

THE HON'BLE SRI JUSTICE SANJAY KUMAR

WRIT PETITION NO.6766 OF 2016

ORDER

Challenge in this writ petition is to a demand notice which is appealable under the statute. This Court would entertain a writ petition against such a demand notice only if any jurisdictional lacuna is made out or if there is any violation of the principles of natural justice. Such is not the situation in the case on hand.

Sri Hari Sreedhar, learned counsel for the petitioner, would however contend that the relevant rules do not authorize pit measurements being taken. He would place reliance on Rule 34 of the Andhra Pradesh Minor Mineral Concession Rules, 1966 (for brevity, 'the Rules of 1966') in this regard.

Opposing this contention, learned Assistant Government Pleader for Mines and Geology, would place reliance on Rule 26 of the Rules of 1966 which deals with penalties for unauthorized quarrying. Rule 26(1) deals with quarrying operations or transport of minor minerals in contravention of the Rules while Rule 26(2) deals with the penalties which shall be levied in connection therewith. Rule 26(3)(i) speaks of the power of the Government or the person authorized to enter and inspect any premises apart from surveying and taking measurements for the purpose of ascertaining the mineral revenue due. Rule 26(3)(ii) speaks of the penalty payable by any person who uses or consumes or is in possession of any mineral, including processed mineral, which has not suffered payment of due mineral revenue.

Though Sri Hari Sreedhar, learned counsel, would contend that in the light of sub-rule (ii) of Rule 26(3), the entire sub-rule should be construed to have application to only a consumer, this Court is not inclined to accept this interpretation. Rule 26(3)(i) lends itself to the construction that it is in continuation of Rule 26(1) and Rule 26(2) and therefore cannot be limited by Rule 26(3)(ii).

The Full Bench judgment of this Court in **L. VENKATESWARA RAO V/s. SINGARENI COLLIERIES CO., LTD.**^[1] dealt with Rule 26(3) (ii) of the Rules of 1966 alone and did not hold to the effect that it would curtail the scope of Rule 26(3)(i). It is therefore of no avail to the petitioner.

Rule 34 of the Rules of 1966 deals with dispatch permits and therefore concerns itself primarily with transport of the mineral excavated or quarried. It has no relevance to the case on hand.

This being the legal situation, this Court is of the opinion that no grounds are made out for interference with the subject demand notice by exercise of the extraordinary jurisdiction vesting in this Court under Article 226 of the Constitution.

The writ petition is therefore dismissed on this short ground. This order shall however not preclude the petitioner from availing the statutory remedy available to him in accordance with law. Pending miscellaneous petitions shall also stand dismissed. No order as to costs.

SANJAY KUMAR, J

2ND MARCH, 2016

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^[1] 1993(3) ALT 199 (F.B.)