

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 19.09.2016

CORAM

THE HONOURABLE Mr.JUSTICE T.S.SIVAGNANAM

WP.No.12517 of 2012 and M.P.No.1 of 2012
and

WP.No.12518 of 2012 and M.P.No.2 of 2012

M/s.Kaveri Mudali Mines, Minerals & Chemicals

Rep by its Proprietor G.Manoharan

.. Petitioner

in both WPs

Vs

1.The Government of India,
Rep by The Deputy Secretary to Government,
Ministry of Mines,
Shastri Bhavan,
New Delhi.

2.The State of Tamil Nadu,
Rep by the Principal Secretary to Government,
Industries Department,
Fort St. George,
Chennai-9.

3.The Commissioner of Geology and Mining,
Guindy,
Chennai-32

.. Respondents
in both WPs

Prayer in WP.No.12517 of 2012 : Writ Petition filed under Article 226 of the Constitution of India praying for a Writ of Certiorarified Mandamus to call for the records of the 1st respondent in his proceedings in Revision Order No.162/12 dated 27.3.2012 and quash the same and direct the 2nd respondent to permit the petitioner to commence the Mining Operation in respect of Survey Nos.6, 16, 15, 4 and S.No.17/1 measuring an extent of 42.87 Acres in A.Velampatti Village, Harur Taluk, Dharmapuri District upto the period of lease granted vide G.O.Ms.(3D) No.99 Industries (MMA.2) Department dated 27.6.1997.

Prayer in WP.No.12518 of 2012 : Writ Petition filed under Article 226 of the Constitution of India praying for a Writ of Certiorarified Mandamus to call for the records of the 1st

respondent in his proceedings in Revision Order No.162/12 dated 27.3.2012 and quash the same and direct the 2nd respondent to set aside the order of Revocation passed in his Letter Ms.No.40 dated 28.4.2009 in respect of White Quarts bearing Survey Nos.6,16,15,4 and S.No.17/1 measuring an extent of 42.87 Acres in A.Velampatti Village, Harur Taluk, Dharmapuri District.

For Petitioner : Mr.K.R.Krishnan
in both WPs

For R1 : Mr.Madana Gopala Rao
in both WPs

For R2 and R3 : Mr.V.S.Ramesh
in both WPs

C O M M O N O R D E R

Heard Mr.K.R.Krishnan, learned counsel appearing for the petitioner; Mr.Madana Gopala Rao, learned Standing Counsel appearing of the 1st respondent and Mr.V.S.Ramesh, learned counsel appearing for the respondents 2 and 3.

2. The undisputed facts are that mining lease application given by the petitioner for grant of permission to mine white quartz from his patta and revenue land by application dated 26.01.1985, permission was granted by the Government on 27.06.1997, subject to the condition that the petitioner should obtain Environmental Clearance. Though the petitioner made an application at appropriate time on 11.03.2002, the Ministry of Environment and Forests, Government of India granted Environmental Clearance, subject to the condition that the petitioner has to secure clearance from the Tamil Nadu Pollution Control Board. Thereafter, Lease Deed was executed on 01.04.2002 for a period of twenty years. The Tamil Nadu Pollution Control Board, by proceedings dated 13.04.2002, issued certain directions. Due to all these problems, without even commencing the mining operations, the two years period was nearing and therefore, the petitioner made an application on 23.03.2004 before the expiry of two years period in terms of Section 4A[4] of the Mines and Minerals [Development and Regulation] Act, 1957.

3. Subsequently, on account of the bifurcation of Dharmapuri District into two and forming Krishnagiri District, it appears that the lands belonging to the petitioner fell under Harur Taluk of Krishnagiri District. Therefore, necessary amendment

had to be made to the approvals given by the Tamil Nadu Pollution Control Board. After which, the District Collector made recommendations to enable the petitioner to start mining operations. The petitioner was also asked to pay application fee of Rs.500/- as per Rule 28A[2] of Mineral Concession Rules, 1960, which was remitted by the petitioner on 21.12.2005. Since no action was taken thereafter, the petitioner submitted a representation on 06.03.2006.

