



**IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI
(Special Original Jurisdiction)**

[3310]

THURSDAY ,THE FIFTH DAY OF DECEMBER
TWO THOUSAND AND TWENTY FOUR

PRESENT

THE HONOURABLE DR JUSTICE K MANMADHA RAO

WRIT PETITION NO: 28559/2024

Between:

Jaiprakash Power Ventures Limited

...PETITIONER

AND

The State Of Ap and Others

...RESPONDENT(S)

Counsel for the Petitioner:

1.C SUMON

Counsel for the Respondent(S):

1.GP FOR REVENUE

2.GP FOR MINES AND GEOLOGY

The Court made the following interim order:

WP No.28559 of 2024

Notice before admission.

Learned Government Pleader for Mines and Geology takes notice for Respondent Nos.1 to 3 and the learned Government Pleader for Revenue takes notice for Respondent No.4.

For filing counters by the respondents, post the matter on 23.12.2024.

DR.KMR,J

I.A.No.01 of 2024

Heard Sri C.V.Mohan Reddy, learned Senior counsel representing Mr.C.Sumon, learned counsel appearing for the petitioner and the learned Government Pleader for Mines and Geology appearing for the respondents.

2. Perused the material available on record.

3. On hearing, learned Senior counsel appearing for the petitioner submits that the 3rd respondent has no power or authority to issue either show cause notice or demand notice. The 3rd respondent is not conferred with any such power to issue demand notice either under the provisions of the Mines and Minerals (Development Regulation) Act 1957 (for short "MMDR Act") or under the A.P. Minor Mineral Concession Rules 1996 (AP MMCR") as amended from time to time read with Government of AP executed Lease Agreement and Lease Deed. He further submits that the respondents have to take steps as per the procedure as contemplated under Section 22 of MMDR Act since the provisions of the Act prevails over the rules framed under the said Act. Learned Senior counsel mainly contended that, in the impugned demand notice, the respondents have imposed only penalty and directed the petitioner to pay the said amount. He further submits that, in similar circumstances, a batch of Writ Petitions were filed

before this Court reported in **GSR Stone Crushers vs. State of AP**¹, wherein it was held that the authorities of Mines Department cannot determine the culpability of the person said to be in violation of MMDR Act or APMMC Rules and levy a penalty and further held that it is only a court of competent jurisdiction which go into these questions and levy penalties.

4. Per contra, learned Government Pleader appearing for the respondents submits that the 3rd respondent has power to impose both penalty and seigniorage fee and also having power to determine the culpability and therefore the 3rd respondent issued the impugned Demand notice. He further submits that in the impugned demand notice the respondents are directed the petitioner to pay seigniorage fee not penalty.

5. In reply, learned Senior counsel appearing for the petitioner submits that, in the impugned demand notice, the 3rd respondent has imposed only penalty, which is covered the issue in a batch of writ petitions referred to above, and hence, the impugned demand notice is liable to be set aside.

6. On hearing the submissions, this Court opined that the respondents have to determine and clarify whether the respondents have imposed either penalty or seigniorage fee. To that extent, they are directed to file counter by the next date of hearing.

7. For filing counter, post the matter on 23.12.2024.

8. Considering the submissions of both the learned counsels, there shall be interim stay of all further proceedings pursuant to the Demand Notice

¹2023(1) ALT 312(AP)

No.576/Sand/2019-13, dated 22.11.2024 issued by the 3rd respondent, till the next date of hearing.

DR.KMR,J

Dated 05.12.2024
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