

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No. 35150 OF 2016

ORDER:

The order dated 28.09.2016 is challenged before this court demanding a sum of Rs.1,79,615/- as seignorage fee and a sum of Rs.8,68,075/- as penalty, in total Rs.10,47,690/-, on the ground that the petitioner had not paid the seignorage fees for the minor mineral viz., gravel, road metal, sand, and bricks procured for construction of artificial complex. Pursuant to the show cause notice issued to the petitioner on 13.07.2016, he submitted explanation along with the copies of the bills pertaining to the material procured, which indicate payment of seignorage fees. The grievance of the petitioner is that the material placed by the petitioner evidencing payment of seignorage fees etc., was not considered by the respondent authorities and in the process had ignored the material placed before him only on the ground that the said documents were not produced before the vigilance and inspecting authority during inspection.

2. Learned counsel for the petitioner contends that there is utter violation of principles of natural justice and non-consideration of material on record in making the demand. Learned Government Pleader opposed the writ petition.

3. A perusal of the order dated 28.09.2016, it is clear that the petitioner had placed relevant documents in proof of payment of seignorage fees. The same was not considered by the second respondent on the ground that petitioner had not placed the same before the inspecting authorities i.e., vigilance officials during their visit to the petitioner's premises. The reasoning given by the second respondent is totally perverse and cannot stand for reason.

4. Admittedly, a show cause notice was issued to the petitioner on 13.07.2016 calling for explanation as to why action should not be initiated for realization of normal seignorage fees together with penalty. The very purpose of issuance of show cause notice is to enable the petitioner to offer his explanation which is required to be considered. If it is the case of the second respondent that the production of the documentary evidence before the inspecting authority was itself sufficient, there is no requirement of issuance of notice on 13.07.2016. The second respondent having issued the impugned notice, he is bound to consider the explanation and advert to it and take into consideration the material placed by the petitioner before him before confirming the demand in the show cause notice.

5. In those circumstances, this court is of the opinion that the impugned order is irrational and is in violation of principles of

natural justice and as such it is set aside. However, the second respondent shall pass orders afresh after considering the material placed before him by the petitioner, as admitted in the impugned order, in accordance with law.

With the above direction, the writ petition is disposed of. As a sequel, the miscellaneous applications, if any, shall stand closed. There shall be no order as to costs.

October 19, 2016
LMV

JUSTICE CHALLA KODANDA RAM

