

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

WRIT PETITION No.10761 of 2006

ORDER:

This writ petition, filed under Article 226 of the Constitution of India, assails the demand notice No.2503/Q1/1997, 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.5398/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 respondent authorities granted a quarry lease for Black Granite in favour of the petitioner herein in respect of area admeasuring 2.850 Hectors in Sy.No.66/2 of R.L. Puram village, Chimakurthy mandal, Prakasam District for a period of 15 years, commencing from 15-07-1997 to 14-07-2012.

The Assistant Director of Mines and Geology – 4th respondent herein issued a notice bearing No.2503/Q1/1997, 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 38.000 M³ of Black Granite. In response to the said show cause notice the petitioner herein submitted a reply through its counsel on 21-02-2005. Thereafter the Assistant Director of Mines and

Geology – 4th respondent herein issued a demand notice bearing No.2503/Q1/1997, dated 22-02-2005, requesting the petitioner to pay the normal seigniorage fee + 10 times of penalty for 38 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.76,000/- towards normal seigniorage fee and Rs.7,60,000/- towards 10 times penalty i.e., the total sum of Rs.8,36,000/- was demanded from the petitioner.

Against the said demand notice the petitioner herein preferred a revision before the State Government under Rule 35-A of the A.P. Minor Mineral Concession Rules, 1966 (for short, 'the Rules') on 09-03-2005. The State Government vide memo bearing No.5398/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.

It is contended by learned counsel for the petitioner that questioned orders are highly illegal, arbitrary and un-reasonable and violative of Article 14 of the Constitution of India and opposed the very spirit and object of the Rules. It is further submitted by learned counsel for the petitioner that the action of the Assistant Director of Mines and Geology in not considering the reply submitted by the petitioner through its counsel on 21-02-2005 is highly arbitrary and liable to be depleted and had the said reply been considered, the orders impugned in the writ petition would not

have emanated. It is further submitted that the State Government also in a mechanical manner, without examining various issues and contentions raised issued impugned memo.

On the contrary, it is vehemently and strenuously contended by the learned Government Pleader that there is no illegality nor there exists any procedural infirmity in the impugned action, as such, the petitioner herein is not entitled for any relief from this Court under Article 226 of the Constitution of India. It is further submitted by learned Government Pleader that only after thoroughly and meticulously considering all the aspects the Assistant Director of Mines and Geology issued impugned demand notice and the Government confirmed the same and the said orders cannot be faulted.

The information available before this Court, in clear terms discloses that responding to the show cause notice issued by the 4th respondent the petitioner herein, through its counsel sent a reply dated 21-02-2005, categorically disputing the allegations made in the show cause notice and the petitioner herein also brought to the notice of the Assistant Director of Mines and Geology Rule 115 (b) of the Metalliferous Mines Regulations, 1961. Even according to the impugned demand notice, dated 09-02-2005 issued by the Assistant Director of Mines and Geology the petitioner herein received show cause notice on 14-02-2005. The petitioner herein also submitted its reply to the said show cause notice on 21-02-2005. Therefore, by any stretch of imagination the observation of the Assistant Director of Mines and Geology in the impugned demand notice, dated 22-02-2005 that the petitioner did not submit any reply within the stipulated period

can neither be countenanced nor approved and the said action of non-consideration of the reply submitted by the petitioner herein through its counsel is fatal to the case of the respondents and is a clear infraction of principles of natural justice.

A perusal of the memo of grounds of revision, dated 09-03-2005 made available with the present writ petition as a material paper manifestly discloses that the petitioner herein raised a number of grounds before the revisional authority. A perusal of the impugned memo, dated 01-04-2006 makes it abundantly evident that the revisional authority – 1st respondent herein did not consider any one of the grounds raised by the petitioner in the memo of grounds.

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.

A perusal of the impugned orders candidly shows that the respondent authorities adhered to the above principle in breach. Therefore, in view of the above narration this Court has absolutely no scintilla of hesitation nor any traces of doubt to hold that the impugned orders passed by the 4th respondent as confirmed by the State Government cannot be sustained in the eye of law.

For the aforesaid reasons, the writ petition is allowed, setting aside the demand notice No.2503/Q1/1997, 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.5398/M.II(1)/2005, dated 01-04-2006 and the matter is remanded for fresh consideration to the Assistant Director of Mines and Geology, 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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THE HON'BLE SRI JUSTICE A.V. SESA SAI

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