

HON'BLE DR. JUSTICE B. SIVA SANKARA RAO

WRIT PETITION Nos.6378, 6396, 6397, 6413 and 6423 of 2018

COMMON ORDER:

Heard learned counsel for the petitioner respectively and learned Government Pleader for Mines and Home respectively for the respondents and perused the prayer in the respective writ petitions with supporting affidavits and other material on record including the impugned proceedings of the 2nd respondent-Assistant Director of the Mines and Geology.

2. The prayers in the respective writ petitions read as follows:

(In W.P.No.6378 of 2018)

“.....to issue any writ or direction or order, more particularly in the nature of Writ of Mandamus declaring the action of the respondents 2 and 3 in seizing the Tractor and Trailer bearing numbers AP 07 AX 4150 and AP 03 BZ 3148 respectively without following due process of law and procedure contemplated under Mines and Minerals Regulation and Development Act and also A.P. Minor Mineral Concession Rules, 1966 as illegal, arbitrary and violative of Article 19 and 21 of the Constitution of India and consequently directing the 3rd Respondent to release the aforesaid Tractor and Trailer bearing numbers AP 07 AX 4150 and AP 03 BZ 3148 respectively from their custody forthwith to the writ petitioner in the interest of justice, and pass just and appropriate orders as the Court may deem fit and proper for the ends of justice.”

(In W.P.No.6396 of 2018)

“.....to issue any writ or direction or order, more particularly in the nature of Writ of Mandamus declaring the action of the respondents 2 and 3 in seizing the Lorry No.TN 18 M 1905

without following due process of law and procedure contemplated under Mines and Minerals Regulation and Development Act and also A.P. Minor Mineral Concession Rules, 1966 as illegal, arbitrary and violative of Article 19 and 21 of the Constitution of India and consequently directing the 3rd Respondent to release the aforesaid Lorry No.TN 18 M 1905 from their custody forthwith to the writ petitioner in the interest of justice, and pass just and appropriate orders as the Court may deem fit and proper for the ends of justice.”

(In W.P.No.6397 of 2018)

“.....to issue any writ or direction or order, more particularly in the nature of Writ of Mandamus declaring the action of the respondents 2 and 3 in seizing the Tractor and Trailer bearing numbers AP 26 TD 8590 and AP 26 TD 8593 respectively without following due process of law and procedure contemplated under Mines and Minerals Regulation and Development Act and also A.P. Minor Mineral Concession Rules, 1966 as illegal, arbitrary and violative of Article 19 and 21 of the Constitution of India and consequently directing the 3rd Respondent to release the aforesaid Tractor and Trailer bearing numbers AP 26 TD 8590 and AP 26 TD 8593 respectively from their custody forthwith to the writ petitioner in the interest of justice, and pass just and appropriate orders as the Court may deem fit and proper for the ends of justice.”

(In W.P.No.6413 of 2018)

“.....to issue any writ or direction or order, more particularly in the nature of Writ of Mandamus declaring the action of the respondents 2 and 3 in seizing the Tractor and Trailer bearing numbers AP 26 TD 7966 and AP 26 TD 7967 respectively without following due process of law and procedure contemplated under Mines and Minerals Regulation and Development Act and also A.P. Minor Mineral Concession Rules, 1966 as illegal, arbitrary and

violative of Article 19 and 21 of the Constitution of India and consequently directing the 3rd Respondent to release the aforesaid Tractor and Trailer bearing numbers AP 26 TD 7966 and AP 26 TD 7967 respectively from their custody forthwith to the writ petitioner in the interest of justice, and pass just and appropriate orders as the Court may deem fit and proper for the ends of justice.”

(In W.P.No.6423 of 2018)

“.....to issue any writ or direction or order, more particularly in the nature of Writ of Mandamus declaring the action of the respondents 2 and 3 in seizing the Tractor and Trailer bearing numbers AP 03 TD 3024 and AP 03 TD 3023 respectively without following due process of law and procedure contemplated under Mines and Minerals Regulation and Development Act and also A.P. Minor Mineral Concession Rules, 1966 as illegal, arbitrary and violative of Article 19 and 21 of the Constitution of India and consequently directing the 3rd Respondent to release the aforesaid Tractor and Trailer bearing numbers AP 03 TD 3024 and AP 03 TD 3023 respectively from their custody forthwith to the writ petitioner in the interest of justice, and pass just and appropriate orders as the Court may deem fit and proper for the ends of justice.”

3. The supporting affidavit averments in almost all the cases is in same line in saying the 2nd respondent-Assistant Director of Mines and Geology having seized the vehicles as if involved in transporting the sand illegally even though the respective petitioners are not transporting the sand from any prohibited area violating any Rules to invoke G.O.Ms.No.42, dated 29.03.2016. It is also the submission that as per Rule 23 sub-section (1) clause (a) of the Andhra Pradesh

Water, Land and Trees Rules, 2004 (for short, 'the Rules'), there is no prohibition for local use in the Villages or towns bordering the streams for taking sand and even for seizing the vehicles of the respective petitioners in question and thereby the impugned proceedings are unsustainable and liable to be set aside by allowing the writ petitions.

4. The learned Government Pleader from oral instructions opposed the petitions saying the illegal transportation of the sand in question, as point out by the proceedings of the 2nd respondent- Assistant Director of Mines and Geology is prone to take recourse under G.O.Ms.No.42, dated 29.03.2016 and even as per Rule 23(1)(a) of the Rules 2004, there must be prior permission from the very wording and it is not a case of there is any such permission and thereby the writ petitions are liable to be dismissed.

5. There is nothing to show any such permission contemplated by Rule 23(1)(a) of the Rules by any of the respective petitioners in transporting any sand in their respective vehicles in question to claim any special exemption invoking that provision. In fact, from perusal of the impugned order of the Assistant Director of the Mines and Geology respectively, it is only a show-cause notice.

6. Having regard to the above, the writ petitions are disposed of directing the 2nd respondent to conduct an enquiry pursuant to the explanation submitted to the show-cause notice and pass appropriate

orders within two months from the date of receipt of a copy of this order for release of the vehicles by imposing of fine or confiscation, as the case may be, on merits. Further grievance of the petitioners if at all left open.

Miscellaneous petitions pending in all the writ petitions, if any, shall stand closed. No costs.

Dr. B. SIVA SANKARA RAO, J

5th March 2018

mar

