

THE HON'BLE SRI JUSTICE S.V.BHATT

WRIT PETITION No.12151 of 2011

ORDER:

Heard Mr. Rudra Prasad for petitioner and the learned Assistant Government Pleader for Panchayat Raj for respondents.

The petitioner prays for Mandamus declaring the action of respondents in not refunding the amount payable to petitioner for 17 days of non-working period on pro-rata basis and a further sum of Rs.9,00,000/- which was paid by petitioner in addition to lease amount, as illegal, arbitrary and unconstitutional.

The 4th respondent filed counter affidavit. While disputing the maintainability of the writ petition etc., the 4th respondent on the entitlement of petitioner has stated as follows :-

“In reply to para 2 it is respectfully submitted that an amount of Rs.9,75,904/- was paid to the petitioner herein vide Progs vide Rc.No.2356/ 2000/ D5, dt.09-02-2001 of the Chief Executive Officer, Zilla Krishna by way of cheque bearing No.669585, dt.09-02-2001 for the non-operation of quarrying period i.e., from 18-04-2000 to 5-5-2000 (ie. 18 days). The respondents have refunded the amount for the period for which he has not operated the quarry. Therefore, the contention of the petitioner is false and fabricated and filled with malafide intention and to mislead the Hon'ble High Court.

In reply para 6, it is respectfully submitted that even though the respondents were paid the amount of Rs.9,75,904/- for the non-operation period of the sand

reach by way of cheque bearing No.669585, dt.09-02-2001 through Progs Rc.No.2356/ 2000/ D5, dt.09-02-2001 of the Chief Executive Officer, Zilla Parishad, Krishna, he has filed this WP with false allegation with malafied intentions.”

Mr.Rudra Prasad, on instructions, submits that the respondents in fact have not paid the amount for which a cheque was already drawn. Though the prayer is for payment of amount under two heads, he submits that the petitioner is satisfied if the amount referred to in the counter affidavit is verified, if not paid to petitioner and the amount may be directed to be paid by respondents immediately, for it is an admitted amount. For the said purpose, he requests the court to permit the petitioner to represent to respondents for verifying the payment of Rs.9,75,904/- through cheque bearing No.669585 dated 09-02-2001 and if the cheque is not handed over and likewise not realized by petitioner, to issue proceedings afresh along with a cheque for the admitted amount.

In view of the stand taken in the counter affidavit and to meet the ends of justice, this Court is of the view that the request of petitioner to represent to 4th respondent can be considered and accepted.

Accordingly, the petitioner, for the purpose of finding out whether Rs.9,75,904/- is paid or not, and if not paid, for paying the same at the earliest, is given four weeks time from today to represent to 4th respondent by enclosing a copy of this order. The 4th respondent is directed to examine the bank details as well, take

a decision within twelve weeks thereafter. If on verification it appears that the amount still is payable to petitioner, the admitted amount is paid in twelve weeks thereafter, in default of payment by 4th respondent, the petitioner is given liberty to recover the amount together with interest from respondents.

The writ petition is disposed of accordingly. There shall be no order as to costs.

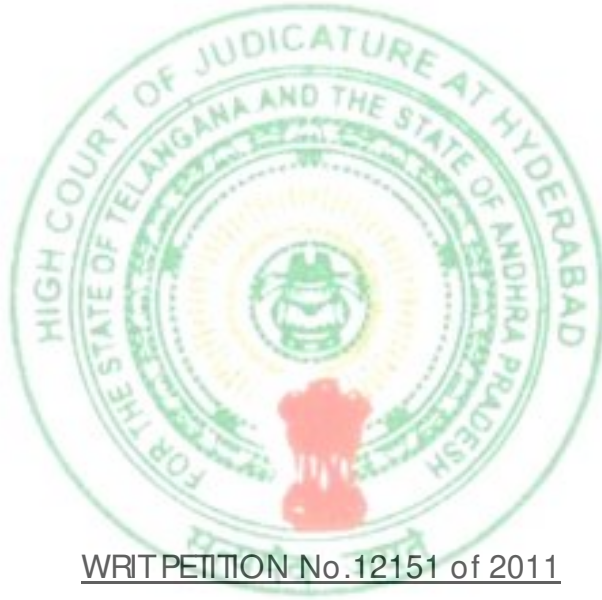
As a sequel, the miscellaneous applications, if any pending, shall stand closed.

Date: 23-02-2017
Prv



S. V. BHATT, J

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23-02-2017

Prv