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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.09.2015

CORAM :

THE HONOURABLE MR.JUSTICE R.SUDHAKAR

and

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

Writ Petition (MD) No.8418 of 2011

P.Ramasubbu

... Petitioner

Vs.

1. The Government of Tamil Nadu,
represented by its Secretary,
Department of Environment and Forests,
Secretariat, Chennai.
2. The Government of Tamil Nadu,
represented by the Secretary,
Department of Industries,
Secretariat, Chennai.
3. The Commissioner of Geology and Mining,
Guindy, Chennai 630 032.
4. Tamil Nadu Pollution Control Board,
represented by its Chairman,
Chennai 600 002.
5. The District Collector,
Thoothukudi,
Thoothukudi District.
6. The State Level Environment
Impact Assessment Authority, Tamil Nadu
represented by its Member Secretary and
Director of Environment,
No.4-D, Panagal Maligai, No.1, Jennis Road,
Saidapet, Chennai 15.
7. The District Forest Officer,
Thoothukudi,
Thoothukudi District.
8. P.Balakrishnan ... Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, forbear the Respondent Nos.2 3 and 5 from permitting the Respondent No. 8 to quarry at Survey No. 697 Mudukalankulam Village, Kovilpatti Taluk, Thoothukudi District in an extent of 31 hectares without obtaining Environmental clearance from the respondent Nos. 4 and 6 as required under environmental notification dated 14.09.2006.



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For Petitioner : No appearance
For Respondents 1-3,5&7 : Mr.A.K.Baskarapandian,
Special Government Pleader.
For 4th Respondent : Mr.C.Elaman
For 8th Respondent : Mr.R.Vijayakumar
For 6th Respondent : Ms.S.Srimathy

ORDER

(Order of the Court was made by R.SUDHAKAR,J.)

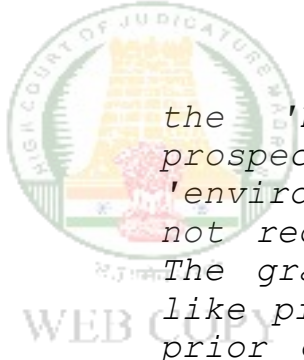
This writ petition has been filed to forbear the respondents 2, 3 and 5 from permitting the eighth respondent to quarry in Survey No.697, Mudukalankulam Village, Kovilpatti Taluk, Thoothukudi District to an extent of 31 hectares without obtaining environmental clearance from the respondents 4 and 6 as required under environmental notification dated 14.09.2006.

2.In this case, the undisputed fact is that the eighth respondent was granted quarrying lease on 02.05.2005 which was not challenged by the petitioner. On the contrary, the petitioner states that without obtaining environmental clearance as per environmental notification dated 14.09.2006, the respondents 2, 3 and 5 are permitting the 8th respondent to quarry. The official respondents and the 8th respondent whose favour lease has been granted primarily objected the said plea on the ground that in respect of lease of the year 2005, the notification which is passed after more than one year ie., 14.09.2006 cannot be made applicable. Even otherwise, the writ petition has been filed after five years from the date of the said notification. The reason for the delay in filing the writ petition is self explanatory intended to obstruct the quarrying lease without any justification.

3.When the matter came up for hearing on 01.08.2011, this Court admitted the writ petition. On notice from this Court, the District Collector has filed a counter affidavit dated 12.09.2011. The relevant portion of the counter affidavit is extracted hereunder:-

"5(i)With regard to para No.3, it is submitted that the notification by the Ministry of Environment and Forest, Government of India has been issued on 14.09.2006. But G.O(3D) 28 Industrial (MMB1) Department granting quarrying lease to quarry multi coloured granite in S.F.No.697 of Mudukalankulam Village for 20 years to the respondent No.8, on 02.05.2005 before the issue of above said notification.

(ii)Regarding other case of quarrying lease to quarry gravel in S.F.No.697 of Mudukalankulam over an extent of 30.00.0 Hects, it is submitted that as per schedule to the notification dated 14.09.2006 issued by the Ministry of Environment and Forest under item No.1(a),



the 'Note' in column No.5 clarifies that mineral prospecting (not involving drilling) are exempted from 'environmental clearance'. The quarrying of gravel does not require drilling or any other devices of explosion. The gravel can be excavated by using simple instruments like pig axe, spade etc., or by means of JCB. Hence, the prior environmental clearance is not required for their quarrying lease".

4. In view of the above, we are not inclined to entertain the writ petition. Accordingly, the writ petition is dismissed. No costs. Consequently, M.P (MD) No.1 of 2011 is closed.

Sd/-

Assistant Registrar (Writ)

/True Copy/

Sub Assistant Registrar

To

1. The Secretary,
Government of Tamil Nadu,
Department of Environment and Forests,
Secretariat, Chennai.
2. The Secretary,
Government of Tamil Nadu,
Department of Industries,
Secretariat, Chennai.
3. The Commissioner of Geology and Mining,
Guindy, Chennai 630 032.
4. The District Collector,
Thoothukudi, Thoothukudi District.
5. vThe District Forest Officer,
Thoothukudi, Thoothukudi District.
6. The Chairman,
Tamil Nadu Pollution Control Board,
Chennai 600 002.

- + 1 CC TO MR.S.M.S.JOHN BASHA, ADVOCATE IN SR NO. 55060
- + 1 CC TO MR.R.VIJAYAKUMAR, ADVOCATE IN SR NO. 54878
- + 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR NO. 55205

SMS

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