4. Ultimately, the Director of Geology had recommended for the application filed under Rule 4A proviso 2 to be considered, by orders dated 12.01.2006, 27.02.2006 and 26.03.2006. Subsequently, a direction was issued in a Writ Petition filed by the petitioner in W.P.No.2073 of 2008 for passing orders on the petitioner's mining application. Subsequently, show cause notice was issued and the petitioner submitted with a reply and G.O.(Ms).No.10 dated 29.01.2009 was passed. By another Government letter dated 28.04.2009, the petitioner was informed that due to non operation of the mining activities, the lease shall be deemed to have lapsed in terms of Section 4A[4] of Mines and Minerals [Development and Regulation] Act, 1957. Challenging the G.O.(Ms).No.10 dated 29.01.2009 and the Government letter dated 28.04.2009, the petitioner filed Revision Petition under Rule 54 of The Minor Concession Rules, 1960.

5. Rule 54 is the revisional power of the Central Government. In terms of sub-section 1 of Rule 54, any person aggrieved by the order made by the State Government, in the exercise of the powers conferred on it by the Act or these rules may, within three months of the date of communication of the order, apply to the Central Government for revision of the order. The fee and the form for such application have also been stipulated under the rules. Sub-section 4 of Rule 55 speaks, as to how orders of revision applications has to be passed. For better appreciation, Rule 55 is quoted herein below :

“55. Orders on revision application --

[1] On receipt of an application for revision under rule 54, copies thereof shall be sent to the State Government or other authority and to all the impleaded parties calling upon them to make such comments as they may like to make within three months from the date of issue of the communication, and the State Government or other authority and the impleaded parties, while furnishing comments to the Central Government shall simultaneously endorse a copy of the comments to the other parties.

[2] Comments received from any party under sub-rule[1] shall be sent to the other parties for making such further comments as they may like to make within one month from the date of issue of the communication and the parties making further comments shall send them to all the other parties.

[3] The revision application, the communications containing comments and counter-comments referred to in sub-rules [1] and [2] shall constitute the records of the case.

[4] After considering the records referred to in sub-rule [3], the Central Government may confirm, modify or set aside the order or pass such other order in relation thereto as the Central Government may deem just and proper.

[5] Pending the final disposal of an application for revision, the Central Government may, for sufficient cause, stay the execution of the order against which any revision application has been made."

6. From the above referred provision, it is evidently clear that the revisional authority is required to pass a detailed speaking order while considering a revision application. It is needless to state that the revisional authority being a statutory authority is bound to give reasons either refusing or accepting the application for revision. The petitioner contended that the impugned order has been passed in violation of Principles of Natural Justice and is held to be illegal.

7. At the first blush, on the perusal of the impugned order, it appears that the impugned order is very detailed and speaking order. But on closer scrutiny, it is seen that it is otherwise. This is so because, there are no reasons assigned by the 1st respondent for rejecting the revision petition. Though the order runs to five pages, the conclusion is only in paragraph No.6 and the remaining, more than 5½ pages is only the background facts, the order passed by the State Government, the contentions of the revision petitioner, the remarks offered by the State Government and the reasoning is only as follows:

"6. It is clear in this case that Revisionist erred in submitting application with regard to extension of time as per time limit mentioned under Rule-28[2] of Mineral Concession Rules, 1960. Accordingly there do not seem to be any merit in RA and same is disposed."

8. From a bare reading of the above, it is evidently clear that the impugned order is an outcome of total non application of mind, without even going into the contentions raised and the order is devoid of reasons. In view of the above, the impugned order is set aside and the matter is remanded to the 1st respondent for fresh consideration and the 1st respondent shall afford an opportunity of personal hearing to the petitioner or its authorised representative and pass a speaking order on merits.

With the above direction, the Writ Petitions are allowed.
No costs.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

To

1.The Deputy Secretary to Government,
Government of India,
Ministry of Mines, Shastri Bhavan,
New Delhi.

2.The Principal Secretary to Government,
State of Tamil Nadu,
Industries Department,
Fort St. George, Chennai-9.

3.The Commissioner of Geology and Mining,
Guindy, Chennai-32.

+1cc to the Government Pleader Sr.53106,
+1cc to Mr.K.R.Krishnan, Advocate Sr.53029

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