

THE HON'BLE SRI JUSTICE SANJAY KUMAR

-
WRIT PETITION No.2320 of 2016

ORDER:

This writ petition was filed assailing the demand notice dated 04.11.2015 issued by the Deputy Director of Mines and Geology, Kurnool.

Normally, this Court would not have entertained the writ petition as the statute provides for an alternative efficacious remedy by way of an appeal/revision. However, in the present case, interference is warranted owing to the following facts.

The impugned demand notice was issued in the context of the alleged illegal mining of the minerals, Dolomite, Steatite and White Shale. It is not in dispute that Dolomite, Steatite and White Shale have been

de-notified as major minerals under notification dated 10.02.2015 issued by the Ministry of Mines, Government of India, and therefore, they became minor minerals from the said date. It is also not in dispute that the law applicable to major minerals and minor minerals varies as Dolomite, Steatite and White Shale, as long as they were classified as major minerals, were governed by the Mineral Concession Rules, 1960, but after de-notification, they would be governed by the State Legislation, the Andhra Pradesh Minor Mineral Concession Rules, 1966. Notwithstanding the same, the authority continued to apply the Mineral Concession Rules, 1960, and the Mines and Minerals (Development and Regulation) Act, 1957, to the case, treating it as one relating to a major mineral. This is unsustainable as the said legislation no longer had application after de-notification of the minerals.

The impugned demand notice therefore suffers on the ground of this jurisdictional defect and is accordingly set aside. This order shall however not preclude the authorities from taking appropriate action afresh in accordance with law.

The writ petition is allowed to the extent indicated above. Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

SANJAY KUMAR, J

Date:28.01.2016
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