

HONOURABLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No. 37931 of 2016

Date: 09.11.2016

Between:

Ch.Rama Rao s/o. Appalasuri, Aged 50 years,
R/o Naidu Street, Ponduru Village and Post,
Srikakulam District.

.....Petitioner

and

State of Andhra Pradesh, rep.by its Deputy
Secretary, Department of Industries and
Commerce (Mines-I), Secretariat, Hyderabad
and others.

.....Respondents



The Court made the following:

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ORDER:

By Demand Notice dated 26.09.2014, the Assistant Director of Mines and Geology, directed the petitioner to pay penalty amount, total quantified at Rs.15,07,550/-, on the allegation of unauthorized quarrying of road metal by the petitioner. This order was challenged before this Court in W.P.No.34395 of 2014. Having regard to the fact that petitioner has an efficacious alternative remedy under Rule 35 or 35-A of the A.P.Minor Mineral Concession Rules, 1966, whichever is applicable, this Court granted liberty to the petitioner to avail such remedy subject to condition that petitioner should deposit normal seigniorage fee of Rs.1,37,050/- within four weeks from the date of passing of order. Subject to depositing of the amount and preferring of an appeal/revision, Court ordered stay of recovery of penalty. By proceedings dated 22.01.2015, the Deputy Director of Mines and Geology, cancelled licence of the petitioner on the ground that petitioner did not pay the seigniorage fee and penalty awarded on him. Petitioner preferred revision before the Government against the order of demand dated 26.09.2014 and cancellation of lease dated 22.01.2015. Petitioner did not deposit the amount of seigniorage fee as directed by this Court, but only paid an amount of Rs.10,000/-. Holding that the directions issued by this Court are not complied with and, therefore, the revision is not maintainable, the revision is dismissed. Challenging the same, this writ petition is filed.

2. Having confronted with the fact that the order passed by this Court in WP No.34395 of 2014 is staring at him and amount as directed by this Court was not deposited, the decision of the revisional authority cannot be said as erroneous, learned counsel for petitioner made an alternative submission that revision filed by the petitioner was against the order of demand notice dated 26.09.2014 as well as order of cancellation of lease dated 22.01.2015, whereas the revisional authority order is silent with reference to the issue of cancellation of lease. Though, learned counsel for petitioner would fairly submit that specific and elaborate grounds were not urged, but in the first para of second page of the grounds in revision, a contention was urged against the decision of the Deputy Director canceling the licence. It was urged that Deputy Director cancelled the lease merely based on the demand notice dated 26.09.2014. He would therefore submit that order of the revisional authority not considering his contention against cancellation of licence is erroneous.

3. This aspect of the contention is not denied by the learned Government Pleader.

4. A bare reading of the order of revisional authority would show that there is no whisper about the issue of cancellation of the licence in the order and proceeds to consider a revision only on the issue of validity of demand notice. Holding that amount as directed by the Court is not paid, the revision is held as not maintainable.

5. It is not in dispute that demand of seigniorage fee and imposing penalty on the allegation of unauthorized quarrying of

road metal is entirely different from the cancellation of the licence, though it may be possible for resorting to cancellation of the licence on the allegation of non-compliance of the demand made. Thus, even assuming that petitioner has not complied with the directions issued by this Court with reference to payment of seigniorage fee on the issue of demand made by the Assistant Director in his proceedings dated 26.09.2014, the revisional authority still required to consider the revision as against the cancellation of licence by the Deputy Director. I, therefore, see merit in the contention urged by the learned counsel for petitioner.

6. Learned counsel for petitioner as well as learned Government Pleader agreed for disposal of the writ petition with direction to remand the revision to the Government for reconsideration of revision to the limited extent of consideration of revision against the orders of the Deputy Director dated 22.01.2015 with reference to the cancellation of licence. In view of the same, writ petition is disposed of with the following directions:

Subject to petitioner depositing the entire amount demanded i.e., Rs.15,07,550/-, after adjusting the amount already paid, the revisional authority shall consider the revision of the petitioner against cancellation of licence by the Deputy Director of Mines and Geology, Visakhapatnam dated 22.01.2015 within a further period of six weeks from the date of deposit of the amount.

Miscellaneous petitions, if any, pending in this writ petition shall stand closed. No costs.

JUSTICE P.NAVEEN RAO

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