

HONOURABLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION No.30236 of 2010

ORDER:

1. The petitioner submitted an application for grant of mining lease to quarry Quartz and Feldspar. In pursuance of the said application, a mining lease was granted in favour of the petitioner in respect of an extent of Ac.42.00 guntas in Survey No.343/1(P) of Jagathpally village, Peddamandada Mandal, Mahaboobnagar District in G.O.Ms.No.1, Industries and Commerce Mines-II Department dated 03.01.2006. The lease was granted for a period of 20 years from 2006. While so, the petitioner received a show cause notice on 06.09.2010 from the Assistant Director of Mines and Geology, Mahaboobnagar, 5th respondent, for recovery of royalty along with cost of mineral for a quantity of 13,689 MT Feldspar extracted and transported from the area. The petitioner submitted its explanation on 16.09.2010. After considering the explanation, the 5th respondent issued a demand notice on 26.10.2010 asking the petitioner to pay an amount of Rs.34,22,250/- towards royalty and cost of 13,689 MT of Feldspar. Challenging the said demand notice, the present writ petition was filed.

2. This Court by interim order dated 03.12.2010 suspended the operation of the said demand notice on condition of the petitioner depositing 50% of the demanded amount.

3. Thereafter, the 5th respondent filed a counter-affidavit admitting the lease in favour of the petitioner, which was valid up to 31.01.2026. It is further stated that on receiving complaints of illegal mining, the area was jointly inspected by the Surveyors of the Tahsildar, Kothakota and Peddamandada along with the Surveyor of the Assistant Director of Mines and Geology, Mahabubnagar, on 13.11.2009. On the basis of the said inspection, an enquiry report was furnished by the Tahsildar, Kothakota and a show cause notice was issued to the petitioner for recovery of royalty along with cost of the mineral for a quantity of 13,689

MT Feldspar extracted and transported from the area. After considering the explanation submitted by the petitioner, a demand notice was issued.

4. However, in view of the nature of relief sought for in the writ petition, this Court is not inclined to go into the merits of the case as it involves investigation into the facts, which can be done only by a statutory authority on the basis of the record available to him.

5. In the circumstances, an opportunity is given to the petitioner to file an appeal against the impugned demand notice within a period of one month from the date of receipt of a copy of this order and on receipt of such appeal, the appellate authority shall dispose of the same within a period of six months thereafter. Till such time, the 50% of the demanded amount paid by the petitioner pursuant to the interim order dated 03.12.2010 passed in the present writ petition shall be subject to the final orders to be passed by the appellate authority.

6. The Writ Petition is accordingly disposed of. No order as to costs. Miscellaneous petitions, if any, pending shall stand closed.

A.RAMALINGESWARA RAO, J

12-04-2016

Gsn