THE HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.24803 OF 2019

Dated:20.11.2019

Between:

M/s. K. R. Granites, rep., by its Proprietor
E. Satish Reddy, S/o. E. Raji Reddy,
Age 47 years, Occ: Business,
R/o.H.No.2-10-1011/A,
Jyothinagar, Karimnagar .. Petitioner

And

The State of Telangana, rep., by its
Principal Secretary, Industries and
Commerce Department, Secretariat,
Hyderabad and others .. Respondents

This Court made the following:

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

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ORDER:

Heard learned counsel for petitioner, learned Government Pleader for Mines & Geology for respondents 1 to 5 and learned Government Pleader for General Administration for respondent No.6 and with their consent, the writ petition is taken up for disposal at the admission stage.

2. Petitioner firm is a lease holder of granite mine. A show cause notice dated 27.02.2019 was issued alleging that huge quantity of unaccounted granite blocks were transported through railways by petitioner causing revenue loss to the State. He was also informed that as per the information obtained by the competent authority about rake-wise railway receipts along with transit forms of the quarry lease held by petitioner unit, they transported 107 blocks. According to show cause notice, 472.21 cubic meters quantity of granite was transported without payment of seigniorage charges. Therefore, the notice alleges that petitioner is liable to pay seigniorage charges of Rs.7,79,741/- and penalty quantified for not paying the seigniorage charges as Rs.38,93,869/-.

3. According to learned counsel for petitioner, similar such show cause notices were issued to several granite companies and transporters. In response, several companies have submitted representation(s) seeking full particulars as to how the assessment was made and thereafter to grant 90 days time for submission of explanation. However, orders were passed in September/October,

2019 against all the granite companies, which alleged to have transported excess quantity of unaccounted granite and demanded payment of seigniorage charges and penalty. Similar order was passed against petitioner firm on 27.09.2019 quantifying the amount payable as Rs.7,79,399/- as liability. Aggrieved by the said order, petitioner preferred revision before the Government under Rule 35-A of the Telangana Minor Mineral Concession Rules, 1966 and the same is pending.

4. Learned counsel for petitioner submits that the alleged excess unaccounted transportation of granite pertains to period 2008 to 2011 and basis of the allegation is appraisal report stated to have been issued by the Vigilance and Enforcement Department on 29.05.2013 and after more than six years, process was set in motion and on that ground alone the impugned proceedings are liable to be declared as not maintainable. According to learned counsel for petitioner, after 2013 till final demand notices were issued, permits were granted but presently the permits are not being granted on this ground. He would further submit that the demand notice is not final as remedy of revision is available to petitioner and petitioner has in fact availed the said remedy and the same is pending.

5. As revision is pending, at this stage, the Court is not inclined to express its opinion on alleged delay in resorting to recovery. Having regard to the fact that revision is pending, learned counsel for petitioner and learned Government Pleader representing learned Additional Advocate General submit that writ petition can

be disposed of with direction for expeditious disposal of pending revision.

6. Having regard to the above submission, writ petition is disposed of directing the revisional authority to consider the revision petition and finalize the revision as early as possible, preferably within a period of eight weeks from the date of receipt of copy of this order by assigning reasons in support of its decision. Pending consideration of the revision, 4th respondent-Assistant Director of Mines and Geology is directed to grant fresh permits subject to (i) petitioner depositing 50% of the normal seigniorage charges quantified in the demand notice and (ii) petitioner paying normal seigniorage charges for the permits that are granted hereinafter. Miscellaneous petitions, if any pending, are closed.

P.NAVEEN RAO, J

Date:20.11.2019
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HIGH COURT FOR THE STATE OF TELANGANA ★ HYDERABAD ★