

THE HON'BLE SRI JUSTICE SANJAY KUMAR

WRIT PETITION No.1011 OF 2016

ORDER

This writ petition was filed assailing the demand notice dated 09.09.2015 and also the initial notice dated 03.08.2015. As there was a discrepancy as to the receipt of the petitioner's reply and the dispatch of the impugned demand notice, this Court, on 07.01.2016, granted interim stay of all further proceedings pursuant to the impugned demand notice.

Today, the learned Assistant Government Pleader produced the record. Perusal thereof reflects that the petitioner's explanation to the show cause notice dated 03.08.2015 was received on 13.10.2015. However, the impugned demand notice signed on 09.09.2015 was dispatched on 19.11.2015. By that date, the explanation of the petitioner was before the authority but despite the same, the said explanation was not considered. Surprisingly, in the subject portion of the demand notice, the authority referred to the reply submitted and stated that it was not satisfactory but no such consideration is manifest in the body of the demand notice.

In the light of the afore-stated discrepancies and contradiction, this Court is of the opinion that the impugned demand notice cannot be sustained. The impugned demand notice is therefore set aside on this short ground. The Assistant Director of Mines and Geology, Nandigama, shall consider the petitioner's explanation received on 13.10.2015 in response to the show cause notice dated 03.08.2015 and pass orders afresh in accordance with law. In the event the petitioner had asked for any additional information, the same shall be furnished so as to give it a full opportunity of hearing before passing of final orders. This exercise shall be completed expeditiously.

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

SANJAY KUMAR, J

23rd FEBRUARY, 2016
PGS