

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

**WRIT PETITION No.34546 OF 2018**

**ORDER :**

Heard learned counsel for the petitioner and the learned Government Pleader for Mines & Geology.

Petitioner herein filed a statutory appeal, under Rule 35 of the A.P.Minor Mineral Concession Rules, 1966 (for brevity, 'the Rules'), against the demand letter bearing No.475/Vg/2011, dated 09.11.2011, of the Assistant Director of Mines and Geology, Rajamahendravaram.

By way of the impugned order, issued vide proceedings No.1261/R2-1/AH/2012, dated 29.08.2018, the Director of Mines and Geology, on the ground that, despite the information given to the petitioner, there was no appearance, dismissed the appeal.

It is submitted by the learned counsel for the petitioner that the dismissal of the statutory appeal for default due to the non-appearance of the appellant is not contemplated under Rule 35 of the Rules and there is no provision of law under the said Rules or under the Mines and Minerals ( Development and Regularisation) Act, 1957 which enables the authorities to dismiss the appeal for non-prosecution. It is further submitted

by the learned counsel that the said appeal was filed by the petitioner through an advocate and the advocate also did not receive any notice.

Rule 35 of the Rules provides for appeal against the orders of the Assistant Director of Mines and Geology or Deputy Director to the Director of Mines and Geology, within two months, and the said provision of law does not authorise the Director to dismiss the appeal for non-prosecution, i.e. due to non appearance of the appellant. Therefore, this Court finds sufficient force in the submission of the learned counsel for the petitioner.

For the aforesaid reasons, Writ Petition is allowed, setting aside the order, vide proceedings No.1261/R2-1/AH/2012, dated 29.08.2018, passed by the Assistant Director of Mines and Geology, and the appeal, filed by the petitioner herein, stands restored to file and the Director of Mines and Geology is directed to consider the appeal filed by the petitioner herein, and pass appropriate orders after giving notices to the petitioner herein as well as his counsel in advance. There shall be no order as to costs.

Consequently, miscellaneous petitions pending, if any,  
shall stand closed.

26<sup>th</sup> September, 2018  
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**A.V.SESHA SAI, J**

