

HONOURABLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION No. 39124 of 2016

Date : 15.11.2016

Between :

M/s. Mangalore Minerals Pvt Ltd
Rep by its Executive Director Sri Santosh Mendon
S/o Shivaji Mendon
R/o Mineral House, Hamparkatta, Mangalore

Petitioner

And

The state of A P
Rep by its Principal Secretary
Industries and Commerce Department
Secretariat, Hyderabad and others

Respondents

The Court made the following:



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ORAL ORDER:

Petitioner challenges demand notice dated 24.8.2016 and rejection of transit passes.

2. Heard learned counsel for petitioner, learned Government Pleader for Mines and Geology for respondents 1,2 and 4 and learned Government Pleader for respondent no.3. With the consent of the parties, writ petition is taken up for disposal.

3. Petitioner was granted mining license for silica sand in an extent of Ac.260 in Survey Nos. 20, 38 of Siddavaram village, Kota mandal, Nellore district in the year 2003, which is in force for a period of 20 years.

4. Alleging that petitioner resorted to illegal storage of Silica sand and having detected non payment of seigniorage fee and cost of mineral, proceedings were initiated against the petitioner. Show cause notice was issued on 29.7.2016. On consideration of the explanation filed by the petitioner, demand notice dated 24.8.2016 was issued directing the petitioner to pay an amount of Rs.1,39,39,688/- which includes Seigniorage fee of Rs. 21,22,056/-. As noted above, these proceedings are under challenge.

5. When the matter is taken up for consideration, learned Government Pleader raised objection on maintainability of the writ petition on the ground that under Rule 35 of A.P. Minor Mineral Concession Rules, 1966 (for short the Rules) an appeal shall lie and under Rule 35-A of the Rules, a revision shall lie and without exhausting the same, this writ petition is filed.

6. Learned counsel for petitioner would agree on the availability of alternative remedy, but submits that petitioner has not availed remedy of appeal/revision and constrained to file this writ petition on the ground

that huge amount is demanded without any justification and transit permits are not being issued, even though, petitioner has valid license and is entitled to undertake mining operations within the leased premises as also transportation of the mineral extracted.

7. In response, learned Government Pleader for Mines and Geology would submit that when the demand is made, unless the amount demanded and arrears due to Government are cleared, no transit permission can be granted.

8. Having obtained instructions, learned counsel for petitioner would fairly submit that petitioner is willing to pay 25 % of the amount demanded and for another 25 %, would furnish bank guarantee and on payment of said amount and furnishing of bank guarantee, transit permits may be directed to be issued.

9. Per se, Writ Petition is not maintainable when petitioner has an alternative remedy of appeal/revision. It is not the case of petitioner that remedy provided by the Rules is not efficacious or effective.

10. Having regard to the submissions of learned counsel, writ petition is disposed of as under:

- 1) Petitioner is granted liberty to avail the remedy of appeal/revision, if so advised. As and when such an appeal/revision is preferred, same shall be considered objectively and expeditiously and a reasoned decision may be communicated to the petitioner. It is needless to observe that decision should be taken within a fixed time frame and appropriate orders be passed within three months.
- 2) If petitioner pays Rs.35,00,000/- (Rupees thirty five lakhs only) to the Assistant Director of Mines and Geology—4th respondent and furnishes bank guarantee for another Rs.35,00,000/- (Rupees thirty five lakhs only), transit permits be issued to the petitioner. The bank guarantee

shall be kept valid till the final orders are passed on the appeal/revision

- 3) Issuance of transit permits are subject to fulfillment of all other requirements for grant of such permits.

No costs. Having regard to the same, miscellaneous petitions, if any pending, are closed.

P NAVEEN RAO,J

DATE:15.11.2016
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