

HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

Writ Petition No. 7071 of 2012

Order:

The petitioner was granted two quarry leases for road metal and building stone by the third respondent in Survey No.231/P of Chiyvedu village, Ananthapur Mandal, Ananthapur District. The quarry leases were granted in the year 2009. While so, he was issued a show cause notice on 23.12.2011 stating that during their inspection they have checked the pits as per the granted sketch and found that the excavated quantity is more than the dispatch permits obtained and, accordingly, a demand notice dated 21.02.2012 was issued directing the petitioner to pay normal seigniorage fee along with five times penalty. Challenging the said demand notice, the present Writ Petition was filed.

2. This Court, by an order dated 15.03.2012, directed the respondents to cause joint inspection and measurement of the pits and submit a report. The impugned demand notice was stayed subject to the petitioner depositing Rs.15,00,000/-. By a subsequent order, dated 09.04.2012, a default clause was included, as the petitioner did not deposit the amount as directed.

3. Today, when the matter is taken up for consideration, the report was not filed, but a counter affidavit filed by the fourth respondent is made available. It was stated in the counter that the petitioner obtained permits for very meagre permitted quantity, though the quantity excavated was huge. A joint inspection was conducted on 13.05.2011 in the presence of the petitioner and his representatives. Accordingly, a show cause notice was issued on 23.12.2011 and since the petitioner did not submit his report within the stipulated period, a demand notice was issued on 21.02.2012 directing him to pay the normal seigniorage fee of Rs.30,34,675/- along with five times penalty of Rs.1,51,73,375/- totalling to Rs.1,80,08,050/- for illegal

quarrying of road metal and building stone for the evaded quantity of 60693.50 Cbm. Pursuant to the interim order passed by this Court, the petitioner paid Rs.5,00,000/- on 03.04.2012 and subsequently paid another Rs.10,00,000/- on 24.08.2012. Since the petitioner committed other breaches, after issuing a show cause notice, the leases were determined by the third respondent - Deputy Director of Mines and Geology, Kurnool, on 21.04.2015.

4. However, since there is a provision for appeal, this Court is not inclined to go into the merits of the case and gives liberty to the petitioner to prefer an appeal within a period of thirty (30) days from the date of receipt of a copy of this order to the competent authority, who shall dispose of the appeal in accordance with law. The amount of Rs.15,00,000/- deposited by the petitioner would be subject to further orders to be passed by the appellate authority.

5. The Writ Petition is, accordingly, disposed of. There shall be no order as to costs.

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

A.
Date: 12.04.2016
Nsr

RAMALINGESWARA RAO, J