

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

WRIT PETITION No.34222 OF 2017

ORDER:

In this Writ Petition, under Article 226 of the Constitution of India, the challenge is to the action of respondent no.1 in rejecting and returning the revision petition of the writ petitioner vide letter, dated 09.02.2016, on the ground that the revision is filed with a delay of two months and eight days and that the reasons stated in the application for condonation of delay are not convincing.

2. I have heard the submissions of Sri G. Raja Babu, learned counsel for the writ petitioner, and of the learned Government Pleader for Industries and Commerce for the respondents. I have perused the material record.

3. After receipt of demand notice, dated 18.05.2015, the writ petitioner, admittedly, filed a revision petition, however, along with an application for condonation of delay. Before the said demand notice, the writ petitioner was required to show cause as to why action should not be initiated against him for transportation of excess quantity of road metal from lease hold area. However, by the demand notice, while demanding the amount stated therein, the petitioner was required to pay the said amount within fifteen days from the date of receipt of the said demand notice and was further informed that on his failure to do so, action will be initiated under the Rules.

4. Learned counsel for the petitioner would submit that the action on the part of respondent no.1 in disposing of the

application for condonation of delay and rejecting the revision petition and returning the same is a patent violation of the principles of natural justice and is opposed to the provision under Rule 35 of the A.P. Minor Mineral Concession Rules, 1966 ('the Rules', for brevity).

5. Learned Government Pleader submits that there is no illegality or infirmity in the order, vide letter, dated 09.02.2016, and that respondent No.1 is justified in dismissing the application for condonation of delay and rejecting and returning the revision petition to the writ petitioner and that in the case on hand, challenging the letter, dated 09.02.2016, the present Writ Petition is filed in the year 2017, i.e., after a delay of one and half years and, therefore, the Writ Petition is liable for dismissal.

6. I have earnest consideration to the facts and submissions. Though, admittedly, the revision petition is filed with delay and along with an application for condonation of delay, an order was passed rejecting and returning the revision on the ground that the reasons submitted for condonation of delay are not convincing. A perusal of the order, dated 09.02.2016, makes it manifest that no opportunity of hearing was given to the writ petitioner before the said order was passed. As per the provision of Section 35-A of the Rules, no order adversely affecting a party shall be passed; and, the Rule ordains that an opportunity of hearing or making a representation shall be given before passing any order. The letter, dated 09.02.2016, which is placed on record, does not disclose that respondent No.1 afforded an opportunity of hearing to the writ petitioner before the order refusing to condone the delay and

rejecting and returning the original revision petition was passed. The action under the letter impugned, if sustained, will have civil consequences. It is settled law that when an action has civil consequences, the authority concerned shall afford an opportunity of hearing to the person likely to be affected by such action. Therefore, in the considered view of this Court, the impugned action is liable to be declared as illegal on the ground of violation of statutory provision and the principles of natural justice.

7. Be that as it may, coming to the contention of the learned Government Pleader that the Writ Petition has been filed after a delay of one and half years, it is to be noted that one of the contentions of the writ petitioner is that after the action under letter, dated 09.02.2016, was taken, the letter was not communicated to the petitioner. However, the learned Government Pleader would submit that the letter, dated 09.02.2016, was communicated by registered post with acknowledgement due and seeks time for seeking instructions in that regard.

8. In the considered view of this Court, even assuming for a moment that the said letter is communicated to the petitioner and there was delay in seeking the relief by filing this Writ Petition, on that ground of delay, the writ petitioner cannot be denied the relief in this Writ Petition, as the impugned action in the letter, dated 09.02.2016, is one in violation of the principles of natural justice as well as statutory provision. Therefore, this Court finds that the petitioner is entitled to an opportunity of hearing before an order affecting his civil rights is passed. Accordingly, this Court finds no merit in this contention of the 1st respondent.

9. In the result, the Writ Petition is allowed and the action of respondent no.1 vide letter, dated 09.02.2016, refusing to condone delay and rejecting the revision, dated 24.10.2015, filed by the writ petitioner against the demand notice, dated 18.05.2015, issued by respondent No.2 is set aside and the application for condonation of delay, which is filed by the writ petitioner, is remitted to the said authority with a direction to dispose of the same on its merit, however, after giving an opportunity of hearing to the writ petitioner.

Miscellaneous Petitions, if any, pending in this Writ Petition shall stand closed.

There shall be no order as to costs.

October 30, 2017
MD

M.SEETHARAMA MURTI, J

