

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION No.6059 of 2009

ORDER:

The petitioner is running a Stone Crushing Unit situated in Bowlavada Village of Anakapalli Mandal, and is a registered dealer under A.P. Miner Rules. He is running the Unit by procuring the mineral from various quarry lease holders for road metal and building stone. Previously, he was procuring the mineral from quarry of one Sri Y.Tirupathaiah, whose lease came to an end by 21.04.2004. Since the lease of Tirupathaiah was not renewed, the petitioner is procuring mineral from other quarries from 2005-06 onwards. While so, respondent No.1 issued a show cause notice on 13.02.2009 to the petitioner to show cause as to why action should not be taken for collection of Rs.40,09,500/- towards normal Seigniorage fee together with 10 times penalty on 8100 cubic metres of road metal and building stone which was illegally excavated in Sy.No.24 of Bowlavada Village, Anakapalli Mandal, Visakhapatnam District and the petitioner submitted his explanation on 26.02.2009. After receipt of the explanation, a demand notice was issued on 06.03.2009 by respondent No.1 for payment of Rs.40,09,500/- towards normal Seigniorage fee and ten times penalty. Challenging the same, the present writ petition was filed.

This Court by order dated 25.03.2009 granted interim suspension of proceedings of demand notice dated 06.03.2009 issued by respondent No.1 pending disposal of the writ petition, but held that it would not preclude the respondent authorities from taking steps as are available to them under law.

This Court is not inclined to go into merits of the case at this

stage, as there is an alternative remedy of appeal against the impugned demand notice, for which the petitioner is given liberty to file an appeal within thirty (30) days from the date of receipt of a copy of this order and the amount already deposited by the petitioner will be subject to further orders to be passed in the appeal, which shall be disposed of within six (6) months from the date of receipt of the appeal.

With the above observations, this Writ Petition is disposed of. No order as to costs. Miscellaneous Petitions, if any, pending in this Writ Petition shall stand closed.

A.RAMALINGESWARA RAO, J

12.04.2016

MVA