

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 23.09.2016

Coram

The Hon'ble Mr. Justice T.S. Sivagnanam

Writ Petition No. 33564 of 2016

and

W.M.P.No. 28971 of 2016

L. Prasath

...Petitioner

Vs.

1. The District Collector,
Tiruvallur District,
Tiruvallur.

2. The Assistant Director of Geology and Mining,
Tiruvallur District,
Tiruvallur.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Mandamus, directing the first respondent to issue necessary proceedings in favour of the petitioner to quarry 4725 lorry loads of gravel in PWD tank, comprised in S.No.318/1, Panayancheri Village, Uthukottai Taluk, Tiruvallur District, for the period of 50 days pursuant to the first respondent's proceeding, dated 13.01.2015, within the prescribed time limit.

For Petitioner : Mr. M. Muthappan

For Respondents : Mrs. M. E. Raniselvam
Additional Government Pleader

WEB COPY
O R D E R

With the consent on either side, the Writ Petition itself is taken up for disposal.

2. The petitioner has filed this Writ Petition, praying for issuance of a writ of mandamus to direct the first respondent to issue necessary proceedings in favour of the petitioner to quarry 4725 lorry loads of gravel in PWD tank, comprised in S.No.318/1, Panayancheri Village, Uthukottai Taluk,

Tiruvallur District, for the period of 50 days pursuant to the first respondent's proceeding, dated 13.01.2015, within the prescribed time limit.

3. Both Mr.M.Muthappan, learned counsel appearing for the petitioner, and Mrs.M.E.Raniselvam, learned Additional Government Pleader, accepting notice on behalf of respondents submitted that the issue involved in the present Writ Petition is covered by the decision of this Court, in the case of (J.Subramani and others Vs.The District Collector, Thiruvallur District and another) in W.P.Nos.28019, 30204 of 2015 etc, (batch) dated 20.4.2016.

4. In the decision referred to supra, it is seen that the learned Single Judge, by following the judgment of the Hon'ble Division Bench, in W.A.No.55 of 2015, filed by one P.A. Janarthanan, who had also applied for permission for quarrying Savadu in PWD Tanks, dismissed the said batch of cases, however, with certain directions favouring the petitioners, and for better reference, the relevant portion of the order passed in W.P.Nos.28019, 30204 of 2015, etc., (batch) dated 20.04.2016, is extracted hereunder:-

17. In the meantime, the said P.A. Janarthanan, who had also applied for permission for quarrying Savadu in PWD Tanks, filed a Writ Petition in WP No.1469 of 2014, which was dismissed by this Court on 03.12.2014. Aggrieved over the same, he filed a Writ Appeal in WA No.55 of 2015 and the Division Bench of this Court, by judgment dated 03.09.2015 set aside the order passed in the writ petition and allowed the writ appeal.

18. Pursuant to the interim order, passed in the writ appeal on 11.08.2015, Rule 12 of the Tamil Nadu Minor Mineral Concession Rules, 1959 was amended on 23.09.2015. As per the amended Rule, the District Collector should place all the eligible applications before a Special Committee, constituted by the District Collector, consisting of (1) District collector/chairman; (2) Revenue Divisional Officer; (3) Project Director (District Rural Development Authority); (4) Executive Engineer, Public Works Department, in charge of tanks; (5) Joint Director of Agriculture and (6) Deputy Director (or) Assistant Director of Geology and Mining of the District, as the case may be, as members.

19. According to the amended Rules, the Special Committee shall scrutinize the applications and furnish its recommendations to the District Collector within thirty days from the date of placement of the applications before the said Committee. Based on the recommendations of the said Committee, the District Collector shall pass orders on the applications. On the date of passing of the judgment on 03.09.2015 in W.A.No.55 of 2015, Rule 12 of the Tamil Nadu Minor Mineral Concession Rules, 1959 was not amended. The provisions of Rule 12 was amended on 23.09.2015. In the absence of the amended Rules, the Division Bench had directed the District Collector to grant permission for quarrying the Savadu in the Public Works Department Tanks.

20. In the case on hand, admittedly, the petitioners were not granted permission to quarry Savadu in Public Works Department tanks. The District Collector should have passed orders in the applications, submitted by the petitioners, within a reasonable time. But the District Collector kept the application pending for a very long time. However, since the provisions of Rule 12 the Tamil Nadu Minor Mineral Concession Rules, 1959 were amended on 23.09.2015, now, the District Collector cannot grant permission on her own against the provisions of the Amended Rules 12 Tamil Nadu Minor Mineral Concession Rules, 1959. It is settled position that Mandamus cannot be issued against the statute. The ratio laid down in the judgment, relied by the learned Special Government Pleader, reported in (1981) 2 SCC 205(State of Tamil Nadu vs M/s Hind Stone and Others), squarely applies to the facts and circumstances of the present case.

