

HONOURABLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.46449 of 2016

Date: 02.01.2017

Between:

Nandyala Sreekanth, s/o. Chinna Venkateswarlu,
Aged about 24 years, Occu: Agriculturist,
R/o. 4/23, Bayana Palle, Chennur, Chennur Mandal,
YSR Kadapa District, owner of Tractor and Trailer
Bearing No.AP 04 V 8996 and AP 04 V 8997
and others.

.....Petitioners

and

The State of Andhra Pradesh, rep.by its Principal
Secretary, Department of Industries & Commerce
(Mines-II), Secretariat, Velagapudi Village,
Amaravathi, A.P., and others.

.....Respondents



The Court made the following:

HONOURABLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.46449 of 2016

ORDER:

Vehicles of the petitioners were seized on the allegation that they were illegally transporting sand from Pennar River near Kondapeta of Chennur Mandal on 07.09.2016. By the order impugned, the District Collector directed the Revenue Divisional Officer, Kadapa to release the vehicles duly imposing the penalty mentioned in the tabulated form to the extent of sand excavated. This order is challenged by the petitioners on the ground that before taking such a decision and fixing the penalty to be imposed on them, they were not put on notice and no explanations were called from them and such action of the respondents amounts to arbitrary and illegal exercise of power.

2. A bare perusal of the order impugned makes it clear that it is not preceded by notice or opportunity. The District Collector come to a particular conclusion on the allegation of illegal transportation of sand and fixes the amount of penalty to be imposed on them and thereafter directs the Revenue Divisional Officer to take appropriate action as warranted by the G.O.Ms.No.42, Industries & Commerce (Mines.II) Department, dated 29.03.2016.

3. The Government amended the Andhra Pradesh Minor Mineral Concession Rules, 1966 (for short, 'Rules, 1966'), which were notified vide G.O.Ms.No.42, dated 29.03.2016. Amended provisions as notified in the said G.O., indicate procedure to be

followed in case of confiscation of the vehicle. No such procedure is followed.

4. Learned Government Pleader does not dispute the fact that prior notices were not issued. Thus, the impugned order is liable to be set aside on the ground of violation of principles of natural justice and also on the ground of non-compliance of the statutory requirement, more particularly when such an order has civil and evil consequences. Thus, order impugned is set aside and matter is remitted to the competent authority to consider the issue having regard to the provisions of the Rules, 1966 as amended from time to time including the amendments notified vide G.O.Ms.No.42, dated 29.03.2015. The entire exercise shall be completed within a period of three weeks from the date of receipt of copy of this order. Petitioners shall cooperate for completion of the proceedings. It is open to the competent authority to take coercive action if the petitioners do not respond to the notices.

5. The Writ petition is disposed of accordingly. There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

JUSTICE P.NAVEEN RAO

Date: 02.01.2017
kkm

HON'BLE SRI JUSTICE P.NAVEEN RAO



WRIT PETITION No.46449 of 2016

Date: 02.01.2017

kkm