

THE HON'BLE SRI JUSTICE A.V. SESA SAI

WRIT PETITION No.8115 OF 2017

ORDER:

This writ petition is filed, under Article 226 of the Constitution of India, for the following relief:

“to issue a writ order or direction more particularly one in the nature of writ of mandamus declaring the action of the Respondents 1 to 3 in so far as insisting for complying with clause 1.6 of the Work Order No.7500033853 dated 01.12.2016 and agreement dated 07-122016 with regard to enrolling the workmen and staff as members of the Coal Mines Provident Fund and payment of Employees Coal Mines Provident Fund for the drivers engaged by the petitioner for transportation of coal through the lorries of the petitioner i.e., Transportation of G10/G13 grade coal to 6 CHP OCIII/CHP OCIII, RGII Area with 31cum front and loader & four numbers of 25ton payload coal body tippers on tonnage basis for a period of two years at CHP OCIII, RGII Area and the steps being taken by the respondents company while preparing the transportation bills for deduction of Coal Mines Provident Fund towards contractor's contribution from the amounts payable to the petitioner in accordance with the above mentioned work order though the provisions of the Coal Mines Provident Fund and Miscellaneous Provisions Act 1948 are not applicable to the transport contractor more particularly when the petitioner is transporting coal only by duly declaring the clause 1.6 of the

Work Order No.7500033853 dated 01.12.2016 and agreement dated 07-12-2016 as illegal, arbitrary and contrary to the Coal Mines Provident Fund and Miscellaneous Provisions Act 1948 and AP Coal Mines Provident Fund Scheme and also contrary to the orders passed by this Hon'ble Court in W.P.No.11107 of 2009 and batch dated 30-03-2011.”

2. Heard Sri Venkateshwar Varanasi, learned counsel for the petitioner and Sri J.Srinivasa Rao, learned standing counsel for the respondents 1 to 4.

3. The counsel representing the parties submit that the prayer in the instant writ petition is covered by the common order dated 30th March, 2011 in W.P.No.11107 of 2009 and batch and further by following the order dated 30.03.2011, a few writ petitions are also disposed of.

4. In view of the same, the present writ petition is disposed of by this order:

a) the Regional Commissioner or any Officer authorized by him shall first issue a notice to the petitioner to decide whether the activity undertaken by the petitioner comes within the definition of Coal Mine. It shall be open to the petitioner to submit explanation;

b) in the event of the activity being declared as the one in coal mine, the employees shall be enrolled as members, subject to their fulfilment of the prescribed conditions, the respondents shall assign account numbers and issue cards; and the

deductions shall be made with reference to the account numbers and cards so issued, periodically;

c) till such time, no deductions shall be made, but if it is held that the petitioner is liable, at a later point of time, he shall be under obligation to pay the arrears also;

d) the amount deducted from the petitioner, so far, shall be kept in FDRs and the manner in which it shall be utilized shall be decided, depending upon the outcome of the exercise undertaken above; and

e) the authority of the coal mines provident fund shall ensure that it does not deduct any amount, without reference to a particular employee, who is admitted to the provident fund.

5. Miscellaneous petitions pending consideration, if any, in this case shall stand closed in consequence. No order as to costs.

08.03.2017
SS

A.V.SESHA SAI, J