

THE HONOURABLE SRI JUSTICE RAJA ELANGO

WRIT PETITION No.20784 OF 2017

ORDER:

This Writ Petition is filed under Article 226 of the Constitution of India seeking the following relief:-

“to issue a direction or order more particularly in the nature of Writ of Mandamus declaring the action of the 3rd respondent in not issuing the Dispatch Permits to the petitioner for the transportation of the excavated black granite from the petitioner’s quarry to an extent of 1.000 Hectares, situated in Sy.No.160/1, Gollapalem Village, Phirangipuram Mandal, Guntur District, and insisting to pay the penalty imposed by the 3rd respondent, pending adjudication is unreasonable, arbitrary, illegal, without power or authority under the Andhra Pradesh Minor Mineral Concession Rules 1966, contrary to the orders dated 03.11.2015 of the Hon’ble High Court in W.P.No.35818 of 2015 and in violation of Articles 14 and 19(1) (g) of the Constitution of India, with a consequential direction to the respondent No.3 to issue dispatch permits to the petitioner to dispatch the excavated black granite on advance payment of seigniorage fee for the proposed quantity to be dispatched, from the petitioner quarry to an extent of 1.000 Hectares, situated in Sy.No.160/1, Gollapalem Village, Phirangipuram Mandal, Guntur District.”

2. It is stated in the affidavit filed in support of the writ petition that the petitioner is a partnership firm and involved in various types of business activities including excavation, polishing granite and sales thereof. Respondent No.2 granted quarry lease to the petitioner through proceedings, dated 12.06.2008, and the petitioner has been running its quarrying operations at the

aforementioned place. Respondent No.3 issued show cause notice, dated 15.06.2015, to the petitioner adverting to the inspection said to have been made of the leased area on 11.11.2014 and calling upon it to show cause as to why action should not be initiated against it for collection of normal seigniorage fee along with ten times penalty for having excavated and transported 314.24 cubic meters of black granite from outside the leased area. The petitioner submitted its reply, dated 27.06.2015, stating that quarrying was done systematically by duly obtaining permits and as per the field conditions and requested respondent No.3 to drop further action as the petitioner accepted to pay the normal seigniorage fee. On 06.07.2015, respondent No.3 issued a demand notice to pay an amount of Rs.5,19,520/- as normal seigniorage fee with ten times penalty. Respondent No.3 erred in passing the order of imposing ten times penalty by applying global position system instead of applying the chain survey system which was followed at the time of granting the lease and there is no rule which provides to apply the global position system. On 04.08.2015, the petitioner paid the seigniorage fee of Rs.5,19,520/-. On 11.08.2015, the petitioner filed a revision before respondent No.1 after paying the normal seigniorage fee of Rs.5,19,520/-. As the stay petition in the revision petition is not disposed of by respondent No.1, petitioner filed W.P.No.35818 of 2015 and the same was disposed of by this Court on 03.11.2015 directing respondent No.1 to take steps for expeditious disposal of the stay petition filed by the petitioner in its revision and that pending disposal of the said stay petition, the respondent authorities shall not give effect to the demand notice, dated

06.07.2015, which is the subject matter of the revision or take any coercive measures in respect thereof. Respondent No.1 dismissed the revision petition filed by the petitioner by its Memo No.15584/M.I(2)/2015-2, dated 02.12.2015. On 03.06.2016, aggrieved by the order passed by respondent No.1 in the revision, the petitioner filed W.P.No.40621 of 2015 and the same was allowed on 03.06.2016 and the memo, dated 02.12.2015, was set aside and the matter was remitted to respondent No.1 for fresh consideration of the revision, but the same was not disposed of till date. Hence, the petitioner filed the present writ petition.

3. Heard both sides.

4. It is an admitted fact that the revision preferred by the petitioner is pending before respondent No.1 and no interim orders are passed till date. Considering the facts and circumstances of the case and the grievance of the petitioner, without going into the merits of the case, respondent No.1 is hereby directed to dispose of the revision preferred by the petitioner in accordance with law as expeditiously as possible, more preferably, within a period of three (3) months from the date of receipt of a copy of this order. Till disposal of the revision, the authorities are directed to issue dispatch permits to the excavated black granite on advance payment of seigniorage fee for the proposed quantity to be dispatched from the petitioner's quarry to an extent of 1.000 Hectare situated in Sy.No.160/1, Gollapalem Village, Phirangipuram Mandal, Guntur District.

5. Accordingly, the Writ Petition is disposed of. There shall be no order as to costs.

6. Miscellaneous Petitions pending, if any, in this Writ Petition shall stand closed.

JUSTICE RAJA ELANGO

Date : 27.06.2017
AMD



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