

IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI

THURSDAY, THE FIFTH DAY OF DECEMBER

TWO THOUSAND AND TWENTY FOUR

:PRESENT:

THE HONOURABLE DR JUSTICE K MANMADHA RAO

IA NO.1 OF 2024

IN

WRIT PETITION NO: 28559 OF 2024



Between:

JAIPRAKSH POWER VENTURES LIMITED, Having its registered office at JA House 63, Basant Lok, Vasant Vihar, New Delhi - 110057., rep by its President (F AND A) AND Chief Financial Officer Mr. RK Porwal

Petitioner

AND

1. The State of Andhra Pradesh, Rep. by its Principal Secretary Mines and Geology Department A.P. Secretariat, Velagapudi Amaravati, Guntur District.
2. The Commissioner and Director of Mines and Geology, Ibrahimpatnam, Vijayawada, NTR District Andhra Pradesh - 521 456.
3. The District Mines and Geology Officer, Department of Mines and Geology Government of Andhra Pradesh House No. 11/2, Lakshmi Villa, Talpagiri Colony, Near Dileep Nursing Home, Nellore- 524004, Andhra Pradesh.
4. The Collector and District Magistrate, District Collector office, SPS Nellore District Achari Street Collectors Officer, Nellore, Andhra Pradesh 524001.

Respondents

Counter for the Petitioner : Sri C SUMON

Counsel for the Respondent Nos. 1 to 3 : GP FOR MINES AND GEOLOGY

Counsel for the Respondent No.4 : GP FOR REVENUE

Petition under Section 151 of CPC is filed praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to grant stay on all further proceedings related to Demand Notice No.576/Sand/2019-13 dated 22 November 2024 issued by Respondent No.3, the District Mines and Geology Officer, SPS Nellore District, pending disposal of WP No. 28559 of 2024, on the file of the High Court. ✓

The court while directing issue of notice to the Respondents herein to show cause as to why this application should not be complied with, made the following order.(The receipt of this order will be deemed to be the receipt of notice in the case).

The Court made the following ORDER: ✓

“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 AP¹, 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

¹ 2023(1) ALT 312(AP)

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

SD/- M.PRABHAKARA RAO
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

For /

To,

1. The Principal Secretary Mines and Geology Department, State of Andhra Pradesh, A.P. Secretariat, Velagapudi Amaravati, Guntur District. **[by SPL. MESSENGER]**
2. The Commissioner and Director of Mines and Geology, Ibrahimpatnam, Vijayawada, NTR District Andhra Pradesh - 521 456
3. The District Mines and Geology Officer, Department of Mines and Geology Government of Andhra Pradesh House No. 11/2, Lakshmi Villa, Talpagiri Colony, Near Dileep Nursing Home, Nellore- 524004, Andhra Pradesh
4. The Collector and District Magistrate, District Collector office, SPS Nellore District Achari Street Collectors Officer, Nellore, Andhra Pradesh 524001
(2 to 4 by RPAD- along with a copy of petition and affidavit)
5. One CC to SRI. C SUMON Advocate [OPUC]
6. Two CCs to GP FOR MINES AND GEOLOGY, High Court Of Andhra Pradesh. [OUT]
7. Two CCs to GP FOR REVENUE, High Court Of Andhra Pradesh. [OUT]
8. **One spare copy**

ER

HIGH COURT

DR.KMR, J

DATED:05/12/2024

POST THE MATTER ON 23.12.2024

ORDER

IA NO.1 OF 2024

IN

WP.No.28559 of 2024

STAY

