

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

WRIT PETITION No.10768 of 2006

ORDER:

This writ petition, filed under Article 226 of the Constitution of India, assails the demand notice No.5783/Q1/2000, dated 22-02-2005 issued by the Assistant Director of Mines and Geology – 4th respondent herein as confirmed by the State Government vide Memo No.3860/M.II(1)/2005, dated 01-04-2006.

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

The Director of Mines and Geology by virtue of proceedings No.18543/R3(2)/96, dated 14-02-1998 ordered transfer of quarry lease for Black Granite in favour of the petitioner herein in respect of the area, admeasuring 2.126 Hectors in Sy.Nos.55/1 and 2 of R.L. Puram village, Chimakurthy mandal, Prakasam District for a period of 15 years, commencing from 19-03-1998 to 22-01-2012.

The Assistant Director of Mines and Geology – 4th respondent herein issued a notice bearing No.5783/Q1/2000, dated 09-02-2005, calling upon the petitioner to show cause within 7 days from the date of receipt of notice as to why action should not be taken against the petitioner for alleged encroachment into buffer zone and extraction of 12 M³ of Black Granite. In response to the said show cause notice the petitioner herein submitted an

explanation on 21-02-2005 denying the allegations made therein. Thereafter the Assistant Director of Mines and Geology – 4th respondent herein issued a demand notice bearing No.5783/Q1/2000, dated 22-02-2005, requesting the petitioner to pay the normal seigniorage fee + 10 times of penalty for 12 M³ of Black Granite alleged to have been extracted from the buffer zone. By virtue of the said demand notice the Assistant Director of Mines and Geology asked the petitioner to pay a sum of Rs.24,000/- towards normal seigniorage fee and Rs.2,40,000/- towards 10 times penalty i.e., the total sum of Rs.2,64,000/- was demanded from the petitioner as per Rule 26 (2) of the A.P. Minor Mineral Concession Rules, 1966 (for short, 'the Rules').

Against the said demand notice the petitioner herein preferred a revision before the State Government under Rule 35-A of the Rules on 11-03-2005. The State Government vide memo bearing No.3860/M.II(1)/2005, dated 01-04-2006 dismissed the said revision application filed by the petitioner.

Calling in question the validity and legal sustainability of the demand notice issued by the Assistant Director of Mines and Geology as confirmed vide memo, dated 01-04-2006 the present writ petition came to be filed.

The material available on record manifestly discloses that responding to the show cause notice, dated 09-02-2005 issued by the Assistant Director of Mines and Geology the petitioner herein submitted reply on 17-02-2005 and the contents of the said reply

read as under:

"1. First the land covered by Sy.No.55/1 & 2 was executed for mining lease in favour of M/s.Pallava Granite Industries (P) India Ltd., as per proceeding No.803/Q1/98 dated 19-03-98. Since then the above cited lease holder extracted the top most layer soil as well as weathered rocks resulting encroachment inside the some portion of N.E. corner as you mentioned in your notice.

2. Second the cited lease was transferred due to some reason in favour of M/s.BASH GRANITES as per quarry lease deed proceeding No.10355/R3(2) 2000 dated 21-09-2000 as well as lease deed executed on 29-11-2000. Then only we were permitted to commence the operation after the second layer of the strata. Where as the later leaseholder i.e., Bash Granite has nothing to do with the above-cited encroachment. Moreover we assured you we have never encroached within the buffer zone after our operation promising that always comply with status of Govt."

The Assistant Director of Mines and Geology by way of demand notice, dated 22-02-2005 directed the petitioner to pay a sum of Rs.2,64,000/-. As against the said demand notice the petitioner herein preferred a revision before the State Government on 11-03-2005, raising a number of grounds and the same is evident from the memo of grounds of revision filed along with the present writ petition as material papers.

A perusal of the order passed by the State Government vide memo, dated 01-04-2006 discloses that the 1st respondent – State Government except extracting the grounds of revision did not make any endeavour to consider the same from proper perspective. Except reiterating the contents of the demand notice issued by the 4th respondent the 1st respondent did not make any exercise in the light of the grounds raised by the petitioner.

It is a settled and well-established proposition of law that the orders of the quasi-judicial authorities should necessarily be supported by valid and convincing reasons. In this context it may be apt and appropriate to refer to the judgment of the Hon'ble Apex Court in case of ***the Siemens Engineering and Manufacturing Co. of India Limited v. The Union of India and another***^[1]. In the said pronouncement of the Hon'ble Apex Court at paragraph No.6 held that where an authority makes an order in exercise of a quasi-judicial function it must record its reasons in support of the order it makes and every quasi-judicial order must be supported by reasons. The Hon'ble Apex Court further held that the rule requiring reasons to be given in support of an order is, like the principle of audi alteram partem, a basic principle of natural justice which must inform every quasi-judicial process and this rule must be observed in its proper spirit and mere pretence of compliance with it would not satisfy the requirement of law.

Since the 1st respondent – State Government failed to consider the grounds raised by the petitioner in its revision, dated 11-03-2005 this Court considers it appropriate to remand the matter to the 1st respondent – State Government for fresh consideration of the revision.

For the aforesaid reasons, the writ petition is partly allowed, setting aside the Memo No.5398/M.II(1)/2005, dated 01-04-2006 issued by the State Government on the revision, dated 11-03-2005 filed by the petitioner and the matter is remanded for fresh consideration to the 1st respondent – State Government, in accordance with law, after giving notice and opportunity of being

heard to the petitioner herein. There shall be no order as to costs.

The Miscellaneous Petitions, if any, pending in this Writ
Petition shall stand closed.

A.V. SESA SAI, J

January 25, 2016

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^[1] AIR 1976 Supreme Court 1785