



WEB COPY

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.08.2015

CORAM:

THE HONOURABLE MR.JUSTICE **S.NAGAMUTHU**

and

THE HONOURABLE MR.JUSTICE **V.S.RAVI**

W.P. (MD) No.14984 of 2015

and

M.P (MD) No.1 of 2015

M.Rajendran

.. Petitioner

Vs.

- 1.The Director of Legal Metrology,
O/o. the Director of Legal Metrology,
Department of Consumer Affairs,
Room No.461,A,Krishi Bhavan, New Delhi.
- 2.The Chief Secretary,
Government of Tamil Nadu,
Secretariat, Chennai-600 009.
- 3.The Director General of Police,
Dr.Radhakrishnan Salai,
Chennai-4.
- 4.The Principal Secretary,
Department of Transport,
Secretariat, Chennai-600 009.
- 5.The Commissioner,
Department of Transport,
Elizhagam, Chepauk,
Chennai-600 005.
- 6.The State Transport
Authority,
Elizhagam,
Chennai-600 005.
- 7.The Commissioner
Department of Geology and Mines,
Guindy, Chennai-600 032.
- 8.The Controller of Legal Metrology,
Office of the Labour Commissioner,
Chennai-600 006.



9. The Central Bureau of Investigation,
Government of India,
New Delhi.

.. Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus to direct the Respondents,

- i. to repeal the G.O.(Ms).No.178 Public Works Department dated 31.05.2008, passed by the Government of Tamil Nadu for quarrying, selling sand by fixation of price on the term 'unit' as unsustainable.
- ii. to strictly enforce the Motor Vehicle Act, 1988 by installing an automatic Weigh bridge in the river bed at the exit point to ensure the provisions relating to "Laden Weight" and "Unladen Weight" stipulated under Sections 113, 194 of the Motor Vehicles Act, (59 of 1988) are complied with.
- iii. to order the CBI to probe into,
 - a. as to from whom, from where, when and by whom the extent of sand had been purchased and the extent of sand seized from each vehicle, while those 185 vehicles were carrying and trying to transport the sand from Tamil Nadu to Karnataka State.
 - b. collect and verify the documents, such as cash bill, way bill, transport slip/permit, the sale bills, the mode of payment made, while the sand was purchased and by whom these documents were issued, for those transportation, to bring out its genuineness.
 - c. enquire as to why penal action had not been taken, simultaneously, under Motor Vehicle Act, 1988, Legal Metrology Act, 2009, Mines and Minerals (Development and Regulation) Act, 1957, Tamil Nadu Minor Mineral Concession Rules, 1959, the Prevention of illegal mining, Transportation Storage of Mineral and Mineral Dealers Rules 2011.
- iv. to forfeit the 185 vehicles which were involved in the illegal transportation of sand, while smuggling the river sand as overloaded, from Tamil Nadu to Karnataka and withdraw the permit of that seized 185 vehicles, by registering a case against the erring Government officials and recover the loss caused by their action and in action through appropriate Criminal Proceeding.
- v. to charge the Vehicle owners and concerned officials simultaneously under Central Motor Vehicles Act, 1988, Legal Metrology Act, 2009, Mines and Minerals (Development and Regulation) Act, 1957 and other Acts and Rules pertaining to those illegal transportation, smuggling and for their derelict negligent act.



For Petitioner : Mr.M.Rajendran
For respondents : Mr.K.Chellapandian
Additional Advocate General
assisted by Mr.M.Govindan,
Special Government Pleader
for R2 to R8.
No appearance for RR 1 & 9.

ORDER

[Order of the Court was made by **S.NAGAMUTHU, J**]

The petitioner is a practising Advocate. He has come up with this Public Interest Litigation, seeking a writ of Mandamus to the Government to repeal the G.O.(Ms).No.178 Public Works Department dated 31.05.2008, and also to enforce the provisions of Motor Vehicles Act, 1988 by installing automatic Weigh bridge in the river bed at the exit point to ensure the provisions relating to "Laden Weight" and "Unladen Weight" stipulated under Sections 113, 194 of the Motor Vehicles Act, (59 of 1988). He has also prayed for CBI probe into from whom, from where, when the sand was taken which were found being carrying of 185 vehicles and for a penal against the erring persons under the Motor Vehicles Act and penal action against the erring persons under the provisions of the Motor Vehicles Act, 1988 and for similar reliefs.

2.We have heard the learned counsel appearing for the petitioner, the learned Special Government Pleader appearing for the State and we have also perused the records carefully.

3. So far as the first relief sought for, namely for issuance of a mandamus to the Government to repeal the Act, it is the policy matter, into which, this Court does not have jurisdiction to interfere so as to issue direction to the Government to repeal. To repeal an Act, to repeal the Rules, to repeal a regulation and to repeal a Government order are within the wisdom of the Government, as it relates to the policy of the Government. If the petitioner has got any grievance regarding the validity of G.O.Ms.No.178 Public Works Department dated 31.05.2008, which, according to him is contrary to the Motor Vehicles Act, he can very well challenge the same. Similarly, to grant other reliefs sought for, the petitioner has not shown any instances, where there is violation calling for action.



4. In our considered view, there is no substance in this petition warranting any order from this Court. Accordingly, this Writ Petition fails and the same is dismissed. No Costs.

Sd/-

Assistant Registrar (R)

/True Copy/

Sub Assistant Registrar

To

1. The Director of Legal Metrology,
O/o. the Director of Legal Metrology,
Department of Consumer Affairs,
Room No.461,A, Krishi Bhavan, New Delhi.

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Elizhagam, Chepauk, Chennai-600 005.

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Authority, Elizhagam, Chennai-600 005.

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Guindy, Chennai-600 032.

8. The Controller of Legal Metrology,
Office of the Labour Commissioner, Chennai-600 006.

9. The Central Bureau of Investigation,
Government of India, New Delhi.

+1cc to Mr. M. Rajendran, Advocate Sr. No. 47864

akm/02.09.2015 /4p-11c/

ORDER MADE IN
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