

HON'BLE DR. JUSTICE B. SIVA SANKARA RAO

WRIT PETITION No.19952 of 2017

ORDER:

Heard the learned counsel for the petitioners and also learned Government Pleader for Panchayat Raj for respondents and perused the prayer in the writ petition with the supporting affidavit and also G.O.Ms.No.84 dated 10.04.2007 and orders passed in similar matters by two Single Judge Benches of this Court in W.P.No.80 of 2012 dated 20.01.2017 and W.P.No.9530 of 2010 dated 19.04.2016 by referring to earlier orders of another Single Judge Bench in W.P.No.17998 of 2012 dated 15.11.2012.

It is the contention of the petitioners in support of the prayer from the affidavit that the petitioners purchased sand from the permit holders and they are not liable for one time penalty contemplated by Clause 2 of said G.O.Ms.No.84 since already paid seigniorage charges. The very clause 2 of G.O.Ms.No.84 supra reads as follows:

“Recovery of Seigniorage fee: The sand consumed in all Government works by the contractors, normal seigniorage fee with one time penalty may be recovered from the work bills by the consuming department in case of procurement of sand is without valid permits issued by the concerned Assistant Director of Mines & Geology.”

Having regard to the above, if it is shown or found tat the sand purchased is from the permit holder of the permit issued by the Assistant Director of Mines & Geology concerned, the question of payment of penalty does not arise. Thereby, the

petitioners are entitled to place the material and the respondents in considering the above, not to collect any penalty if the sand is purchased from the permit holders granted by the Mines & Geology Department.

Accordingly and in the result, the writ petition is partly allowed.

Consequently, miscellaneous petitions, if any shall stand closed. No costs.

JUSTICE Dr. B.SIVA SANKARA RAO

Date: 20.07.2017
ska

