



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.10.2015

Coram

THE HONOURABLE MR.JUSTICE T.RAJA

W.P. (MD)No.11001 of 2015

and

M.P. (MD)Nos.1 and 2 of 2015

Kumaran @ Nainar Kumar

: Petitioner

Vs.

1.The District Collector,
Tirunelveli District, Tirunelveli.

2.The Assistant Director,
Department of Geology and Mines,
Collectorate Buildings,
Tirunelveli District.

3.The Revenue Divisional Officer,
Cheranmahadevi,
Tirunelveli District.

: Respondents

Prayer: Petition is filed under Article 226 of the Constitution of India for the issue of a Writ of Certiorari, calling for the records pertaining to the impugned order passed by the 1st respondent in his proceedings in M.No.28689/2012, dated 27.03.2015 and quash the same.

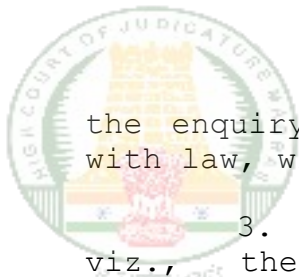
For Petitioner : Mr.Benjamin George
For K.Seemaraj

For Respondents : Mr.S.SadeesKumar
Addl.Govt.Pleader

O R D E R

The petitioner has visited this Court on 3rd occasion. Initially, he has filed two other writ petitions viz., W.P.(MD)No.11058 of 2014 and W.P.(MD)No.14920 of 201. The W.P.(MD)No.11058 of 2014 has been filed, seeking a Writ of Mandamus, directing the respondents therein to issue pass to him for a sum of Rs.19,050/- paid vide Chalan Nos.143 and 63, dated 19.06.2014 and 26.06.2014, through the State Bank of India. This was allowed on 16.07.2014, directing the District Collector, Tirunelveli District, to consider and dispose of his representation, dated 25.06.2014, on merits.

2. Again the petitioner had filed one another W.P.(MD)No.14920 of 2014, seeking one another Writ of Mandamus, directing the District Collector, Tirunelveli District, to pass an order on the enquiry conducted by him, vide his proceedings M2/28689/2012, dated 25.08.2014. That Writ Petition was also disposed of on 09.12.2014, directing the District Collector, Tirunelveli District, to pass appropriate orders on



the enquiry proceedings initiated by him, on merits and in accordance with law, within a period of six weeks.

3. Thereafter, the petitioner has brought the 3rd Writ Petition viz., the present writ petition, challenging the present impugned order, dated 27.03.2015, when the second writ petition was disposed of on 09.12.2014, directing the District Collector, Tirunelveli, to pass orders on the enquiry proceedings initiated by him, without issuing any notice whatsoever to the petitioner, the present impugned order, dated 27.03.2015 has been passed by the District Collector, Tirunelveli. Aggrieved by the same, the petitioner has come to this Court.

4. Learned counsel appearing for the petitioner would submit that, when the petitioner was granted lease quarry in S.F. No.940 and 951 of Pazhavor Part - 1 Village, Radhapuram Taluk, Tirunelveli District, for an extent of 1.30.5 Hectares of patta land, for a period of three years, commencing from 15.07.2013 to 14.07.2016, under Rule 19(1) and 20 of the Tamil Nadu Minor Mineral Concession Rules, 1959, as per the proceedings issued by the District Collector in Rc.M1/28689/2012, dated 15.07.2013, the petitioner started his quarrying activities from 15.07.2013. As the lease period is valid till 14.07.2016, for the reasons best known to the respondents, all of a sudden, they refused to issue the transport pass, as a result, the petitioner frequently running from pillar to post, including to this Court on two occasions, as mentioned above, when the lease is valid till 14.07.2016, without following the procedures known to law, as the respondents have already received the lease amount, it is unfair on their part to preclude, before valid period expired on 14.07.2016, he pleaded.

5. To demonstrate that the impugned order has been passed violating the principles of natural justice, the learned counsel would further submit that the first respondent, considering a frivolous complaint given by one Mr.S.Manohar, who is a self claimed leader of State General Secretary of Dalit People Federation, without any notice whatsoever to the petitioner, the District Collector, Tirunelveli, has stopped to issue the transport permit temporarily to make an enquiry into the matter. When the collector has also decided to hold enquiry to find out the veracity of the complaint given by the said Mr.S.Manohar, the present order has been passed, cancelling the lease granted to the petitioner, for quarrying and transportation of earth over an extent of 1.30.5 Hectare registered in S.F. No.940 and 951 of Pazhavor Part - 1 Village, Radhapuram Taluk, Tirunelveli District. It is not in dispute that the petitioner was granted lease by the District Collector, Tirunelveli, for a period of three years viz., from 15.07.2013 to 14.07.2016, after granting the lease, the petitioner has not been issued with any notice to participate in any enquiry to be conducted by the District Collector or any other officer. Perusal of the impugned order also shows that no notice whatsoever has been issued to the petitioner to participate in the enquiry, therefore the impugned order violating the principles of Natural Justice, is liable to be set aside.

6. Mr.S.Sadees Kumar, learned Additional Government Pleader appearing for the respondents would submit that the impugned order under challenge is appealable, therefore, no writ will lie.

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7. The petitioner was granted lease to quarry the gravel deposit at S.F. No.940 and 951 of Pazhavor Part - 1 Village, Radhapuram Taluk,



Tirunelveli District, to an extent of 1.30.5 Hectares for a period of three years commencing from 15.07.2013 to 14.07.2016. When the lease was executed as per Rule 19(1) and 20 of the Tamil Nadu Minor Mineral Concession Rules, 1959, the petitioner started his querying activities. While so, during the currency of the said lease period, entertaining a frivolous complaint given by one S.Manohar, who is a self claimed leader of State General Secretary of Dalit People Federation, the respondents stopped issuing transport permit in the guise of making enquiry into the matter. Besides when the Collector is decided to hold enquiry to find out the veracity of the complaint given by the said Manohar, the impugned order has been passed, cancelling the lease granted to the petitioner. When the petitioner has been given lease for a period of three years commencing from 15.07.2015 to 14.07.2016 by the District Collector, without there being enquiry, the lease cannot be granted. Ironically, since there is no enquiry or notice issued to the petitioner, the cancellation of the lease agreement is unknown to law. Therefore, the same is liable to be set aside.

8. In the result, the Writ Petition is allowed and the impugned order passed by the 1st respondent vide proceedings in M.No.28689/2012, dated 27.03.2015, is hereby quashed. The respondents are directed to issue the transport permit to the petitioner, for the remaining period. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar.

/True Copy/

Sub Assistant Registrar.

To

- 1.The District Collector,
Tirunelveli District,
Tirunelveli.
- 2.The Assistant Director,
Department of Geology and Mines,
Collectorate Buildings,
Tirunelveli District.
- 3.The Revenue Divisional Officer,
Cheranmahadevi,
Tirunelveli District.

+1CC to Mr.K.Seemaraj, Advocate, SR.No. 61049.

Order made in
W.P. (MD) No.11001 of 2015
Dated:
14.10.2015