

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.07.2015

CORAM:

THE HONOURABLE MR. SANJAY KISHAN KAUL, CHIEF JUSTICE
AND
THE HONOURABLE MR. JUSTICE T.S.SIVAGNANAM

Writ Petition No. 13007 of 2015
and
M.P. No.1 of 2015

K. Mani

...Petitioner

vs.

1. The District Collector
Vellore District, Vellore.

2. The Tahsildar
Arakonam Taluk
Arakonam, Vellore District.

3. The Assistant Geologist (mines)
O/o. The District Collector
Vellore.

...Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying for issue of a Writ of Certiorari to call for the records relating to the first respondent's proceedings made in Na.Ka.Pee.468/2008 (Mines) dated 17.4.2015 and quash the same.

For Petitioner : Mr. R. Thiagarajan, Sr. Counsel
for Mr. M. Muthappan

For Respondents : Mr. S.T.S. Murthi, Govt. Pleader
assisted by Mr.V.Shanmugasundar
Govt. Advocate.

O R D E R
(Made by The Hon'ble The Chief Justice)

A case of alleged large scale excessive mining was discovered in pursuance to public interest litigation proceedings filed before this Court. Naturally, the authorities were thereafter expected to proceed in accordance with law once there was detection.

2. It however appears that unmindful of the provisions of the Tamil Nadu Minor Mineral Concession Rules, 1959, without issuing a show cause notice/granting an opportunity of hearing, an adverse order of cancellation of licence was passed on 17.04.2015, which was also the date of the surprise inspection.

3. It is conceded by the learned senior counsel for the petitioner that surprise inspection by its very nature would not require prior notice, but if any infirmity is found, the material in support thereof, has to be put to the offending party through the process of show cause notice and after hearing, an order can be passed.

4. The aforesaid plea is unexceptionable. We really do not know why intrinsically defective orders are passed, where the Court has no option, but to stay those orders or set them aside. In fact, it is on account of such defective orders, cases are pending before this Court after interim orders are granted. Once again, this shows either a deliberate act or lack of knowledge.

5. In view of the aforesaid, there is no option but to quash the impugned order dated 17.04.2015, as being in the teeth of the provisions of Rule 36(5)(h) of the said Rules, with a direction to the respondents to issue a show cause notice with all supporting materials, giving a reasonable time of at least 15 days for the petitioner to respond to the same, and thereafter, on giving a personal hearing, an order in accordance with law be passed. In the mean time, this would not give a licence to the petitioner to carry out mining activity, which shall remain suspended, awaiting orders to be passed by the competent authority.

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6. The writ petition is accordingly allowed, leaving both parties to bear their own costs. Consequently, M.P. No.1 of 2015 is closed.

Sd/-
Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

ATR

Copies to;

1. The District Collector
Vellore District, Vellore.
2. The Tahsildar
Arakonam Taluk
Arakonam, Vellore District.
3. The Assistant Geologist (mines)
O/o. The District Collector
Vellore.

1 CC to Mr. M. Muthappan, Advocate SR.No. 34583

1 CC to the Government Pleader, SR.No. 35010

W.P. No. 13007 of 2015

PSI (10.07.2015)

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