



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED 08.08.2016

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WEB COPY

THE HONOURABLE MR.JUSTICE M.VENUGOPAL

W.P (MD) No.11982 of 2016

S.Balamurugan

... Petitioner

Vs

1.The District Collector,
Thiruchy District.

2.The Assistant Director,
Geology and Mining,
Thiruchy District,
Thiruchy.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the 1st Respondent to grant permission to the petitioner for quarrying Gravel sand, forthwith, in S.No.129/2(P) in Mekkudi Village, Srirangam Taluk, Thiruchirapalli, in an extent of 4.75.0 Hectares, based on the application submitted by the Petitioner to the 1st Respondent on 27.05.2015 to forthwith.

For Petitioner : Mr.M.Gururaj

For Respondents : Mr.M.Govindan
Special.Govt.Pleader

ORDER

Heard both sides.

2.By consent, the main Writ Petition itself is taken up for final disposal.

3. No counter is filed on behalf of Respondents 1 and 2.

4. According to the Petitioner, on 27.05.2015, he submitted an application before the First Respondent / District Collector, Tiruchirappalli District, for quarrying out gravel sand from the Poromboke lands in S.No.129/2(P), measuring an extent of 4.75.0 Hectares, as the tank was filled up by the deposition of gravel sand brought by sourcing canals for decades



together. As a matter of fact, the Petitioner submitted his application based on the provision of Rule 12(2) of the Tamil Nadu Minor Minerals Concession Rules, 1959, for querying gravel sand. The gravel sand, which would be quarried out from the tank, could be utilized for agricultural activities, as the same is rich in nutrients and minerals.

5. The version of the Petitioner is that he had adduced supporting affidavits giving an undertaking, as prescribed by various Departments, which includes Public Works Department and Forest Department and based on his application, the First Respondent / District Collector, Thiruchirappalli District, had directed the Revenue Divisional Officer, Tiruchirappalli, to conduct an enquiry and submit a report and based on the same, the Revenue Divisional Officer, had submitted his report on 11.08.2015. Based on the report submitted with the Public Works Department, he was issued with a 'No Objection Certificate' from the Public Works Department, as per proceedings, dated 02.07.2015.

6. The stand taken on behalf of the Petitioner is that, when his application was under scrutiny with the First Respondent, an amendment was brought to Rule 12(2) and a new provision was inserted in 12 (2-A)(a), by an order in G.O.(Ms)No.223, dated 23.09.2015, in and by which, the District Collector cannot grant permission on his own and should place it to a specially constituted Committee and by obtaining affidavits from the applicants in the necessary formats. The Petitioner's application is kept pending by the First Respondent / District Collector, Tiruchirappalli District and so far no action has been taken pursuant to the effect of the recent Amendment to Rule 12-A(a) of the Tamil Nadu Mines and Minerals Concession Rules, 1959.

7. At this stage, the grievance of the Petitioner is that the First Respondent / District Collector, Tiruchirappalli, should have placed his application before the Special Committee constituted for this purpose. Further, the inordinate delay caused in processing his application is causing huge and irreparable loss and mental agony to him. Hence, he has filed the present Writ Petition before this Court.

8. At this stage, the Learned Counsel for the Petitioner seeks-in-aid of the order of this Court, dated 22.06.2016 made in W.P.No.21302 of 2016, between R.Ramesh Kumar v. District Collector, Namakkal District and Another, wherein at paragraph Nos.4 to 6, it is observed and directed as follows:-

"4. On the other hand, the learned Special Pleader appearing for the respondents submitted that in terms of the recent amendment to the Tamil Nadu Minor



Mineral Concession Rules, 1959 vide G.O.(Ms.) No.233, Industries (MMC.2) Department, dated 23.09.2015, the petitioner is liable to comply with the conditions stipulated under Rule 12 (2-A) of the Rules, which reads as follows:

"12(2-A)(a) If the available quantity as estimated by the Public Works Department/Rural Development and Panchayat Raj Department exceeds 30 cbm., subject to the conditions specified in sub-rule (2), quarrying for other than bonafide domestic or agricultural purposes earth, silt, savudu, etc., from the beds of tanks under the control of the Public Works Department or Rural Development & Panchayat Raj Department which are notified by the District Collector in the District Gazette under sub-rule (2), shall be made subject to the previous permission being obtained from the District Collector concerned on payment of the cost of minerals and seigniorage fee for the quantity of the above said mineral sought to be removed at the rates specified in Appendix-II to these rules. For obtaining permission, an application shall be submitted to the District Collector in Form in Appendix VI-C to be accompanied with a non-refundable application fee of Rs.1,500/- remitted in the District Treasury concerned and with the following documents, namely:-

(i) An affidavit showing the details of areas mineral-wise in each district of the State, which the applicant or any person jointly with him

(a) already holds under a quarrying lease;

(b) already applied for but not yet granted;

(c) being applied for simultaneously;

(ii) A valid mining no-dues clearance certificate obtained from the Collector of the District in Form in Appendix-VIII to these rules or an affidavit stating that the applicant is not holding any quarry lease in the State and that there are no mining dues to be paid to the Government; and

(iii) An affidavit stating that the applicant has -



(a) filed up-to-date income tax returns;

(b) paid the income tax assessed on him;

(c) paid the income tax on the basis of the self assessment as provided in the Income Tax Act, 1961 (Central Act 58 of 1962).

