

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 08.10.2015

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.No.24873 of 2015 and
M.P.Nos.1 to 3 of 2015

Ka.Ki.Rajendiran

... Petitioner

Vs

- 1 The Commissioner of
Geology and Mining Guindy Industrial Estate
Guindy Chennai.
 - 2 The District Collector
Erode District Erode.
 - 3 The Assistant Director
Department of Geology and Mining
Collectorate Erode District Erode.
 - 4 The Sub-Collector
Gobichettypalayam Erode District.
 - 5 The Tahsildar
Sathyamangalam Taluk Erode District.
- ... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue Writ of certiorari calling for the records pertaining to the proceedings of the 4th respondent in Na.Ka. 1742/15/A3 dated 09.03.2015 and also the proceedings of the 2nd respondent in Na.Ka.No. 8220/2015/X-1 dated 09.05.2015 and also the proceedings of the 1st respondent in Na.Ka.No. 4535/MM9/2015 dated 21.07.2015 and quash the same as illegal incompetent and ultravires.

For Petitioner :Mr.R.Jayaprakash

For Respondents :Mr. T.N.Rajagopalan Spl.G.P

ORDER

Writ petition is filed for the issuance of a writ of certiorari mandamus calling for the records pertaining to the proceedings of the 4th respondent in Na.Ka. 1742/15/A3 dated 09.03.2015, the proceedings of the 2nd respondent in Na.Ka.No. 8220/2015/X-1 dated 09.05.2015 and also the proceedings of the

1st respondent in Na.Ka.No. 4535/MM9/2015 dated 21.07.2015 and quash the same.

2. The case of the petitioner is that the petitioner got permission from the P.W.D department by its proceedings dated A4/Ko.3/2014/dated 19.02.2015 for carrying 'Vandal Soil' from Bhavanisagar dam for a period from 20.02.2015 to 06.03.2015. When the vehicle was carrying the 'Vandal Soil' from the dam, the 3rd respondent intercepted and asked for permit. Though the permit was produced, the 3rd respondent herein stating that the same was not the original had seized the vehicle and the vehicle is now under the custody of the 5th respondent. On 09.03.2015, the 4th respondent without any notice or enquiry straight away passed an order directing the petitioner to pay a sum of Rs.3,91,260/-. Subsequently, the petitioner preferred an appeal before the 2nd respondent and the 2nd respondent by proceedings dated 09.05.2015 modified the fine amount from Rs.3,91,260/- to Rs.3,60,320/-. Thereafter, the petitioner filed further appeal on 26.5.2015 as per the directions of this Court in W.P.No.15009 of 2015 before the first respondent as contemplated under the Rules. Due to the inaction of the 1st respondent in taking up the appeal for hearing, the petitioner filed a writ petition in W.P.No.16031 of 2015 seeking to release the tipper bearing Reg.No.TN 36 T 6070 from the respondents and this Court by order dated 11.06.2015 directed the first respondent to dispose of the pending appeal within a period of three weeks. Thereafter, the first respondent by his proceedings dated 21.07.2015 confirmed the fine amount passed by the fourth respondent by his proceedings dated 09.05.2015 and dismissed the appeal filed by the petitioner. Hence the present writ petition has been filed. A counter affidavit denying the allegations of the petitioner has been filed.

3. Heard the learned counsel for the petitioner and the learned Special Government Pleader appearing on behalf of the respondents.

4. The main ground of attack in this writ petition is violation of principles of natural justice to the effect that before imposing fine and proceeding further for passing orders, the 4th respondent did not afford an opportunity of hearing to the petitioner. As directed by this Court, the petitioner filed an appeal. In the appeal, the quantum of fine was reduced by the 2nd respondent. However, the said fact of violation of natural justice was not considered by the Appellate Authority. Earlier, this Court in W.P.No.16031 of 2015 by order dated 11.6.2015 held as follows:

"Hence, this Court, taking into account that the vehicle is left to vagary of nature for quite a long time, is inclined to direct the first respondent to dispose of the pending appeal within a period of three weeks from the date of receipt of a copy of this order,

failing which the first respondent shall release the vehicle, viz., Tipper lorry bearing Registration No.TN-36-T-6070 to the petitioner by accepting a fine of Rs.25,000/-, as indicated by the third respondent in his order dated 9.3.2015. This Court has come to the conclusion to issue the direction to the first respondent to release the vehicle with the collection of Rs.25,000/-, since the petitioner has been issued with the permit by the Executive Engineer, Public Works Department dated 19.2.2015"

The first respondent also failed to consider the said direction.

5. Hence, for these reasons, the impugned orders are set aside and the matter is remitted back to the 4th respondent for passing orders afresh. The fourth respondent is directed to give an opportunity and thereafter, pass appropriate orders on merits. The said exercise shall be completed within a period of four weeks from the date of receipt of a copy of this order.

6. In the meantime, for the purpose of release of vehicle, the petitioner is directed to remit a sum of Rs. 1 lakh within two weeks from the date of receipt of the copy of this order, since the vehicle is involved for the third time. On such payment, the vehicle shall be released forthwith. The petitioner is directed to keep the vehicle intact and not to alienate pending disposal of the proceedings by the 4th respondent. The vehicle shall be produced as and when required.

7. The writ petition is disposed of accordingly. Consequently, connected miscellaneous petitions are closed. No costs.

kua

Sd/-

Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

To

- 1 The Commissioner of
Geology and Mining Guindy Industrial Estate
Guindy Chennai.

- 2 The District Collector
Erode District Erode.
- 3 The Assistant Director
Department of Geology and Mining
Collectorate Erode District Erode.
- 4 The Sub-Collector
Gobichettypalayam Erode District.
- 5 The Tahsildar
Sathyamangalam Taluk Erode District.

+1 cc to Government Pleader, sr.55100

+1 cc to Mr.R.Jayaprakash, Advocate, sr.55251

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