

HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

Writ Petition No. 1889 of 2010

Order:

The petitioner is engaged in the business of garnet sand mining and extraction of garnet and ilmenite by removing waste silica and dumping the same within the mine on the beach for the last 14 years. The petitioner is having two extraction plants, one at Tuticorin in the State of Tamilnadu and another at Srikakulam in Andhra Pradesh. The extraction unit in Srikakulam has an annual production capacity of 70,000 metric tonnes of pure garnet and 1,90,000 metric tonnes of ilmenite. Earlier the minerals were regulated by Atomic Energy Act, 1962 and the rules framed thereunder and Beach Sand policy, 1998. Later on, the Government issued a notification on 18.01.2006 deleting ilmenite, rutile and leucoxene from the list of prescribed substances and the Department of Atomic Energy ceases to have any role in the mining and extraction of substances. The notification came into effect from 01.01.2007. The petitioner was granted mining lease for garnet in Srikakulam District over an extent of 95.085 hectares from the confluence of Nagavalli river up to Survey No.1042 of Sreekurmam village of Srikakulam District for a period of 30 years from 24.06.2000 to 23.06.2032. The petitioner has been paying the royalty as per the terms and conditions of the lease. While so, the third respondent issued a show cause notice on 03.11.2009 instructing the petitioner to submit a report complying certain provisions of the Factories Act, 1948 and the rules made thereunder. The petitioner submitted a representation on 24.12.2009 explaining the point of view of the petitioner to the show cause notice. Without considering the same, the third respondent issued a letter on 26.12.2009 threatening the petitioner with legal action in terms of the provisions of the Factories Act. At that stage, the present Writ Petition was filed.

2. This Court, while ordering notice before admission on

03.02.2010, granted interim suspension of the show cause notice dated 03.11.2009 and the consequential notice dated 26.12.2009 issued by the third respondent for a period of six weeks.

3. On 04.03.2010 this Court passed an order restraining the respondents from taking action against the petitioner-Company only for the reason of its failure to take out licenses under the provisions of the Factories Act, 1948.

4. When this Writ Petition is taken up for consideration, on noticing the submission of a detailed explanation to the show cause notice dated 03.11.2009, this Court thought it fit to direct the third respondent to consider the explanation submitted by the petitioner on 24.12.2009 and pass appropriate orders in accordance with law, within a period of three (3) months from the date of receipt of a copy of this order. Till the passing of such final order, the third respondent shall not take any coercive steps pursuant to the notice dated 26.12.2009.

5. The Writ Petition is, accordingly, disposed of without expressing any view on the merits of the case. 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: 26.04.2016
Nsr

RAMALINGESWARA RAO, J