

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.12.2015

CORAM:

THE HON'BLE MR. JUSTICE R. MAHADEVAN

**W.P.No.29508 of 2015
& M.P.No.1 of 2015**

M.Balakrishnan

[Petitioner]

Vs

1. The Secretary to Government
Ministry of Mines
New Delhi 110 001

2. The Secretary
The Department of Industries
Government of Tamilnadu
Chennai 600 009

[Respondents]

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of Certiorarified Mandamus to call for the records of the 1st respondent made in Final Order dated 20.2.2015 in Revision Application File No.27/03/2015 RC-II quash the same and consider the Revision Petition dated 6.2.2015 and the same to the petitioner within the stipulated time.

For petitioner
For respondents

Mr.N.Umapathi
Mr.D.Sanjay Swamy, ACGSC for R1
Mr.T.N.Rajagopalan, Spl.GP for R2

ORDER

This writ petition is filed challenging the order dated 20.2.2015 made in Revision Application File No.27/03/2015 RC-II and to consider the Revision Petition dated 6.2.2015 within the stipulated time.

2. The petitioner having commenced business in the name and style of M/s Vadivambika Enterprises, obtained trading licence from Deputy Director of Mines and Geology, Gundur, Andhra Pradesh under Form D in the name of M/s Vadivambika Enterprises, for the period from 28.01.2013 to 27.01.2018 for trading Silica sand. It is the case of the petitioner that on receipt of an order from M/s Suguna Machine Works Private Limited, the petitioner had rented the truck from one Gobi, who is having a vehicle bearing registration No.TN 18 F 352, load the Silica sand from Nellore District, Andhra Pradesh, by paying royalty to Commercial Tax Department promptly. It is the further case of the petitioner that when the vehicle bearing Registration No.TN 18F 3521, which contain the Silica sand though crossed the check post B.V.Palam, TADA Mandalam, on 19.12.2013 around 3 a.m., and also crossed Pathi Kuppam Check Post, Tamilnadu with all original documents, when crossing Kavarapetai, GN Road, near R.MK.College, the said vehicle was intercepted by the police officials for verification. Pursuant thereto, a

case was registered and the vehicle along with sand was seized. The 1st respondent, without even providing an opportunity, passed an order dated 05.03.2014 to remit the penalty of Rs.43,350/-. Aggrieved over the same, a writ petition in W.P.No.10001 of 2014 was filed, wherein, this Court by order dated 09.07.2014 has set aside the impugned order on the ground of violation of principles of natural justice and remitted back to the District Collector for passing orders afresh, of course, after affording opportunity to the petitioner. Accordingly, the District Collector, passed an order on 03.11.2014. In the meantime, the petitioner preferred a Writ Appeal before this Court in W.A.No.1427 of 2014, in and by which, this Court, by Judgment dated 03.11.2014 has directed the petitioner to prefer a revision petition, which was also preferred before the 1st respondent by the petitioner on 06.02.2015 and by order dated 20.02.2015, the 1st respondent has passed an order stating that amendment was made in Class C of Section 3 of Mines and Minerals (Development and Regulation) Act, 1957 and directed to approach the State Government. Aggrieved over the said order passed, the petitioner is before this Court with the aforesaid prayer.

3. This Court has considered the submissions made by the learned counsel on either side and perused the materials available on record.

4. In the earlier round of litigation, the Hon'ble Division Bench of this Court directed the petitioner to file a revision petition against the order dated 05.03.2014. Accordingly, the petitioner preferred an revision petition, of course, before the Government of India. On and from 01.02.2015, the major mineral which the petitioner is dealing with have been declared as Minor Minerals and hence the petitioner is governed by Rule 36C of the Tamil Nadu Mines and Minerals Concession Rules, 1959 and as per Rule 36C of the Rules, the petitioner is expected to file an appeal before the appellate authority. Since the petitioner has already filed a revision before the Government of India along with required fee and since it is also reported that the papers have not yet been received by the State Government, in the interest of justice, the petitioner is directed to file an appeal within a period of two weeks from the date of receipt of a copy of this order, along with all the copies of documents before the appellate authority concerned after complying with all the other legal requirements and on such filing, the same shall be entertained by the appellate authority, without raising any issues with regard to limitation and necessary orders be passed on merits and in accordance with law, after due opportunity to the petitioner.

The writ petition is disposed of on the above terms. No costs.
Connected miscellaneous petition is closed.

15.12.2015

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To

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New Delhi 110 001
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Chennai 600 009

R.MAHADEVAN, J.
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