

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No. 10698 of 2016

ORDER:

The action of the respondent No.4 in not issuing dispatch permits for transportation of material from the leased area over an extent of Acs.5.75 in Sy.No.15 of Narava village, Pendurthi Mandal, Visakhapatnam District and insisting to pay advance dead rent is the subject matter of challenge in the present Writ Petition.

2. The averments in the affidavit filed in support of the Writ Petition show that the petitioner was granted quarry lease for gravel over an extent of Ac.5.75 in Sy.No.15 situated in Narava village, Pendurthi Mandal, Visakhapatnam District for a period of 5 years. The said lease is valid till 28.09.2016. While things stood thus, a show cause notice came to be issued by the 4th respondent stating that the officials of Regional Vigilance and Enforcement, Visakhapatnam, dected evasion of seignorage fee to an extent of Rs.11,40,788/- for gravel quantity of 51854 cbm. The petitioner was directed to submit an explanation to the said notice within a period of 15 days from the date of receipt of the notice. In reply to the said show cause notice the petitioner is said to have submitted his explanation on 02.09.2015 denying the allegations made. It is said that without considering the representation of the petitioner a demand notice dated 28.09.2015 came to be issued for payment of Rs.68,44,728/- towards normal seignorage fee and five times penalty within 7 days from the date of receipt of demand notice. It is said that questioning the said demand notice, the petitioner preferred a Revision before the statutory authority which is pending for consideration. It is said that pending the said representation, the 3rd respondent has stopped issuance of transportation of gravel from the leased area despite the

fact that lease granted to the petitioner is still in force up to 28.05.2016. It is said that the petitioner personally approached the authorities and sought for release of permits but instead of issuing permits, the 3rd respondent issued a notice bearing No.134/Q/2016, dated 18.01.2016 asking the petitioner to deposit advance dead rent for the year 2016-17, thereby subjecting the petitioner to further harassment.

3. The petitioner mainly submits that the demand notice dated 28.09.2015 itself is bad in law for the reason that without considering the explanation given on 02.09.2015 the authorities have issued another notice demanding payment of more seignorage charges. It is the grievance of the petitioner that the 3rd respondent is not issuing the transport permits only with an intention to harass the petitioner.

4. A counter came to be filed by the 3rd respondent denying the allegations made in the affidavit. According to him, the petitioner has excavated and transported 51,854 cum of Gravel over and above the permitted quantity, thereby violating rule 34(1) of APMMC Rules, 1966. It is averred that in view of memo No.25857/MR1/89 dated 24.11.1997 no lessee is entitled for dispatch permits who are in arrears of Mineral Revenue. However, it is specifically averred that the petitioner has not applied for dispatch permits for gravel for 4th respondent and hence, the question of issuing dispatch permits to the petitioner would not arise. The said fact is reiterated again in Paragraph 11 of the counter.

5. The learned counsel for the petitioner mainly submits that allegation against the petitioner for not applying dispatch permits is not correct and if that be so the petitioner is ready to apply for the same again which may be directed to be considered after hearing the petitioner. It is also contended by the learned counsel for the petitioner that the Revision filed by the petitioner may also be directed

to be disposed of at the earliest.

6. Having regard to the facts and circumstances of the case the present Revision is disposed of directing the petitioner to make an application before the 4th respondent for dispatch of permits, in which event the same shall be considered in accordance with law within a period of 10 (ten) days from the date of receipt of such application and after hearing the petitioner. In view of the fact that the lease period is going to be expired in the month of September 2016, the Revision filed by the petitioner before the 1st respondent is also directed to be disposed of as early as possible preferably within a period of 4 (four) weeks from the date of receipt of the notice. No order as to costs.

7. Consequently, miscellaneous petitions, if any, pending in this Writ Petition shall stand closed.

JUSTICE C. PRAVEEN KUMAR

Dt:15.06.2016

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