

**HON'BLE SRI JUSTICE U.DURGA PRASAD RAO**

**Writ Petition No.30960 of 2021**

**ORDER:**

The challenge in this writ petition is the revision order vide Memo No.8460/M.I(2)/2018-2 dated 10.12.2021 passed by 1<sup>st</sup> respondent confirming the demand notice issued by 3<sup>rd</sup> respondent to the petitioner.

2. The petitioner's case succinctly is thus:

(a) The petitioner is the owner of an extent of Ac.2.50 cents in Sy.No.339/4 of Royyuru Village, Thotlavalluru Mandal, Krishna District, which is situated near Krishna River. Due to excess flow of water from Krishna river the petitioner's lands were inundated and sand was deposited on the agricultural land. Therefore, the petitioner made an application to the Collector and District Magistrate, Krishna District seeking permission for decasting of sand from the patta land. The Collector issued proceedings No.4379/Sand/Patta Land/2017 dated 17.02.2018 permitting the petitioner to decaste 35,411 cubic metres of sand within a period of one year. The petitioner complied with the said order.

(a) While so, the 3<sup>rd</sup> respondent issued show cause notice dated 27.06.2018 mentioning therein that on the instructions of the District Collector, the Mining Officers have inspected the land on 22.05.2018 and found the petitioner encroached and transported the sand and sold at excess rate and at the time of inspection, sand quarrying was going

on in Sy.No.339/4 and there were some vehicles present. With regard to the encroachment a Surveyor report was obtained on 23.05.2018 and submitted to the Joint Collector on 25.05.2018 and from the said report the 3<sup>rd</sup> respondent came to the conclusion that the petitioner despatched a quantity of 8701.00 cubic metres of sand. On those observations the 3<sup>rd</sup> respondent issued a show cause notice calling upon the petitioner to show cause as to why penalty of Rs.1,74,02,000/- should not be imposed on him for dispatch of the aforesaid quantity of the sand. The petitioner submitted objections disputing the allegations made in the show cause notice. She disputed with regard to the correctness of the survey and the measurements obtained in her land and asserted that she did not commit any encroachment in any portion of the land nor excavated nor transported the quantity mentioned in the show cause notice. She clearly mentioned that inspection proceedings and report etc. were not served on her along with show cause notice and therefore, principles of natural justice were violated.

(b) On receiving the explanation of petitioner, the 3<sup>rd</sup> respondent issued demand notice stating that on the date of inspection i.e., 22.05.2018 the representative of petitioner was present at the spot and attended the survey and explanation of the petitioner was not satisfactory and thus, demanded her to pay the amount. Aggrieved, the petitioner filed revision before the 1<sup>st</sup> respondent contending that the 3<sup>rd</sup> respondent has not furnished the copies of the documents relied

upon by her and passed the impugned order. Further, the petitioner denied the presence of any of her representatives at the time of alleged survey and inspection. She stated that Venkanna who is alleged as her representative was not her agent. She took a further plea that no vehicle belonging to the petitioner was seized for confiscation and the petitioner has not encroached the alleged adjoining lands.

(c) The revision was admitted and posted to 22.07.2021. On that day, the husband of petitioner and their advocate were present and requested 1<sup>st</sup> respondent for time on the ground that information with regard to hearing of the case was received only one day before and sought for adjournment. Accordingly, the 1<sup>st</sup> respondent agreed to grant adjournment and the petitioner was waiting for issuance of the notice, but in the meanwhile, to the surprise of the petitioner the impugned order was passed by 1<sup>st</sup> respondent confirming the order of 3<sup>rd</sup> respondent. Hence, the petitioner's grievance is that none of the grounds in the revision raised by the petitioner were considered and the impugned order is not a speaking order.

Hence, the writ petition.

3. No counter is filed.
4. Heard arguments of Sri O.Manohar Reddy, learned counsel for petitioner, and learned Government Pleader for Mines & Geology representing the respondents 1 to 3.

5. The main plank of argument of the learned counsel for petitioner is that the petitioner raised several grounds in the revision touching the veracity of the inspection and surveyor proceedings and also the legality of the demand notice, however, without considering any of the grounds and without hearing the revision petitioner the revisional authority passed the impugned order and thereby principles of natural justice are violated and the impugned order is not a speaking order.

6. Per contra, learned Government Pleader for Mines & Geology supported the impugned order.

7. The point for consideration is whether there are merits in the writ petition to allow?

8. **Point:** I gave my anxious consideration to the above respective arguments. The impugned order passed by 1<sup>st</sup> respondent is in the nature of an order passed by a *quasi* judicial authority. It is trite law that orders passed by such *quasi* judicial authorities are not exempted from giving cogent reasons for the conclusions arrived at by them, meaning thereby, the orders of the *quasi* judicial authorities should depict that they are well reasoned and speaking orders. In the normal circumstances, the constitutional Courts loath to exercise plenary power under Article 226 of the Constitution of India to test the veracity of the orders of the *quasi* judicial authorities. The role of the Court is supervisory and corrective. In exercise of the writ

jurisdiction, the constitutional Court is not expected to interfere with the final orders passed by the statutory authority, unless the order suffers from manifest error and if it is allowed to stand, it would amount to perpetuation of grave injustice. At the same time, writ jurisdiction cannot be converted to deal with the matter as an appellate Court [**Ashok Kumar v. Sita Ram** (2001) 4 SCC 478, **Action Council, Poovathode v. Brenny Abraham** (2002) 9 SCC 493, **Sanjay Kumar Manjul v. Chairman** (2006) 8 SCC 42].

9. In the light of the above jurisprudence, this Court perused the impugned order which shows, the revisional authority has narrated the grounds of revision in the impugned order. The petitioner has taken several grounds opposing the demand notice. However, it must be said, the revisional authority without testing the veracity of the grounds on the legal crucible, dismissed the revision application. The revisional authority has not given any reasons as to how it was satisfied with the huge demand of Rs.1,74,02,000/- made by the Department against the petitioner in spite of the petitioner's categorical denial that she has not exceeded her limits and encroached into other's land and survey operations were not conducted in her presence and none of her representatives was present and her vehicles were not seized etc.

10. Therefore, I am constrained to hold that the impugned order is not a speaking order inasmuch as no cogent reasons are given and

therefore, the impugned order is liable to be set aside and the matter is required to be remanded back for fresh consideration.

**11.** In the result, the Writ Petition is allowed and the impugned order in Memo No.8460/M.I(2)/2018-2 dated 10.12.2021 passed by the 1<sup>st</sup> respondent is set aside and the matter is remitted back to 1<sup>st</sup> respondent with a direction to fix a date for hearing and after hearing the petitioner as well as the officials of the Mines Department, pass an appropriate order in accordance with the governing law and Rules by giving cogent reasons expeditiously. Till such exercise is completed, the respondent authorities shall not take any coercive steps against the petitioner for realizing the amount covered by the demand notice dated 31.07.2018. No costs.

As a sequel, interlocutory applications, if any pending, shall stand closed.

31.01.2022  
MVA

---

**U. DURGA PRASAD RAO, J**

**HON'BLE SRI JUSTICE U. DURGA PRASAD RAO**

**Writ Petition No. 30960 of 2021**

31<sup>st</sup> January, 2022

mva