

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE SRI JUSTICE A.SHANKAR NARAYANA

WRIT APPEAL NO.1424 OF 2016

JUDGMENT: {Per the Hon'ble the Acting Chief Justice Ramesh Ranganathan}

This appeal, under Clause 15 of the Letters Patent Act, is preferred against the orders passed by the learned Single Judge in WP.No.37931 of 2016 dated 09.11.2016

On the ground that the appellant-writ petitioner had quarried metal in excess of the permissible quantity, he was called upon to pay a sum of Rs.15,07,550/- by the proceedings of the Assistant Director of Mines and Geology, Visakhapatnam dated 26.02.2014 questioning which he filed WP.No.34395 of 2014. A Learned Single Judge of this Court, by order dated 14.11.2014, set aside the demand notice and permitted the petitioner to deposit the normal seigniorage fee of Rs.1,37,050/- within four weeks from the date of the order; and to avail the alternative remedy of revision, on payment of the seigniorage fee of Rs.1,37,050/-. While the petitioner preferred a revision against the demand of penalty, he failed to comply with the order passed by the learned Single Judge in WP.No.34395 of 2014. This resulted in the petitioner's revision being dismissed. Aggrieved thereby, he invoked the jurisdiction of this Court by way of WP.No.37931 of 2016 which resulted in the order under appeal dated 09.11.2016 being passed.

While the demand notice dated 26.09.2014 required the petitioner to pay Rs.15,07,550/- towards seigniorage fee and ten times penalty, the petitioner's license was subsequently cancelled by order dated 22.01.2015 for their failure to pay the seigniorage

fee and the penalty amount. Questioning both the orders, the petitioner invoked the jurisdiction of this Court by way of WP.No.37931 of 2016.

In the order under appeal, the learned Single Judge observed that the demand of seigniorage fee and imposing penalty on the allegation of unauthorised quarrying of road metal was entirely different from cancellation of license, though it was possible to resort to cancellation of the license on the allegation of non-compliance of the demand made; and, even assuming that the petitioner had not complied with the directions issued by this Court with reference to payment of seigniorage fee on the issue of demand made by the Assistant Director in his proceedings dated 26.09.2014, the revisional authority was still required to consider the revision as against the cancellation of license by the Deputy Director. The learned Single Judge, thereafter, noted that both the learned counsel for the petitioner as well as the learned Government Pleader had agreed for disposal of the Writ Petition with a direction to remand the matter to the Government for reconsideration to the limited extent of consideration of the revision against the order of the Deputy Director dated 22.01.2015 with reference to cancellation of the license. The Learned Single Judge directed that, subject to the petitioner depositing the entire amount demanded i.e., Rs.15,07,550/-, after adjusting the amount already paid, the revisional authority shall consider the revision of the petitioner against cancellation of the license by the Deputy Director of Mines and Geology, Visakhapatnam dated 22.01.2015, within a period of six weeks from the date of deposit of the amount. Aggrieved thereby, the present appeal.

Sri B.Srinivas, learned counsel for the appellant-writ petitioner, would submit that the learned Single Judge had erred in directing the petitioner to deposit Rs.15,07,550/-; the earlier order in WP.No.34395 of 2014 dated 14.11.2014 required the petitioner to deposit only Rs.1,37,050/-; as the revision was dismissed for the petitioner's failure to pay this amount, the learned Single Judge ought to have permitted the appellant to prosecute the revision on payment of the aforesaid amount of Rs.1,37,050/-; and, in the absence of the petitioner having agreed to pay Rs.15,07,550/-, the learned Single Judge had erred in directing him to do so.

On the other hand, the learned Government Pleader for Industries would submit that the revision preferred by the petitioner was both against the earlier demand notice dated 26.09.2014 calling upon him to pay Rs.15,07,550/-, and for cancellation of the license by proceedings dated 22.01.2015; the order of the revisional authority, to the limited extent he had refused to interfere with the order of the Deputy Director cancelling the license by order dated 22.01.2015, was set aside; this Court did not interfere with the earlier demand notice dated 26.09.2014 for payment of Rs.15,07,550/-; and there was no error in the order of the learned Single Judge necessitating interference in an intra-Court appeal.

While the petitioner was called upon by proceedings of the Assistant Director of Mines and Geology, Srikakulam dated 26.09.2014, to pay Rs.15,07,550/- both towards seigniorage fee and ten times penalty for excess quarrying of metal, his license was also cancelled by the Deputy Director of Mines and Geology,

Visakhapatnam by proceedings dated 22.01.2015. This Court had earlier, by its order in W.P.No.34395 of 2014 dated 14.11.2014, permitted the petitioner to prefer a revision to the Government on deposit of Rs.1,37,050/- towards seigniorage fee. In effect, the earlier order of this Court required the respondents to refrain from collecting the penalty amount pursuant to the demand notice dated 26.09.2014. The appellant herein failed to deposit even this seigniorage fee of Rs.1,37,050/- within the time stipulated by this Court which resulted in the revision being dismissed.

In the order under appeal, the Learned Single Judge has recorded the agreement of both the learned counsel for the petitioner and the learned Government Pleader that the matter be remitted to the Government to reconsider the revision to the limited extent of the order of the Deputy Director dated 22.01.2015 with reference to cancellation of the license. It is evident, therefore, that both counsel had agreed that the demand of Rs.15,07,550/- did not necessitate interference in WP.No.37931 of 2016. The Learned Single Judge was, therefore, justified in directing the appellant-writ petitioner to deposit the entire amount demanded of Rs.15,07,550/-, before the revisional authority considered his revision against the order of cancellation. Having consented not to press for the revision to be reconsidered, in so far as the earlier demand notice dated 26.09.2014 for Rs.15,07,550/- is concerned, the appellant-writ petitioner cannot now turn around and contend that they have not agreed for payment of Rs.15,07,550/-. While the appellant may not have agreed for payment of Rs.15,07,550/-, the very fact that they had agreed for a remand, only to the limited extent of cancellation of the license by

proceedings dated 22.01.2015, would mean that they had chosen not to seek an adjudication from the Learned Single Judge regarding the validity of the earlier demand notice dated 26.09.2014 for Rs.15,07,550/-. In such circumstances, the learned Single Judge was justified in directing the appellant-writ petitioner to deposit Rs.15,07,550/- as a pre-condition for their revision to be entertained. We find no illegality in the order under appeal necessitating interference in an intra-Court appeal under Clause 15 of the Letters Patent.

The Writ Appeal fails and is, accordingly, dismissed. There shall be no order as to costs. Miscellaneous petitions, if any, pending shall stand dismissed.



(RAMESH RANGANATHAN, ACJ)

(A.SHANKAR NARAYANA, J)

26th December 2016
RRB