

HON' BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No. 8865 of 2009

ORDER:

- 1) Heard learned counsel for the petitioner, Government Pleader for Mines and Geology and Government Pleader for Industries and Commerce.
- 2) The present writ petition came to be filed seeking issuance of writ of Certiorari calling for records in Lr.No.580/ Vg/ 2005, dated 25.03.2009 of Assistant Director of Mines and Geology, Medak, converting the Bank Guarantee to Government Challan and quash the same as arbitrary, illegal, unjust, unconstitutional.
- 3) The averments in the affidavit filed in support of the writ petition would show that the petitioner received demand notice issued by the Assistant Director of Mines and Geology, Medak vide Notice No.580/ Vg.2006, dated 08.09.2006 to pay normal seigniorage fee of Rs.6,96,310.06 + five times penalty ie. Rs.34,81,550.30 totalling to Rs.41,82,952/- on the ground that the Regional Vigilance and Enforcement Officer, Sangareddy informed that the petitioner, who has purchased gravel, metal, stone, sand and bricks failed to produce evidence showing payment of seigniorage fee for the materials. The petitioner submitted his explanation on 30.11.2006. The Assistant Director of Mines and Geology, requested the District Collector to issue necessary instructions to the District Registrar not to affect any registration

and a copy of the same was marked to Sub-Registrar. Though the District Registrar has not issued any instructions, since a copy was marked to the Sub-Registrar, the registration of the plots was stopped by the Sub-Registrar. The petitioner preferred an appeal against the demand notice dated 08.09.2006. Pending the appeal, the petitioner preferred W.P.No.25254 of 2008 before this Court, which was disposed of on 18.11.2008 directing the petitioner to furnish bank guarantee of Rs.6,96,310.06, pending disposal of the revision. As per the orders of the High Court, the petitioner furnished bank guarantee. The first respondent vide Memo No.14748/M.II(1)/2008-2, dated 31.12.2008 holding that the bills which are produced by the petitioner were not verified by Assistant Director of Mines and Geology, directed the authority to verify the bills submitted and then collect normal seigniorage fee if there are any dues. Pursuant to which the Assistant Director of Mines and Geology issued notice dated 03.03.2009 requesting the petitioner to furnish proof of evidence within seven days. The petitioner submitted that no seigniorage fee can be raised on gravel as it was the material thrown out by Gram Panchayat while deepening the kunta and stone metal was obtained from Sri Kirti Vaddera Labour Co-operative Society, who is liable to pay seigniorage fee, if any. It is pleaded that with regard to the sand, the way bills are already produced. When the petitioner approached the office of Assistant Director of Mines and Geology, a copy of the impugned letter was served. Challenging the same the present writ petition came to be filed.

4) Learned counsel for the petitioner submits that since the petitioner has submitted the bills evidencing purchase of stone and metal from Sri Kirti Vaddera Labour Co-operative Society, who were granted lease, the authorities ought to have enquired them before passing the impugned order. Insofar as gravel is concerned, learned counsel for the petitioner submitted that the material which was thrown out by Gram Panchayat, was collected, to be used for laying internal roads.

5) On the other hand, learned counsel for the respondents would submit that the Assistant Director of Mines and Geology conducted an enquiry and then only passed the impugned order. It is urged that the allegation of not collecting any information from the lessees is incorrect.

6) As seen from the record, the petitioner herein submitted an explanation to the show-cause notice along with the bills showing purchase of stone material from Sri Kirti Vaddera Labour Co-operative Society and that the gravel was collected from the thrown out material by Gram Panchayat while deepening the kunta at Kavalampet Village. Insofar as the gravel is concerned it is to be noted that even assuming that the petitioner has taken out the material from the pit by deepening the kunta at Kavalampet Village, the same was used for laying internal roads and B.T.Roads, for which payment of seigniorage fee is necessary. Therefore, the argument of the learned counsel for the petitioner that no seigniorage fee is required to be paid cannot be accepted.

7) The other aspects, namely, with regard to payment of seigniorage fee regarding stone, metal and bricks, the learned counsel for the petitioner submits that the petitioner has submitted enough material showing the details from whom the same has been purchased.

8) In view of the Full Bench judgment of this Court in *L.Venkateswara Rao v. M/s. Sngareni Collieries Company Limited*¹ and also a judgment of learned Single Judge of this Court in *Mysore Structural Limited, Hyderabad v. Deputy Director of Mines and Geology, Hyderabad and another*² this Court is of the view that if a user or consumer produces a genuine bill issued by a lessee of a quarry, who raised the minor minerals or an authorised dealer of the minor minerals, in token of having purchased the materials from such lessee or authorized dealer, it shall be considered to be sufficient proof of payment of seigniorage fee due to the Government. The said aspect was not dealt in detail by the authority, who passed the impugned order.

9) Having regard to the above, the writ petition is allowed in part rejecting the request of the petitioner with regard to payment of seigniorage fee and penalty for the gravel but however the order directing the petitioner to pay normal seigniorage fee and penalty on bricks, sand and metal is set aside and the matter is remanded back to the authority concerned to

¹ 1993 (3) ALT 199 (FB)

² 2007 (4) ALD 531

enquire with regard to the documents produced by the petitioner and then proceed further in accordance with law.

10) There shall be no order as to costs. Consequently, miscellaneous petitions, if any, pending in this Writ Petition shall stand closed.

JUSTICE C. PRAVEEN KUMAR

25.01.2017
gkv

