

HONOURABLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.42063 of 2016

Date: 13.12.2016

Between:

Smt V.Sujatha W/o V.Sreedhar, Aged 34 years,
Occu: Business, Proprietor of M/s. Sujatha Stone
Crushers, No.16-277, Vepamanu Street,
Chittoor District, Andhra Pradesh.

.....Petitioner

and

The State of Andhra Pradesh, Mines & Geology
Department, rep.by its Principal Secretary,
Secretariat, Hyderabad and others.

.....Respondents



The Court made the following:

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ORDER:

Heard Sri T.Surya Satish, learned counsel for petitioner and learned Government Pleader for respondents.

2. Petitioner was granted quarry lease on 03.02.2005 for a period of 10 years in Sy.No.258 of Kotrakona village, Chittoor District. Petitioner applied for grant of renewal and the same is pending. In view of the statutory provision, which enables continuation of mining operations, pending renewal application, petitioner is continuing mining operations. On an inspection conducted in the lease premises, the Vigilance and Enforcement Officers noticed that quarrying operations are not being conducted in the land, in which licence was granted, but is being conducted in land in Sy.No.701. Based on the report of the Vigilance, show-cause notice, dated 29.07.2016 was caused and alleging that no reply to the show-cause notice was filed, demand notice was issued on 10.08.2016 demanding the petitioner to pay normal Seigniorage fee and imposing penalty by ten times, where under total amount demanded comes to Rs.1,02,91,050/-. Aggrieved by the said demand notice, petitioner preferred appeal before the Director of Mines and Geology and the same is pending.

3. Though petitioner is undertaking quarrying operations, the request of the petitioner for grant of transit permit is not acted upon on the ground that amounts are due to Government, compelling the petitioner to invoke jurisdiction of this Court.

4. Learned counsel for petitioner submits that there is no illegal quarrying operations by petitioner as alleged by the respondents. The land was surveyed by the revenue authorities and certified that the lease site was in the same survey number and lease was accordingly granted. Thus, the Mines and Geology Department has no competence to hold that the quarrying operations have not been conducted in the site, where lease was granted. He, therefore, submits that there is no justification to levy huge amount as penalty and to deny grant of transit permits.

5. Learned Government Pleader, on instructions, submits that since demand notice is pending, in terms of the provisions of Rule 26 of Andhra Pradesh Minor Mineral Concession Rules, 1966 (for short, Rules, 1966), unless the amount due to the Government is paid, the transit permit cannot be granted.

6. The demand notice or any other proceedings are not under challenge. The only grievance in this writ petition is not granting of transit permit. In view of the provision contained in Rule 26 and 31(4) of the Rules, 1966, it cannot be said that the action of the respondent authorities is illegal warranting interference of this Court.

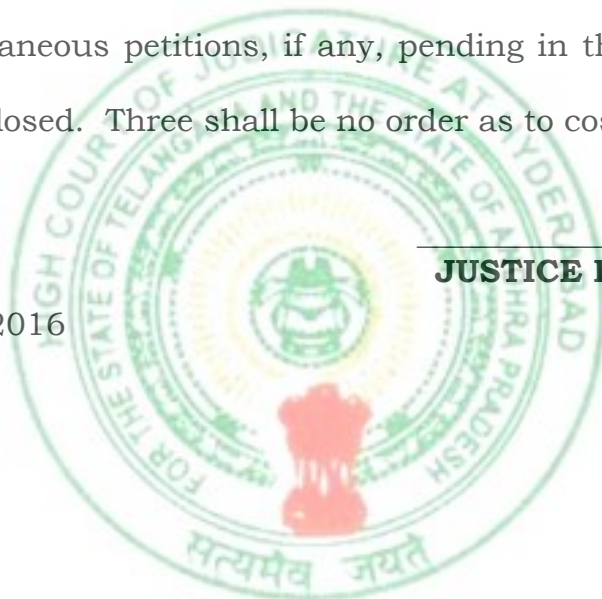
7. However, as rightly contended by the learned counsel for petitioner, the appeal filed by the petitioner on 27.09.2016 is yet to be considered and appropriate orders are passed, even after lapse of two months. The Appellate Authority cannot keep the issue pending against the decision of the subordinate authority and deny the right of a person to undertake mining operations or transportation of mineral already extracted.

8. Learned counsel for petitioner and the learned Government Pleader agree for disposal of writ petition with direction to appellate authority to pass orders on petitioner's appeal. Having regard to the fact that appeal is pending for a long time, writ petition is disposed of, without expressing any opinion on merits, directing the Director of Mines and Geology (2nd respondent) to consider the appeal and pass appropriate orders as warranted by law as expeditiously as possible, preferably within a period of three weeks from the date of receipt of copy of this order.

Miscellaneous petitions, if any, pending in this writ petition shall stand closed. There shall be no order as to costs.

Date: 13.12.2016
kkm

JUSTICE P.NAVEEN RAO



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