

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION Nos.7263 of 2007 AND 14055 of 2009

COMMON ORDER:

These two writ petitions are being disposed of by this common order as they involve same question of law.

2. The petitioners are builders undertaking construction of buildings. The petitioner in W.P.No.7263 of 2007 had taken up a house site venture near Dindigal Air Force Academy by name Prkruthi Nivas Venture in an extent of Acs.45-00 cents of land for construction of houses, whereas the petitioner in W.P.No.14055 of 2009 undertook the work of construction of vaccine manufacturing unit at Bio-Tech Park, Phase-III for M/s.Globin India Private Limited in an extent of 4450 square meters of land in Sy.No.321 of Karakabatla Village, Mulugu Mandal, Medak District. In both the cases, the Vigilance Department inspected the sites and noticed utilization of metal, gravel, sand and bricks in the construction activity. A show cause notice was issued to the petitioners for production of evidence with regard to payment of seigniorage fee, for which, the petitioners submitted their explanations. Having not satisfied with the explanations, the second respondent imposed a penalty of five times to the normal seigniorage fee and issued demand notices to the petitioners. Challenging the same, the petitioners preferred revisions before the first respondent and the first respondent imposed one time penalty with normal seigniorage fee in respect of the petitioner in W.P.No.7263 of 2007, whereas it demanded the payment of normal seigniorage fee in respect of the petitioner in W.P.No.14055 of 2009. Challenging the same, the present writ petitioners are filed.

3. The learned counsel for the petitioners submits since the petitioners did not undertake any quarrying operations and submitted their explanations stating that they purchased the material from regular

suppliers, they are not liable to pay any seigniorage fee or penalty for utilization of the material in the construction activity. She also submits that the names of the suppliers along with evidence of payment of the amounts was furnished to the Department, and in spite of the same, the demand for payment of seigniorage fee with one time penalty is illegal.

4. The learned Government Pleader, on the other hand, submits that as per Rule 26 of the A.P. Minor Mineral Concession Rules, 1966, the authorities are at liberty to inspect the premises where construction activity is going on requiring the consumer to produce proof of payment of seigniorage fee, failing which, the authorities are at liberty to demand collection of seigniorage fee upto five times penalty.

5. In these two cases, there is no dispute with regard to utilization of mineral in the construction activity. The case of the petitioners is that the excavated material was needed partly and some material was purchased from outside regular purchasers for which payment was made. It is also their case that when details of the suppliers were furnished, they should not be asked to pay the seigniorage fee or penalty without proceeding against the suppliers. But, in the revision petitions filed by the petitioners, the Government did not indicate any reason for demanding the normal seigniorage fee or imposition of penalty, as required under Rule 26 of the said Rules.

6. A perusal of the order of the Government in both the cases would indicate that after narrating the facts, the Government disposed of the revision petitions by directing payment of normal seigniorage fee with one time penalty in one case and normal seigniorage fee in another case by taking "sympathetic view". The quasi-judicial authority cannot dispose of the cases on the basis of sympathy and a finding has to be recorded with regard to the liability of the parties either for payment of normal seigniorage fee or the same with penalty. In absence of such a

finding, this Court is constrained to set aside the impugned orders passed in the above revisions and remand the matters to the first respondent for consideration of the revision petitions of the petitioners in accordance with law within a period of three months from the date of receipt of a copy of this order, after giving due opportunity to the petitioners.

7. It is represented by the learned counsel for the petitioner in W.P.No.7263 of 2007 that the petitioner therein deposited an amount of Rs.2,83,507/- pursuant to the order of this Court dated 10.04.2007. The payment of the said amount would be subject to further orders going to be passed by the first respondent in the cases remanded.

8. The writ petitions are, accordingly, allowed. No order as to costs. Miscellaneous petitions pending, if any, shall stand closed.

A.RAMALINGESWARA RAO, J

Date: 29.03.2016

TJMR