

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.10.2015

CORAM:

THE HONOURABLE MR. JUSTICE R. MAHADEVAN

W.P.No.27839 of 2015
and
M.P.Nos.1 and 2 of 2015

POABS GRANITE PRODUCTS (P) LIMITED,
Rep. by its Managing Director
Joseph Jacob,
9A, Chandarlok Apartments,
59, Baker Street,
Choolai, Chennai 600 112.

.... Petitioner

-Versus-

- 1.The State of Tamil Nadu,
Rep. by its Secretary to Government,
Industries Department,
Fort St. George,
Chennai 600 009.
- 2.The Director General of Police,
Dr.Radhakrishnan Salai,
Mylapore, Chennai 600 004.
- 3.The District Collector,
Nagercoil,
Kanyakumari District.
- 4.The Superintendent of Police,
Nagercoil,
Kanyakumari District.
- 5.The Assistant Director of Geology and Mining,
Collectorate, Nagercoil,
Kanyakumari District.
- 6.The Sub Inspector of Police,
In-charge of Netta Police Check Post,
Kadayalmodu Police Station,
Kanyakumari District.

7.The Inspector of Police,
In-charge of Kaliyakavilai Police Check-Post,
Kaliyakavilai Police Station,
Kanyakumari District.

[Respondents 6 & 7 were impleaded as per order dated
13.10.2015 made in M.P.No.3 of 2015]

...Respondents

Writ Petition filed under Article 226 of the Constitution of India for the relief of issuance of Writ of Mandamus for bearing the respondents 2 and 4 from interfering with the business of the petitioner company in transporting M-Sand and aggregate products either by himself or through his customers to the state of Kerala as permitted by the order of the District Collector in RC.No.167/G&M/2015 dated 05.06.2015 and for a consequential direction to the 5th respondent directing him to continue to issue the Form F as and when required by the petitioner.

For Petitioner : Mr.E.Martin Jeyakumar

For Respondent(s) : Mr.T.N.Rajagopalan

ORDER

Seeking a mandamus forbearing the respondents who are revenue and police authorities, from interfering with the transportation of M-sand and aggregate products by the petitioner or its customers to the State of Kerala as permitted by the District Collector in Rc.No.167/G&M/2015 dated 05.06.2015 , the petitioner company have come forward with this writ petition.

2. The case of the petitioner in short is that the petitioner is a Private Limited Company incorporated under the Companies Act, 1956. The petitioner company is engaged in the mining and production of M-sand and other aggregates for the construction industry. M-sand is nothing but a manufactured sand. According to the petitioner company, they have been permitted by the order of the District Authority to transport M-sand and other aggregates produced from hard granite stones under valid transit pass.

3. The only grievance of the petitioner is that whenever their vehicles take M-sand in the check posts at Netta and Kaliyakavilai, which are within the jurisdiction of Kadayalmodu Police Station and Kaliyakavilai Police Station respectively in Kanyakumari District, the police authority unnecessarily interfering with their business by preventing the transportation

of M-sand and other aggregates under the guise of checking even after valid transit passes are shown to them. Hence, the petitioner company have no other go except to approach this court for appropriate relief.

4. Heard both sides and also perused the records carefully.

5. Subsequent to the filing of the writ petition, moved an application seeking to implead the police officials, who are in charge of the check posts at Netta and Kaliyakavilai. This court, having regard to the facts and circumstances of the case, allowed the miscellaneous petition in M.P.No.3 of 2015 and directed the proposed respondents therein to be impleaded as respondents 6 & 7 as they are necessary parties to the issue involved in the writ petition. Accordingly, they have been impleaded as respondents 6 & 7 in the writ petition.

6. After due notice, the respondents 3 and 4 have filed their counter affidavits separately inter alia contending that under the guise of permission, the petitioner have no authority to transport the river sand in any manner from the State of Tamil to any other State and in case the petitioners are found transporting any other sand except M-sand, it is open to the respondents to seize the vehicles and to take appropriate action in accordance with law.

