

HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

Writ Petition No. 27417 of 2010

Order:

This Writ Petition was filed challenging the action of the respondents in proceeding with auctions pursuant to Auction Notification No.864/S/10-2, dated 05.10.2010, issued by the fifth respondent for grant of leasehold rights to quarry sand without refunding the amount paid by the petitioner pursuant to Auction Notification, dated 18.04.2009, in respect of Reach No.35, Sangam village and Mandal, SPSR Nellore District.

2. The petitioner was a successful tenderer and entered into a lease agreement on 23.01.2010 in relation to Reach No.35 in Penna River within the limits of Sangam village and Mandal, SPSR Nellore District pursuant to the Auction Notice No.864/Q/2008-III, dated 18.04.2009, for quarrying sand. But the petitioner could not carry on quarrying operations, in view of the interim directions of this Court in WPMP No.3671 of 2010 in WP No.10073 of 2009 in relation to 17 Reaches including the Reach of the petitioner. The said Writ Petition was ultimately disposed of holding that the respondents could not have granted leases. The petitioner deposited an amount of Rs.1,33,58,205/- and in view of prevention of quarrying operations, the petitioner was refunded an amount of Rs.1,11,16,775/-. However, the petitioner became successful in respect of the same Reach in a subsequent notification issued on 05.10.2010 and he furnished a bank guarantee for an amount of Rs.18,50,000/- from State Bank of India, Fathekhanpet, Nellore. The period of lease of the subsequent lease was also completed and the petitioner owed an amount of Rs.37,31,000/- towards seigniorage fee to the Government. In respect of earlier frustrated lease, the Government has to pay Rs.22,41,430/- and in view of success in the subsequent lease the petitioner owed the

amount of Rs.37,31,000/-. The net effect is that the petitioner has to pay an amount of Rs.14,89,570/- to the Government after adjusting the outstanding amount under the frustrated lease. The bank guarantee for an amount of Rs.18,50,000/- is pending with the Government.

3. Now the issue that remains for consideration in the present writ petition is with regard to liability of the parties.

4. There is no dispute that the petitioner had to pay Rs.37,31,000/- towards the subsequent lease and he furnished a bank guarantee for an amount of Rs.18,50,000/-. Learned counsel for the petitioner fairly submits that the Government is at liberty to invoke the bank guarantee furnished for Rs.18,50,000/- and after adjusting the amount of Rs.14,89,570/- being the net amount arrived after adjusting the amount due from the Government under the first lease and the amount owed by him under the subsequent lease, shall return the balance amount to the petitioner.

5. In the circumstances, this Writ Petition is disposed of giving liberty to the respondents to invoke the bank guarantee furnished by the petitioner from State Bank of India, Fathekhanpet, Nellore, for an amount of Rs.18,50,000/- towards the lease for quarrying sand entered by the petitioner pursuant to notification, dated 05.10.2010, and adjust the outstanding amount of Rs.14,89,570/- from out of the said amount of bank guarantee and return the balance amount to the petitioner within a period of three (3) months from the date of receipt of a copy of this order.

6. The Writ Petition is, accordingly, disposed of. However, in the circumstances, no costs.

7. As a sequel thereto, the miscellaneous petitions, if any, pending in this Writ Petition shall stand closed.

A.
Date: 08.03.2016
Nsr

RAMALINGESWARA RAO, J.