

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

WRIT PETITION No.29482 of 2017

ORDER:

Heard learned counsel for the petitioner, learned Government Pleader for Mines and Geology (A.P) for respondent Nos.1 and 2, learned Government Pleader for Home (A.P) for respondent No.3 and learned Government Pleader for Revenue (A.P) for respondent No.4.

2. Notice bearing No.111/Q/Sand/2016, dated 24.08.2017, issued by respondent No.2, directing the petitioner to pay a penalty of Rs.2 lakhs as per Rule 9-B(2) of the Rules notified in G.O.Ms.No.42, Industries & Commerce (M.II) Department, dated 29.03.2016, is under challenge in the present writ petition.

3. According to the petitioner, he is the registered owner of JCB bearing registration No.AP31WS TR 2111 which was purchased by him on 31.10.2016. He hired the said vehicle to the private contractors to undertake government contract works on rental basis per hour. By way of impugned notice, dated 24.08.2017, respondent No.2 imposed the penalty of Rs.2 lakhs on the ground of illegal transportation of sand and also seized the said vehicle and kept it in the custody of respondent No.3.

4. Learned counsel for the petitioner contended that without even issuing any show cause notice, respondent No.2 passed the impugned order and imposed the penalty. On the other hand, it is contended by the learned Government Pleaders that there is no illegality in the impugned action and the same is in accordance with the provisions of the Rules notified in G.O.Ms.No.42, Industries & Commerce (M.II) Department, dated 29.03.2016.

5. It is a settled and established principle of law that any action, which has civil consequence, must necessarily be preceded by a notice to the persons likely to be affected by such action. In the present case, the said principle is followed in breach.

6. In view of the aforesaid reasons, the writ petition is disposed of, without expressing any opinion on the merits, keeping it open for the petitioner to submit his explanation to the impugned notice dated 24.08.2017 by treating the same as a show cause notice, within a period of one week from the date of receipt of a copy of this order. If any such explanation is submitted by the petitioner within the time stipulated, the same be considered and appropriate orders be passed, strictly in accordance with law, after hearing the petitioner, within a period of one week thereafter. Consequently, miscellaneous petitions, if any pending in this writ petition shall stand disposed of. There shall be no order as to costs.

Date: 31.08.2017
TJMR

A.V. SESA SAI, J