7. The issue involved in this writ petition is as to the regulation of transportation of mines and minerals including M-sand and its aggregates. According to the petitioner, they have been permitted to transport M-sand and aggregates products to the State of Kerala. Accordingly, they regularly transport M-sand to the State of Kerala under valid transit passes. While so, according to the petitioner, the police authorities are unnecessarily interfering with their business under the guise of checking at the check posts though the loads are supported by valid transit passes. The grievance of the petitioner is that this kind of activities of the police and the revenue authorities should be prevented by way of a writ of mandamus.

8. In para 11 of his counter affidavit, the 3rd respondent - District Collector, Kanyakumari, has contended as follows:-

"11. It is submitted that in pursuant of the above instructions the 3rd respondent issued order in his proceedings Rc.No.167/G&M/2015 dated 05.06.2015 permitting the petitioner company to transport M-Sand and other crushed products to the State of Kerala after obtaining transit pass and a copy of this order has been marked to the 4th

respondent also. In pursuant of this order the 5th respondent issued Transit pass in Form-F to the petitioner on 09.06.2015. It has been learned that the vehicles with transit passes have been prevented by the police officials in the check posts in Kanniyakumari District and the reasons behind this detention have not been informed to the 3rd respondent. Aggrieved by this police detention of vehicles in the Check Post, the present writ petition has been filed."

9. Similarly, the 4th respondent - Superintendent of Police, Kanyakumari District at Nagercoil, in paragraph 10 of his counter affidavit has contended as follows:-

"I respectfully submit that the police department in Kanyakumari District or the police authorities in the check post have never interfered with the business of the petitioner in any manner as alleged. But, on the other hand, the police authorities in the check post will take action of illegality is committed."

10. It is the case of the revenue department that there are chances of transportation of river sand under the guise of M-sand and crusher materials, hollow blocks, etc. and in the recent past, during check of vehicles, it was noticed that river sand has been illegally transported by covering the top with M-sand and Jelly and a case has also been registered in this regard against the concerned persons.

11. The only grievance of the petitioner as expressed by learned counsel for the petitioner is that the petitioner's business of transporting M-sand supported by valid documents are unnecessarily prevented under the guise of checking. Though there is some justification in the above contention, an omni bus prayer as sought for by the petitioner cannot be granted. The petitioner is having every right to carry on its business of transporting M-sand supported by valid documents issued by the authorities concerned and the respondents have no authority at all to interfere in the same. But, at the same time, it is also open to the respondents to engage in surveillance and to prevent the illegal transportation of mines and minerals including M-sand and illegal mining operations.

12. The 3rd respondent has specifically stated in paragraph 11 of his counter affidavit among other things that by proceeding in Rc.No.167/G&M/2015 dated 05.06.2015, petitioner has been permitted to transport M-sand and other crushed products to the State of Kerala and as a matter of fact, a copy of the above said order has been communicated to the 4th

respondent also. It is further stated by the 3rd respondent that they were not at all informed the reasons behind the detention of vehicles accompanied by valid transit passes. In the above circumstances, this court records para 11 of the counter affidavit filed by the 3rd respondent herein.

13. It is always open to the petitioner to approach this court as and when any illegality is committed by the respondents. Similarly, if any illegality is committed by the petitioner, it is always open to the respondents to take appropriate action in the manner known to law.

14. The writ petition is disposed of with the above observations. No costs. Consequently, connected MPs are closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

To

- 1.The Secretary to Government, Industries Department,
Fort St. George, Chennai 600 009.
- 2.The Director General of Police, Dr.Radhakrishnan Salai,
Mylapore, Chennai 600 004.
- 3.The District Collector, Nagercoil, Kanyakumari District.
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- 7.The Inspector of Police,
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Police Station, Kanyakumari District.

+1 cc to Government Pleader sr.57132

+8 cc to Mr.E.Martin Jeyakumar Advocate sr.56291

W.P.No. 27839 of 2015

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