

HON'BLE SRI JUSTICE M. SEETHARAMA MURTI

WRIT PETITION No.20383 of 2017

ORDER:

This writ petition is filed seeking the following relief:

“..to issue a Writ, Order or Direction more particularly one in the nature of WRIT OF MANDAMUS declaring the action of the 1st respondent in Lr.No.19218/M.I(1)/2016-1 dated 09.02.2017 in rejecting the revision dated 20.07.2016 filed by petitioner as against Demand Notice No.333/V&E/RMQ/2015 dated 13.07.2015 issued by 2nd respondent without conducting personal hearing of Revision nor issuing any notice as arbitrary, illegal, unconstitutional, in utter violation of principles of natural justice and contrary to Rule 35-A of APMMC Rules, 1966 and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.”

2. Heard learned counsel for the petitioner and learned Government Pleader for Mines and Geology appearing for the respondents. Perused material record.

3. After receipt of the demand notice, dated 13.07.2015, the petitioner admittedly filed a revision petition on 08.09.2016, however, along with an application for condonation of delay. By the demand notice, the petitioner was required to pay not only the normal seigniorage fee, but also five times penalty, and thus, a total sum of Rs.1,96,12,800/- was demanded and it was further informed that if the petitioner fails to pay the abovementioned amount within the stipulated time of 15 days, further action will be initiated under the provisions of the of the Andhra Pradesh Minor Mineral Concession Rules, 1966.

4. Learned counsel for the petitioner would submit that the action on the part of the first respondent in not disposing of the application for condonation of the delay and rejecting the revision petition is a patent violation of the principles of natural justice and is oppose to the provisions under Rule 35 of the said Rules.

5. Learned Government Pleader for Mines and Geology submits that there is no illegality or infirmity in the order impugned and that the first respondent is justified in rejecting the revision petition, which is filed along with an application for condonation of delay, and that the present writ petition is also filed with a delay and therefore, the writ petition is liable to be dismissed.

6. Learned counsel for the petitioner would submit that in view of the delay in service of the demand notice as well as the poor health condition of the petitioner, the delay had occasioned. He alternatively submits that without prejudice to the rights and contentions, the petitioner is prepared to abide by the conditions that may be imposed by the Court.

7. Learned Government Pleader alternatively submits that in the event this Court is inclined to grant an order to the petitioner, the petitioner may be directed to pay the normal seigniorage fee of Rs.32,68,800/-.

8. I have given earnest consideration to the facts and submissions. Even assuming for a moment that there is a delay in seeking the relief either before the revisional authority or before this Court, on the ground of delay the writ petitioner cannot be denied the relief, as in the considered view of this Court when substantial justice and technical considerations are pitted against each other, the cause of substantial justice deserves to be preferred. 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 that there is considerable merit in the contentions of the petitioner and the writ petition can be disposed of with appropriate directions.

9. In the result, the writ petition is allowed with the following directions:

“The petitioner shall deposit 50% out of Rs.32,68,800/- i.e., the normal seigniorage fee, within four weeks from the date of receipt of a copy of this order with the appropriate authority. On the petitioner making the said deposit, the revisional authority shall consider and dispose of the revision petition as well as the application filed for condonation of delay, which are filed by the petitioner, in strict accordance with procedure established by law, however, after giving an opportunity of hearing to the petitioner. The said deposit now directed to be made by the petitioner shall be subject to the out come of the revision petition of the petitioner.”

Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

Date: 04.01.2018
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M. SEETHARAMA MURTI, J