Mines and Geology in not issuing dispatch permits, the present writ petition has been filed.

Heard Sri B. Adinarayana Rao, learned senior counsel appearing for Sri N. Madhava Rao, learned counsel for the petitioner on record and learned Government Pleader for Mines and Geology for respondents, apart from perusing the material available before this Court.

According to the learned senior counsel, the impugned action is highly illegal, arbitrary, unreasonable and violative of Articles 14 and 19 (1)(g) of the Constitution of India and the action of the 4th respondent in not issuing the dispatch permits is opposed to the Rules 20 and 34 of the Rules. It is also the submission of learned senior counsel that the petitioner is willing to deposit the demanded amount subject to outcome of the statutory appeal filed. It is also the submission of learned senior counsel that the 4th respondent – the Assistant Director of Mines and Geology raised the impugned demand contrary to the procedure stipulated under the Rules.

On the contrary, it is vehemently contended by learned Government Pleader that there is no illegality nor there exists any

procedural infirmity in the impugned action and strictly adhering to the mandatory provisions of law, the 4th respondent herein raised the demand. It is also the submission of learned Government Pleader that since the appeal is pending consideration before the Director of Mines and Geology it is not open for the petitioner to invoke the jurisdiction of this Court under Article 226 of the Constitution of India and it is open for the petitioner to pursue the remedy already availed under the Rules.

In the present case, admittedly, the statutory appeal filed by the petitioner before the Director of Mines and Geology under the provisions of the Rule 35 of the Rules is pending consideration and no orders have been passed so far.

According to Rule 20 of the Rules, a quarry lease granted under the Rules shall confer on the lessee, the right to quarry, carry away, sell or dispose of the minor mineral or minerals specified in the lease deed and found upon under the land specified therein.

In the instant case, there is no dispute with regard to the fact that the lease granted by the respondent herein is still subsisting in favour of the petitioner herein. Since the appeal admittedly is pending consideration before the 1st respondent herein this Court is of the considered opinion that the ends of justice would be served if the Director of Mines and Geology – 2nd respondent herein is directed to pass appropriate orders on the appeal, dated 07-04-2016 preferred by the petitioner as against the orders of the Assistant Director of Mines and Geology, dated 26-

03-2016 by fixing some time frame.

Having regard to the submission made by learned senior counsel for the petitioner that the petitioner herein is ready and willing to deposit the demanded amount subject to the outcome of the appeal, this Court is of the considered opinion that the ends of justice would be served if the respondents are directed to issue the dispatch permits.

For the aforesaid reasons, the writ petition is disposed of, directing the 2nd respondent - the Director of Mines and Geology to pass appropriate orders on the appeal, dated 07-04-2016 filed by the petitioner against the orders of the Assistant Director of Mines and Geology issued vide demand notice, dated 26-03-2016 within a period of three (3) months from the date of receipt of a copy of this order. It is also made clear that subject to the petitioner depositing the entire demanded amount as indicated in the demand notice, dated 26-03-2016, the respondents shall issue dispatch permits, as per law. It is also made clear that such deposit shall be subject to outcome of the appeal before the 2nd respondent - the Director of Mines and Geology. There shall be no order as to costs.

Miscellaneous Petitions pending, if any, shall stand closed.

A.V. SETHA SAI, J

June 27, 2016

*Note: Furnish C.C. in
two (2) days. B/o.Pn*

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

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