

**THE HON'BLE SRI JUSTICE A.V.SESHA SAI**

**WRIT PETITION No.27581 of 2017**

**ORDER:**

Heard Sri G. Raja Babu, learned counsel for the petitioner and the learned Government Pleader for Mines and Geology for the respondents.

The petitioner is a Plot Owners' Welfare Association. In the present writ petition, challenge is to the action of the 1<sup>st</sup> respondent in returning the revision filed by the petitioner under the provisions of Rule 35-A of the A.P. Minor Mineral Concession Rules, 1966 (hereinafter referred to as "the Rules"). The Assistant Director of Mines and Geology, 2<sup>nd</sup> respondent herein, issued a show cause notice bearing No.864-2/V&E/Vig/Vsp/2013, dated 15.06.2013, calling upon the petitioner to show cause as to why action should not be taken by imposing the amounts indicated therein towards normal seigniorage fee together with five times penalty under Rule 26(3) of the Rules.

According to the petitioner, immediately after receipt of the said show cause notice, the petitioner office bearers approached the office of the 2<sup>nd</sup> respondent and paid a sum of Rs.2,39,040/- towards normal seigniorage fee pursuant to the assurance given by the 2<sup>nd</sup> respondent that no further insistence would be made for the penalty amount.

The Assistant Director of Mines and Geology, 2<sup>nd</sup> respondent, vide demand notice, dated 04.03.2014, directed the petitioner to remit a sum of Rs.11,95,200/- towards penalty as indicated in the

show cause notice, within a period of fifteen days from the date of receipt of the said notice. Thereafter, the petitioner presented a revision under Rule 35-A of the Rules by post before the 1<sup>st</sup> respondent on 10.04.2014, but the same was returned on the ground that the Peshi of the concerned department was closed. Subsequently, the petitioner re-submitted the revision on 21.10.2015 enclosing the copy of the earlier revision and other documents. Eventually, the State Government vide letter No.15603/M.I(2)/2015-1, dated 11.03.2016, returned the original revision application on the ground that the same was filed with a delay of one year three months. In the above background, the present writ petition is filed.

According to the learned counsel for the petitioner, the said action on the part of the 1<sup>st</sup> respondent in returning the revision is a patent violation of the principles of natural justice and opposed to the very spirit and object of Rule 35-A of the Rules.

Per contra, it is contended by the learned Government Pleader that there exists no illegality nor any infirmity in the impugned action and in the absence of the same, the impugned action is not amenable for any judicial review under Article 226 of the Constitution of India.

As per the proviso to Rule 35-A of the Rules, no order adversely affecting any person shall be passed under the Rule, unless such person is given an opportunity of making his representation. Letter, dated 11.03.2016, returning the revision application, which is placed on record, does not disclose that the

1<sup>st</sup> respondent afforded any such opportunity to the petitioner before resorting to impugned action. It is a settled and well established principle of law that when an action has civil consequences the authorities concerned shall afford opportunity of being heard to the persons likely to be affected by such action. In the instant case, the same is followed in breach. Therefore, the impugned action is liable to be declared as illegal on the ground of violation of principles of natural justice.

For the aforesaid reasons, the writ petition is allowed, setting aside letter, dated 11.03.2016, and the revision application filed by the petitioner stands restored to file for fresh consideration in accordance with law and the petitioner shall also file an application for condonation of delay in filing the said revision for consideration of the respondents within a period of one month from the date of receipt of a copy of this order. On filing such application, the respondents shall pass appropriate orders in accordance with law, after giving notice and opportunity of hearing to the petitioner. No order as to costs.

Miscellaneous petitions, if any, shall also stand disposed of.

**A.V.SESHA SAI, J**

Date: 18.08.2017  
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