

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

WRIT PETITION No.28749 of 2011

ORDER:

This writ petition, filed under Article 226 of the Constitution of India, challenges the memo bearing No.2641/ M.II(1)/2011-3, dated 15-07-2011 issued by the 1st respondent – State Government.

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 Assistant Director of Mines and Geology, Mahaboobnagar by way of show cause notice bearing No.647/TQL/09, dated 20-07-2010, asked the petitioner to show cause as to why action should not be initiated for recovery of normal Seigniorage Fee of Rs.4,43,300/- and one time penalty of equivalent amount for 8,866 M3 of rough stone alleged to have been transported illegally from the subject area. Subsequently, the Assistant Director of Mines and Geology – 4th respondent herein by way of demand notice bearing No.647/TQL/09, dated 17-08-2010 requested the petitioner to pay the above said amount.

Questioning the validity of the said demand notice the petitioner herein preferred a revision on 23-11-2010 before the 1st respondent – State Government under Rule 35-A of the A.P. Minor Mineral Concession Rules, 1966 (for short, 'the Rules'). The State

Government by virtue of memo bearing No.2641/M.II(1)/2011-3, dated 15-07-2011 disposed of the said revision by modifying the orders passed by the Assistant Director of Mines and Geology by permitting the petitioner herein to pay the normal seigniorage fee while granting waiver of the penalty portion.

Calling in question the validity and legal sustainability of the said memo issued by the State Government and the demand notice, dated 17-08-2010 issued by the 4th respondent – the Assistant Director of Mines and Geology, the present writ petition came to be instituted.

This Court while issuing *rule nisi* on 27-10-2011 granted interim stay on condition of petitioner depositing Rs.2,00,000/- (Rupees two lakhs only).

Counter-affidavit deposed by the 4th respondent is filed on behalf of the respondents, denying the allegations and averments made in the affidavit filed in support of the writ petition and in direction of justifying the impugned action.

It is contended by learned counsel for the petitioner that the orders passed by the 1st respondent – State Government are highly illegal, arbitrary and completely bereft of any valid reason for arriving at conclusion. It is also submitted by learned counsel that the impugned action is opposed to the very spirit and object of the provisions of the Rules.

On the contrary, it is submitted by learned Government

Pleader that there is no illegality nor any procedural infirmity in the impugned action, as such, the orders impugned are not amenable for any interference by this Court under Article 226 of the Constitution of India.

There is absolutely no controversy with regard to the reality that as against the demand notice issued by the Assistant Director of Mines and Geology on 17-08-2010, asking the petitioner to pay a sum of Rs.4,43,300/- along with one time penalty of Rs.4,43,300/- for 8,866 M3 of rough stone alleged to have been transported illegally from the subject area, the petitioner herein filed statutory revision under Rule 35-A of the Rules on 23-11-2010.

A perusal of the memo of revision manifestly discloses that the petitioner herein raised a number of grounds in support of his case and according to the learned counsel for the petitioner the petitioner herein also furnished relevant material evidencing supply of material.

A reading of the impugned memo, dated 15-07-2011 clearly discloses that the revisional authority except referring to broadly the said grounds did not consider the same and did not record any findings on the sustainability or otherwise of the same.

It is a settled and well established proposition of law that the orders of the quasi-judicial authorities should necessarily be supported by reasons. In the instant case, the said aspect is conspicuously absent. Therefore, on this ground alone the matter

requires re-consideration by the 1st respondent – State Government.

It is submitted by learned counsel for the petitioner that pursuant to the interim orders, the petitioner deposited an amount of Rs.2,00,000/- and the same is disputed by the learned Government Pleader.

For the aforesaid reasons, the writ petition is allowed, setting aside the memo bearing No.2641/M.II(1)/2011-3, dated 15-07-2011 and the matter is remanded for fresh consideration by the 1st respondent after giving notice and opportunity of being heard to the petitioner herein. However, it is made clear that the 1st respondent shall consider the revision only in the event of the petitioner depositing Rs.2,00,000/- as directed by this Court if not already deposited and if the said amount is not deposited within two (2) weeks from the date of receipt of a copy of this order it is not obligatory on the part of the 1st respondent to consider the revision and it is also open for the respondents to proceed, in accordance with law, pursuant to the orders impugned in the writ petition. 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 18, 2016

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

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