

HONOURABLE SRI JUSTICE RAJA ELANGO

WRIT PETITION No.22747 OF 2017

ORDER:

1. This writ petition is filed by the petitioner challenging the order passed by the Government of Andhra Pradesh in Memo dated 31.3.2017 confirming the proceedings of the Assistant Director, Mines and Geology, Guntur, dated 18.11.2014.

2. The case of the petitioner is as follows:

A quarry lease was granted in favour of the petitioner over an extent of Ac.71.80 cents of land in Sy.No.202/1 of Atmakur village, Mangalagiri Mandal, Guntur District, for excavation of gravel, vide proceedings dated 31.1.2013 and the said lease will be in force till 28.4.2018. By the time of the lease that was granted in favour of the petitioner, the topography of the land area is with full of water. Below the water level and around 1 ½ meters depth gravel had already been excavated by the previous lessees. From 29.4.2013 till 10.11.2014, the petitioner excavated 2,12,499 cu.m. While so, on 10.11.2014, a show cause notice was issued to the petitioner by the Assistant Director of Mines and Geology, Guntur, on the ground that the petitioner excavated in excess of the permitted quantity and therefore, he has to pay seigniorage fee of Rs.2,19,62,456/- . On receipt of the said notice, the petitioner gave a detailed explanation. But without considering the same, the Assistant Director of Mines and Geology confirmed the show cause notice and directed the petitioner to pay a sum of Rs.2,19,62,456/-. Aggrieved by the same, the petitioner filed a revision before the State Government on 22.11.2014. Pending disposal of the revision, the State Government stayed the proceedings of the Assistant Director of Mines and Geology.

Subsequently, the State Government disposed of the revision and confirmed the levy of seigniorage fee of Rs.36,60,576/- only. Aggrieved by the order of the State Government dated 31.3.2017, the petitioner filed this Writ Petition.

3. Heard and perused the material available on record.

4. It is the case of the petitioner that by the time of lease, the subject land was with full of water and that while measuring the quantity excavated, the authorities had not ascertained as to what level the gravel existed at the time of lease granted in favour of the petitioner and that it is practically impossible to excavate any excess quantity for short period from 29.4.2013 to 10.11.2014.

5. After hearing the arguments, this Court is of the view that this is a fit case, wherein the matter can be remanded to the revisional authorities for deciding the following issue:

“Whether there is any possibility of excavation of excess material as alleged by the authorities concerned, and whether there is any possibility for placing any other material at the subject land by the petitioner herein.”

6. In the above circumstances, the order in the impugned memo dated 31.3.2017 is set aside and the matter is remanded to the revisional authority for fresh consideration on condition of the petitioner paying a sum of Rs.15,00,000/- (Rupees Fifteen Lakhs only) on or before 30th August, 2017. On such payment and on filing an application on or before 30th August, 2017 the revisional authority concerned is directed to pass appropriate orders, in accordance with law, to the extent of the demand made by them in the impugned memo dated 31.3.2017.

7. With the above direction, the Writ Petition is disposed of. No order as to costs. Consequently, miscellaneous petitions pending, if any, shall stand closed.

JUSTICE RAJA ELANGO

Dated: 11th July, 2017
Nn.



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