

THE HON'BLE SRI JUSTICE A.V. SESA SAI

WRIT PETITION No.28564 of 2012

ORDER:

This writ petition is filed under Article 226 of the Constitution of India challenging the Demand Notice bearing No.3086/Vg/2002, dated 16-07-2012 issued by the Assistant Director of Mines and Geology, Visakhapatnam—respondent No.3 herein.

Heard Sri K. Bhaskara Rao, learned counsel for the petitioner and learned Government Pleader for Mines and Geology for respondents, apart from perusing the material available before the Court.

This Court while ordering rule nisi on 12-09-2012 granted interim direction in W.P.M.P.No.36437 of 2012 as prayed for subject to deposit of 50% of the demanded amount within a period of eight (8) weeks with a default clause.

Today, when the matter is called, a preliminary objection with regard to the maintainability of the writ petition is taken by the learned Government Pleader stating that as against the questioned demand notice, dated 16-07-2012 petitioner herein has alternative remedy of appeal to the Director of Mines and Geology under Rule 35 of A.P. Minor Mineral Concession Rules, 1966 (for short, 'the Rules'), which reads as under:

“35. Appeal:- An appeal against any order passed by the Assistant Director or Deputy Director, Joint Director under these rules shall lie to the Director within a period of two months from the date of communication of such order to the party aggrieved and an appeal against an order of the Director shall be to the Government in like manner.”

In view of efficacious alternative remedy of appeal, available to the petitioner herein, this Court is of the opinion that the petitioner herein can avail the said remedy by way of filing appeal before the Director of Mines and Geology.

For the aforesaid reasons, the writ petition is disposed of, permitting the petitioner herein to file statutory appeal before the Director of Mines and Geology against the impugned Demand Notice under Rule 35 of the Rules

within a period of six (6) weeks from the date of receipt of a copy of this order. If any such appeal is filed before the Director of Mines and Geology, the same be considered and appropriate orders be passed within a period of two (2) months thereafter after giving notice and opportunity of being heard to the petitioner herein. It is also made clear that if no such appeal is filed within the time stipulated the respondent authorities are entitled to proceed, in accordance with law. Pending disposal of the said appeal, if it is filed, interim direction granted on 12-09-2012 shall continue.

The Miscellaneous Petitions, if any, pending in this Writ Petition shall stand closed. There shall be no order as to costs.

A.V. SESA SAI, J

December 07, 2015

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