

THE HONOURABLE SRI JUSTICE RAJA ELANGO

WRIT PETITION No.24002 OF 2008

ORDER:

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

“to issue an appropriate writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the 4th respondent in making deductions from the 25% share of the 1st petitioner Gram panchayath in the seigniorage on sand of Reach No.4 of Gowthami Left Bank for the years 2007-2008 and 2008-2009 as illegal, arbitrary and without jurisdiction and consequently direct the respondents herein to remit the balance of the share of the 1st petitioner Gram Panchayat in the seigniorage fee received from the bidder of Reach No.4 of Gowthami Left Bank forthwith and pass such other order or orders.”

2. It is stated in the affidavit filed in support of the writ petition that the petitioners' village Jonnada is situated on the left bank of River Godavari, which is also called as Gowthami, and there are vast deposits of sand in their village limits in Godavari River and as such, the authorities have formed a ramp at their village for quarrying the sand by the auction purchasers. As per G.O.Ms.No.335, Panchayat Raj and Rural Development, Relief Department, dated 06.08.1996, the Government stipulated norms for apportionment of seigniorage fee collected on sand among the three local bodies i.e., Zilla Parishads, Mandal Parishads and Gram Panchayats at the rate of 37 ½ % : 37 ½% : 25%. The said ratio laid down for apportionment of seigniorage fee has been amended

by respondent No.1 by issuing another G.O. in G.O.Ms.No.255, Panchayat Raj and Rural Development Department, dated 02.08.2001, and the new ratio is fixed at 25% : 50% : 25%. As per the said G.O., the Gram Panchayats are entitled to the share of 25% from the seigniorage amount derived from the ramp situated in the limits of the said Gram Panchayat. The Government of Andhra Pradesh has amended the rules of sand policy of leasing of right of quarrying for sand through G.O.Ms.No.24, Industries and Commerce Department, dated 12.02.2007, G.O.Ms.No.84, dated 10.04.2007, and G.O.Ms.No.174, dated 03.07.2007. As per the new sand policy, the sand reaches in Godavari river were put to public auction for quarrying rights for sand for a period from the month of October, 2007 to the end of March, 2009 by enhancement of 20% of knocked down bid for the second financial year i.e., 2008-2009. A notification was issued by the District Collector, East Godavari District bearing No.5679/Sand/2007, dated 04.09.2007. The auctions were conducted on 22.09.2007 at Kakinada for reach No.4 of Gowthami Left Bank along with ramp at Jonnada. In the said auctions, one Sri S.V.Srinivasa Reddy became the highest bidder with a bid amount of Rs.69,99,999/- and the lease was granted to him by the Government from 09.10.2007 to 31.03.2009 with 20% hike on the bid amount for the 2nd year i.e., 01.04.2008 to 31.03.2009. An agreement was entered into between the said bidder and the Assistant Director of Mines and Geology, Rajahmundry. Petitioner No.1 Gram Panchayat is entitled to a share of 25% from out of the seigniorage amount of Rs.69,99,999/- as per the G.Os mentioned above. As per the auction conditions, the amount of seigniorage has to be

paid immediately to the Government. The lessee will be permitted to lift the sand in his auctioned area only after payment of seigniorage fee. From out of the seigniorage fee collected on each reach, 95% will be credited to the local bodies and the remaining 5% will be credited to the State Government. The lessee deposited the said amount to the credit of respondent No.4 Zilla Parishad head of account and it was with the Zilla Parishad from September, 2007 onwards, but the Zilla Parishad failed to apportion the seigniorage amount received by it from the lessees to the Mandal Parishads and Gram Panchayats. After lapse of nearly seven months, respondent No.4 addressed letter, dated 18.04.2008, to the various Mandal Parishads and Gram Panchayats informing that the details of the seigniorage amount have been received lately from the Assistant Director of Mines and Geology and as such, there was delay in distributing the said amount to the Mandal Parishads and Gram Panchayats. Along with the said letter, a statement was enclosed, which discloses that the seigniorage amount for the period from May, 2007 to February, 2008 alone was distributed to the Zilla Parishads, Mandal Parishads and Gram Panchayats at the ratio of 25% : 50% : 25%. As far as reach No.4 is concerned, an amount of Rs.66,49,999/- was shown to be received for the period from May, 2007 to February, 2008. As per the said G.Os., petitioner No.1 Gram Panchayat is entitled to an amount of 25% from out of Rs.66,49,999/-, which comes to Rs.16,22,499/-, but the C.E.O. has deducted an amount of Rs.1,38,120/- towards paper bill and Rs.27,51,105/- towards furniture from the seigniorage amount received through reach No.4. After deducting the said amounts,

only an amount of Rs.37,60,774/- was distributed among the Z.P.P., M.P.P., and petitioner No.1 Gram Panchayat. As such, only an amount of Rs.9,40,194/- was given to the petitioners towards 25% of seigniorage on sand. The C.E.O. has not given any details of deductions either to the Gram Panchayats or to the Mandal Parishads. The said action is in violation of G.O.Ms.No.255, dated 02.08.2001. It appears that the Chairman of the Zilla Parishad might have ordered for deduction of the above said amounts from the share of the Mandal Parishads and Gram Panchayats.

Again, in the month of August, 2008, respondent No.4 addressed another letter, dated 12.08.2008, to the Gram Panchayats and Mandal Parishads. In the said letter, it was informed that the 2nd instalment of seigniorage charges payable to the respective Gram Panchayats and Mandal Parishads for the year 2007-08 has been released by way of cheques and demand drafts. As per the said statement, an amount of Rs.1,59,59,998/- was received for Reach No.4 of Jonnada Village and the amount of 25% share of the petitioners' Gram Panchayat comes to Rs.39,90,000/-, but an amount of Rs.13,89,432/- was deducted from the said share by showing it as refund to the bidder of 2005-2006. In fact, the seigniorage amount was not received from the bidder for the said year by their Gram Panchayat and as such, the same should not have been deducted. The whole exercise is done at the behest of the Chairman and respondent No.4 with a *mala fide* intention. The Gram Panchayat of Jonnada was deprived of lakhs of rupees, which are otherwise entitled towards seigniorage on sand. The developmental works in the

village could not be taken up for want of funds. Hence, the present writ petition.

3. Heard and perused the material available on record.

4. Para No.22 of G.O.Ms.No.24, Industries and Commerce (M.I) Department, dated 12.02.2007, reads as under:

“The auction proceeds shall be deposited to the Zilla Parishad head of account already in vogue and the amount shall be distributed among the Zilla Parishad/Mandal Parishad/Gram Panchayat @ 25%:50%:25% respectively on a quarterly basis, as envisaged in G.O.Ms.No.255, Panchayat Raj and Rural Development (PTS-III) Department, dated 02.8.2001. In case of urban areas the concerned Municipality/Corporation as the case may be shall be paid 25% in place of Gram Panchayat. The Assistant Director of Mines and Geology concerned shall ensure 5% of bid amount is to be credited to the State Head of Account which will be communicated separately.”

From a perusal of the above G.O., it is clear that the said G.O. do not disclose anything in favour of the respondents to make deductions towards furniture and stationery charges from the seigniorage charges for which petitioner No.1 Gram Panchayat is entitled to. Hence, the respondents are hereby directed to remit the balance of the share of petitioner No.1 Gram Panchayat in the seigniorage charges received from the bidder of Reach No.4 of Gowthami Left Bank for the years 2007-2008 and 2008-2009 as expeditiously as possible.

5. Accordingly, the Writ Petition is allowed. 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 : 07.08.2017
AMD



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