

THE HON'BLE SRI JUSTICE C.PRAVEEN KUMAR

WRIT PETITION No. 18409 of 2016

ORDER :

This Writ Petition has been filed assailing the demand notice No.66/M2/2003, dated 29.12.2015 issued by respondent No.3.

This Court normally 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 mineral, Dolomite. It is not in dispute that Dolomite has been de-notified as a major mineral by Notification No. S.O. 423 (E), dated 10.02.2015 issued by the Ministry of Mines, Government of India, and therefore, it became a minor mineral from the said date. It is also not in dispute that the law applicable to major minerals and minor minerals varies, as, Dolomite, as long as it was classified as a major mineral, was governed by the Mineral Concession Rules, 1960, but after de-notification, it would be governed by the State Legislation, the Andhra Pradesh Minor Mineral Concession Rules, 1966.

The show-cause notice issued to the petitioner,

which forms the basis for the impugned demand notice, is dated 20.11.2015. The fact remains that the status of the mineral underwent the afore-stated change even before the issuance of the show-cause notice. Notwithstanding the same, the authority continued to apply the Mineral Concession Rules, 1960 to the case. This is unsustainable as the said legislation no longer had application after de-notification of the mineral. The impugned demand notice therefore suffers from 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. Miscellaneous petitions pending, if any, in the Writ Petition shall stand closed in the light of this final order. No order as to costs.

C.PRAVEEN KUMAR, J

17.06.2016

DRK

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