

THE HON'BLE SRI JUSTICE SANJAY KUMAR

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WRIT PETITION No.36050 of 2015

ORDER:

This writ petition was filed assailing G.O.Ms.No.68, Industries & Commerce (M.II) Department, dated 14.08.2015, whereby the mining lease held by the petitioner over an extent of 4.636 hectares in Survey Nos.4/P, 5/P and 8/P of Chavadikota Village, Maredumilli Mandal, East Godavari District, relating to mining of Laterite, was determined.

Smt. N.Shoba, learned counsel for the petitioner, contended that the petitioner was never put on notice and the lease was determined in flagrant violation of the principles of natural justice. In the light of this contention, the learned Assistant Government Pleader for Mines and Geology was asked to get instructions as to whether the petitioner was put on notice prior to determination of her mining lease.

Having received oral instructions in the matter, the learned Assistant Government Pleader for Mines and Geology stated that a show cause notice was issued to the petitioner on 19.11.2013 in relation to certain mineral revenue dues in the context of the alleged illegal excavation of Laterite by the petitioner outside the leased area. He further stated that demand notice dated 29.08.2015 was issued to the petitioner in this regard.

Perusal of the said demand notice reflects that the petitioner submitted an explanation to the show cause notice dated 19.11.2013 under her letter dated 25.11.2013.

The learned Assistant Government Pleader would contend that in terms of Rule 45(iv) of the Mineral Concession Rules, 1960, failure on the part of the petitioner to pay the amounts due under the aforesaid demand notice would entail determination of the lease.

However, perusal of the impugned G.O. reflects that there is no mention therein of the demand notice dated 29.08.2015. The only reason cited for determination of the petitioner's lease is that a complaint was filed before the Hon'ble Lokayuktha in the context of the petitioner's mining lease and in the light of

the orders passed by the Hon'ble Lokayuktha in the said complaint on 06.08.2014, the Government had decided to determine the petitioner's mining lease. There is also no indication of the petitioner having been put on notice as to the order passed by the Hon'ble Lokayuktha and as to the proposal of the authorities to determine her mining lease.

Smt. N.Shoba, learned counsel, states that the petitioner was not a party to any proceedings before the Hon'ble Lokayuktha and is therefore completely unaware of the same.

Determination of the mining lease granted to the petitioner as long back as in the year 2007 would invariably have adverse civil consequences. In such a scenario, it was incumbent upon the authorities to give due opportunity of hearing to the petitioner before taking such a step. The admitted position is that the petitioner was not put on notice prior to determination of her lease under the impugned G.O. Reference to the demand notice is of no avail as there is no mention thereof in the impugned G.O. and it is the settled position of law that the impugned proceedings would have to withstand judicial scrutiny on the strength of its own contents and reasons therefor cannot be supplemented thereafter.

For the aforesaid reasons, this Court is of the opinion that the impugned G.O. is liable to be set aside on the short ground that it is in violation of the principles of natural justice.

The writ petition is accordingly allowed setting aside G.O.Ms.No.68 dated 14.08.2015. This order shall however not preclude the authorities from initiating action afresh against the petitioner in accordance with law and in keeping with the principles of natural justice.

Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

SANJAY KUMAR, J

Date:06.11.2015

GJ