

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

WRIT PETITION No.17016 of 2017

ORDER:

Heard Sri D.Prakash Reddy, learned Senior Counsel representing learned counsel for the petitioner and learned Government Pleader for respondents.

The Demand notice, bearing No.5124/M/1998 dated 05.05.2017 issued by the Deputy Director of Mines and Geology, Visakhapatnam-third respondent herein, asking the petitioner to pay a sum of Rs.3,73,28,382/-, is under challenge in the present Writ Petition.

According to the learned Senior Counsel, the order under challenge is illegal, arbitrary, unreasonable and violative of Articles 14 & 19 (1) (g) of the Constitution of India besides being opposed to the principles of natural justice. It is further submitted by the learned Senior Counsel that the Deputy Director for Mines and Geology, Visakhapatnam passed the order under challenge without considering the explanation offered by the petitioner herein in response to the show cause notice. On the other hand it is submitted by the learned Government Pleader for Industries & Commerce (Mines) Department that there is no illegality nor material infirmity and irregularity in the impugned action.

The Deputy Director for Mines and Geology, Visakhapatnam issued a show cause notice dated 03.12.2016 asking the petitioner to show cause as to why the mining lease

of Manganese Ore held by the petitioner herein should not be determined under Section 21 (5) of the Mines & Minerals (Regulation & Development) Act, 1957 r/w Mineral Concession Rules, 1960. In response to the said show cause notice the petitioner herein submitted an explanation on 15.12.2016. Eventually the Deputy Director of Mines and Geology, Visakhapatnam passed the order under challenge on 05.05.2017, asking the petitioner to pay a sum of Rs.3,73,28,382/- while threatening action for determination in the absence of complying with the same.

The information available before this Court discloses that in response to the show cause notice dated 03.12.2016 the petitioner herein submitted an explanation on 15.12.2016 allegation-wise. A perusal of the impugned demand notice reveals that the Deputy Director of Mines and Geology, Visakhapatnam, except showing the reply/explanation submitted by the petitioner as one of the references, did not advert to the contents of the explanation offered by the petitioner herein. In the considered opinion of this Court the same cannot be sustained. On this ground alone this Writ Petition is liable to be allowed and matter requires reconsideration by taking into consideration the explanation offered by the petitioner herein.

For the aforesaid reasons the Writ Petition is allowed, setting aside the impugned demand notice dated 05.05.2017 issued by the Deputy Director for Mines and Geology,

Visakhapatnam and the matter is remanded to the Deputy Director for Mines and Geology, Visakhapatnam for fresh consideration and for passing the order afresh after taking into consideration the explanation offered by the petitioner in accordance with law. As a sequel, the miscellaneous petitions, if any, shall stand closed. There shall be no order as to costs.

18th May,2017
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A.V.SESHA SAI, J



