

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.11.2016

CORAM

THE HONOURABLE Mr. JUSTICE T.S.SIVAGNANAM

W.P.No.16053 of 2016

M/s Indiana Minerals and Allied Industries
rep. by its Proprietor R.Palanisamy [PETITIONER]

Vs

1.The Government of Tamil Nadu
rep. by its Secretary to Government
Industries Department
Fort St.George, Chennai 600 009.

2.The District Collector
Salem District, Salem.

3.The Assistant Director
Department of Geology & Mining
Collectorate, Salem.

[RESPONDENTS]

Prayer:

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, to direct the third respondent herein to consider the representative of the petitioner dated 09.10.2015, in seeking to issue the transport permit to the petitioner to quarry and transport limestone in an extent of 17.58 acres in S.No.85/1A & 86/1 of Morur Village, Sankagiri Taluk, Salem Distgrict, in view of the validity of lease period extended as per Section 8A(3) of the Mines and Minerals (Development and Regulation) Amendment Act, 2015.

For Petitioner : Mr.G.Arul Murugan

For Respondents : Mr.S.Diwakar
Spl. Government Pleader

O R D E R

Heard Mr.G.Arul Murugan, learned counsel for the petitioner and Mr.S.Diwakar, learned Special Government Pleader accepting notice on behalf of the respondents. By consent, the Writ Petition itself is taken up for final disposal.

2.The petitioner has come forward with this Writ Petition for issuance of a writ of mandamus to direct the third respondent to consider their representation dated 09.10.2015, for issuing transport permit to them to quarry and transport limestone in an extent of 17.58 acres in S.No.85/1A & 86/1 of Morur Village, Sankagiri Taluk, Salem District, in view of the validity of lease period extended as per Section 8A(3) of the Mines and Minerals (Development and Regulation) Amendment Act, 2015.

3.In the counter affidavit filed by the second respondent, the following stand has been taken:

"9.....It is further submitted that the petitioner had been granted with mining lease for a period of twenty years with effect from 10.11.1975 to 09.11.1995 and the first renewal of mining lease was granted for a period of 20 years with effect from 10.11.1995 and the lease period was valid upto 9.11.2015. At the time of enactment of the Mines and Minerals (Development and Regulation) Act, 1957 i.e. on 12.01.2015, the petitioner was having valid first renewal of mining lease for a period upto 09.11.2015. Therefore, as per Section 8A(6) of the amended Act, the period of lease shall be extended and be deemed to have been extended and be deemed to have been xtended upto a period of fifty years from the date of grant of the lease subject to the conditions that all the terms and conditions of the lease have been complied with. "

4.Thus, in terms of the stand taken as mentioned above, it appears that the petitioner's entitlement for extension of lease for a period of fifty years is not disputed. However, the second respondent has pointed out that the petitioner has not produced valid scheme of mining approved by Indian Bureau of Mines in respect of the subject area and not produced Environmental Clearance obtained from the State Environmental Impact Assessment Authority for the subject area and therefore the request of the petitioner for carrying on mining operations and issuance of Transport permits could not be complied with.

5.Thus, if the petitioner produces the valid scheme of mining approved by the Indian Bureau of Mines in respect of the subject area and the Environmental Clearance obtained from the State Environmental Impact Assessment Authority, the second respondent shall consider the petitioner's request.

6.The learned counsel for the petitioner would submit that, as there was a confusion as regards the petitioner's entitlement, the authorities of the Indian Bureau of Mines and the State Environmental Impact Assessment Authority were not willing to consider the petitioner's request. Therefore, it is submitted that this Court may make certain observations in this regard to facilitate the process.

7.In the light of the stand taken by the District Collector in the counter affidavit, as quoted above, the entitlement of the petitioner is not in dispute. However, the petitioner has to comply with the conditions in full.

8.Accordingly, the petitioner is directed to approach the Indian Bureau of Mines and the State Environmental Impact Assessment Authority, for obtaining a valid scheme of mining and environmental clearance, respectively from both authorities. If such Application is given by the petitioner, the aforesaid authorities shall process the same in accordance with law. After the petitioner secures valid scheme of mining, approved by the Indian Bureau of Mines and the State Environmental Impact Assessment Authority, the petitioner is directed to approach the second respondent for renewal of their lease and issuance of transport permit, which shall be considered by the second respondent, within a period of four weeks from the date on which the petitioner produces all the requisite documents/orders and complies with the other conditions.

The Writ Petition is disposed of accordingly. No costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

rpa

To

1.The Government of Tamil Nadu
rep. by its Secretary to Government
Industries Department
Fort St.George, Chennai 600 009.

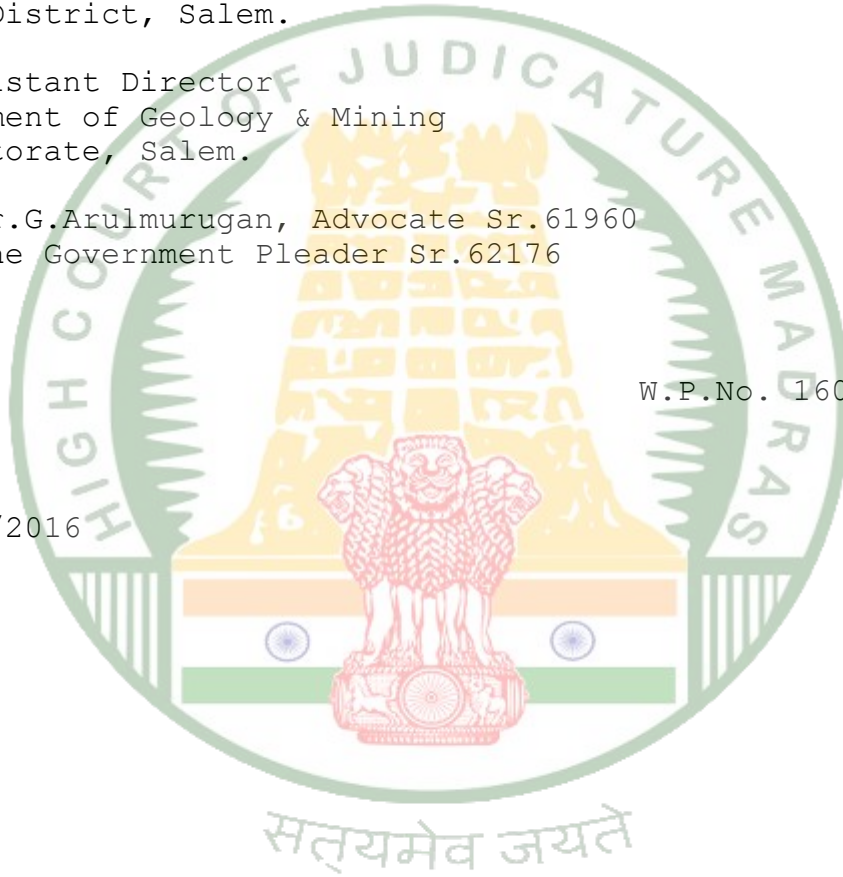
2.The District Collector
Salem District, Salem.

3.The Assistant Director
Department of Geology & Mining
Collectorate, Salem.

+1cc to Mr.G.Arulmurugan, Advocate Sr.61960
+1cc to the Government Pleader Sr.62176

W.P.No. 16053 of 2016

pvs[col]
srg 21/12/2016



WEB COPY