21. In spite of all the authorities, recommending for grant of permission to the petitioners for quarrying the Savadu in the Public Works Department Tanks, now, mandamus cannot be issued in view of the amended provisions of Rule 12 of the Tamil Nadu Minor Mineral Concession Rules, 1959.

22. When the Amended Rule 12 contemplates that the District Collector can grant permission only after the recommendations of the Special Committee, the District Collector cannot be directed to grant permission, ignoring the provisions of the Amended Rule 12 of the Tamil Nadu Minor Mineral Concession Rules, 1959.

23. The District Collector can pass orders only based on the recommendations of the Special Committee. As per the amended Rule 12, the District Collector shall place all the eligible applications before the Special Committee, for scrutinizing the applications and for getting its recommendations.

24. It is open to the District Collector to place the petitioners' applications before the Special Committee, constituted by her, as contemplated under the Amended Rule 12 of the the Tamil Nadu Minor Mineral Concession Rules, 1959, and based on the recommendations of the Special Committee, the District Collector may pass orders on the applications. For the reasons stated above, all the writ petitions are liable to be dismissed and accordingly, the same are dismissed. No costs. Consequently, connected MPs are closed."

5. Thus, in the light of the aforesaid judgment passed by the Hon'ble Division Bench, in W.A.No.55 of 2015, dated 03.09.2015, and the decision rendered in W.P.Nos.28019, 30204, of 2015 etc., (batch) dated 20.04.2016, this Writ Petition is disposed of, by directing the first respondent/District Collector to place the petitioner's application, if he finds the same to be eligible, for scrutiny by the Special Committee, constituted under the amended Rule 12 of the the Tamil Nadu Minor Mineral Concession Rules, 1959, and based on the recommendations of the Special Committee, the District Collector may pass orders on the petitioner's application. No costs. Consequently, connected Writ Miscellaneous Petition is closed.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

To

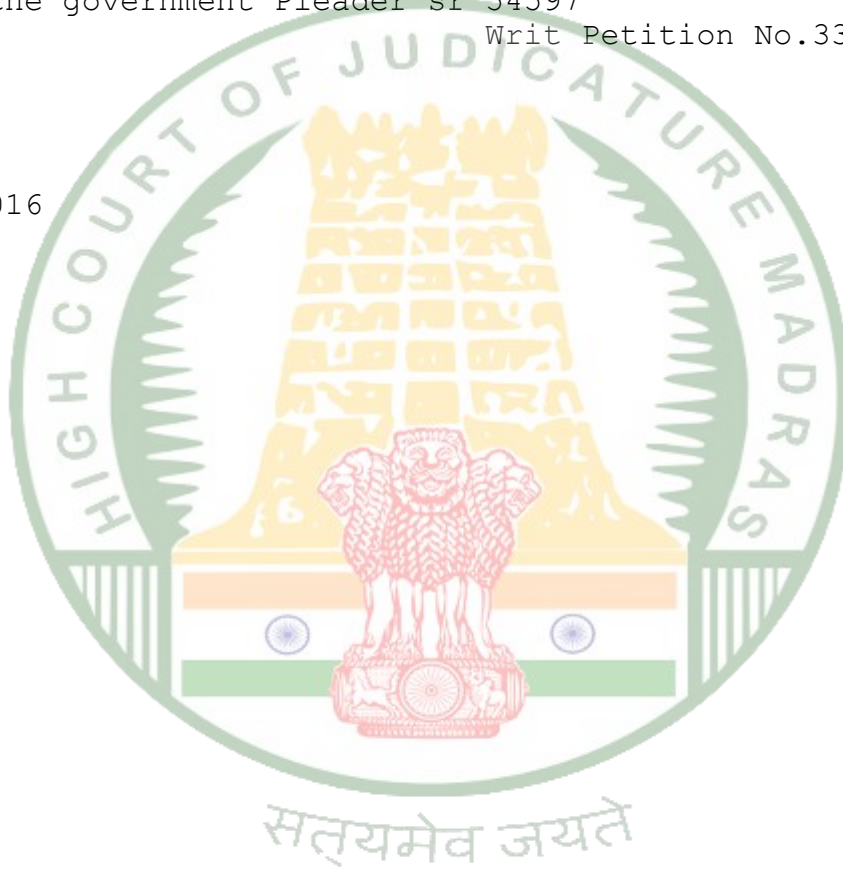
1. The District Collector,
Tiruvallur District,
Tiruvallur.
2. The Assistant Director of Geology and Mining,
Tiruvallur District,
Tiruvallur.

+1 cc to Mr.Muthappan Advocate sr 54841

+1 cc to the government Pleader sr 54597

Writ Petition No.33564 of 2016

aa21/10/2016



WEB COPY