

In the High Court of Judicature at Madras

Dated : 30.11.2016

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition No.41957 of 2016 & WMP.No.35915 of 2016

M/s.Grow Group, rep.by its
Proprietor J.Durai Babu

...Petitioner

Vs

1.The State of Tamil Nadu, rep.by
its Secretary to Government,
Industries Department,
Fort.St.George, Chennai-9.

2.The Commissioner of Geology
and Mining, Chennai-32.

3.The District Collector, Tiruvannamalai
District, Tiruvannamalai.

...Respondents

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorari to call for the records of the proceedings of the 1st respondent made in GO (D) No.154 Industries (MMB-2) Department dated 1.9.2016 confirming the orders of the 2nd respondent made in Rc.No. 1017/MM9/2012 dated 29.1.2013 and the order of the 3rd respondent dated 27.4.1998 made in Rc.No.341/Mines/1996 and quash the same.

For Petitioner : Mr.S.Thirumavalavan
For Respondents : Mr.S.Diwakar, SGP

ORDER

Mr.S.Diwakar, learned Special Government Pleader accepts notice for the respondents. Heard both. By consent, the writ petition itself is taken up for final disposal, in view of the error, which is apparent on the face of the impugned order.

2. In this writ petition, the petitioner challenges a Government Order in G.O.(D).No.154 dated 1.9.2016, in and by which, the petitioner's second appeal filed against the order passed by the Commissioner of Geology and Mining dated 29.1.2013 was rejected. The Commissioner of Geology and Mining was the First Appellate Authority, who rejected the petitioner's first appeal against the order passed by the District Collector, Tiruvannamalai District dated 27.4.1998, imposing a penalty of Rs.7,49,718/- for violation of the provisions of the Tamil Nadu Minor Mineral Concession Rules, 1959 in respect of rough stone quarry.

3. The petitioner preferred a second appeal before the Government on 12.2.2013. After a lapse of more than 1 1/2 years, an opportunity of personal hearing was afforded on 17.9.2014. Thereafter, the matter went into the cold storage. Therefore, in 2016, the petitioner moved this Court by filing two writ petitions in W.P.Nos.14874 and 14875 of 2015 for a direction to the first respondent to dispose of the second appeal dated 12.2.2013 and also

another second appeal dated 23.4.2013. The said two writ petitions were disposed of by a common order dated 27.4.2016 with a direction to the Government to dispose of the second appeals on merits and in accordance with law, within a period of four months from the date of receipt of a copy of the order, after giving due opportunity of personal hearing.

4. It is stated by the learned counsel for the petitioner that only one appeal has been disposed of by the impugned order and the other second appeal dated 23.4.2013 is still pending.

5. However, it is seen that the first respondent, before rejecting the second appeal dated 12.2.2013, did not afford an opportunity of personal hearing, but referred to a personal hearing, which was granted on 17.9.2014. This Court, while disposing of the earlier writ petitions, directed the Government namely the first respondent to grant an opportunity of personal hearing to the petitioner. The first respondent committed a serious error in not adhering to the directions issued in the earlier writ petitions. This error, which is apparent on the face of the impugned order, is sufficient to hold that the impugned order is in violation of the principles of natural justice.

6. Accordingly, the writ petition is allowed, the impugned order is set aside and the first respondent is directed to afford an opportunity of personal

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hearing to the petitioner within a period of two weeks from the date of receipt of a copy of this order and thereafter pass orders on merits and in accordance with law, within a period of three weeks thereafter. This procedure shall also be followed in respect of the other second appeal dated 23.4.2013, if not already disposed of. No costs. Consequently, the above WMP is closed.

30.11.2016

Internet : Yes

To

- 1.The Secretary to Government of Tamil Nadu, Industries Department,
Fort.St.George, Chennai-9.
- 2.The Commissioner of Geology and Mining, Chennai-32.
- 3.The District Collector, Tiruvannamalai District, Tiruvannamalai.

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