

THE HON'BLE SRI JUSTICE SANJAY KUMAR

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WRIT PETITION No.37318 of 2015

ORDER:

The petitioner – concern is aggrieved by the demand notice dated 09.09.2015 issued by the Assistant Director of Mines and Geology, Nandigama, whereby it was called upon to pay a sum of Rs.49,00,254/- towards seigniorage fee along with five times penalty for unlawful excavation and transportation of road metal.

Perusal of the impugned demand notice reflects that a show cause notice was issued to the petitioner – concern calling upon it to submit an explanation. In response thereto, the petitioner – concern filed an explanation which is mentioned at reference No.3 of the impugned demand notice. It appears that the petitioner – concern also filed an additional explanation on 01.09.2015. The first explanation runs into two pages while the second one runs into three pages. The only consideration given to these explanations, as is evident from the impugned demand notice, is as under:

“In this connection, the reply submitted vide reference third cited is not satisfactory.”

When the authority proposed to visit consequences which were adverse to the petitioner – concern and had gone through the motions of issuing it a show cause notice, it was required to record reasons as to why it was not impressed with the explanation put-forth by the petitioner – concern. The consideration of such explanation must be evident from the proceeding itself and it is not open to the authority to supplement the same thereafter. In this regard, the impugned demand notice falls woefully short as it is completely bereft of reasons as to why the petitioner – concern’s explanation was not found satisfactory.

On this short ground, the impugned demand notice is set aside. This order shall however not preclude the Assistant Director of Mines and Geology, Nandigama, from taking necessary action afresh in accordance with the due procedure and passing reasoned orders.

The writ petition is accordingly allowed.

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

SANJAY KUMAR, J

Date:17.11.2015

GJ