(b) The District Collector shall place all eligible applications before a Special Committee constituted by the District Collector consisting of the following officers, namely :-

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|---|----------|
| 1) District Collector | Chairman |
| 2) Revenue Divisional Officer concerned. | Member |
| 3) Project Director,
(District Rural Development Agency) | Member |
| 4) Executive Engineer (Public Works Department),
in charge of Tanks. | Member |
| 5) Joint Director of Agriculture of the District | Member |
| 6) Deputy Director or Assistant Director of
Geology and Mining of the District,
as the case may be. | Convener |

(c) The Special Committee shall scrutinize the applications and furnish its recommendations to the District Collector within thirty days from the date of placement of applications before the said Committee.

(d) For selection of eligible applicants, the Special Committee shall take into consideration the nature of proposed usage of minerals, previous experience and performance of the applicant in the field of quarrying and mineral trade and to furnish specific recommendations on the quantity of mineral to be removed and period of permission to be granted. The Special Committee shall also decide as to whether the quantity of minerals removed is granted equally among all eligible applicants or proportionately depending upon the quantity applied for by the applicants:

(e) Based on the recommendation of the Special Committee, the District Collector shall pass orders on the applications.



(f) The period of permission to be granted under this sub-rule shall not exceed three months.

(g) Permission granted under this sub-rule shall not be renewed or extended for any reason including that the person permitted could not mine or remove the mineral for whatever reason. He will not be entitled for refund of any cost or money incurred in the process. If the permitted quantity is not removed within the stipulated period, the applicant will not be entitled for removal of unutilized quantity of mineral.

(h) In the event, it is found that, the permission-holder has removed in excess of the permitted quantity or if any other violation of the conditions of grant of permission is brought to notice, the permission shall stand cancelled and damages if any to the tank, approach road, etc., will be recovered from him depending upon the excess quantity mined and the extent of damage caused to the tanks. Any cost incurred for the restoration of the tank shall also be recovered from the permission-holder.

5. In terms of the above amended rule, an affidavit has to be filed by the petitioner apart from complying with other conditions. The learned counsel appearing for the petitioner submitted that the petitioner is ready and willing to comply with all the conditions as per the amended rule and the application may be directed to be considered.

6. In the light of the above, the petitioner is directed to comply with the conditions stipulated under Rule 12(2-A) of the Tamil Nadu Minor Mineral Concession Rules, 1959 and file appropriate affidavits and other regards and thereafter, the District Collector is directed to place the application complete in all respects, before the special committee constituted as per the Rules and based on the recommendations of the special committee, the District Collector is directed to pass appropriate orders on the application filed by the petitioner."



and proceeds to point out before this Court that the said decision applies to the facts of the present case, which is not disputed on behalf of the Respondents.

9. Considering the fact that the Petitioner has sought only for passing of an order by this Court in directing the First Respondent / District Collector, Tiruchirappalli, to grant permission to him for quarrying Gravel sand, forthwith, in S.No.129/2(P) in Mekkudi Village, Srirangam Taluk, Thiruchirappalli, measuring to an extent of 4.75.0 Hectares, based on the application submitted by him, to the First Respondent, on 27.05.2015, this Court directs the Petitioner to comply with the conditions adumbrated under Rule 12(2-A) of the Tamil Nadu Mines and Minerals Concession Rules, 1959, and file necessary / proper affidavit and thereafter, the First Respondent / District Collector, Tiruchirappalli District, is directed to place the application of the Petitioner, dated 27.05.2015 (complete in all aspects), before the Special Committee constituted, in terms of the Rules. It is needless for this Court to make a significant mention that based on the recommendations of the Special Committee, the First Respondent / District Collector, Tiruchirappalli, is directed to pass appropriate / necessary orders, on the application filed by the Petitioner, dated 27.05.2015.

10. With the aforesaid observation(s) and direction(s), the Writ Petition stands disposed of. However, there shall be no order as to costs.

Sd/
Assistant Registrar(T&P)

/True Copy/

Sub Assistant Registrar.

To

1. The District Collector,
Thiruchy District.

2. The Assistant Director,
Geology and Mining,
Thiruchy District,
Thiruchy.

+1CC to M/S.M.Gururaj, Advocate, SR.No. 42749

W.P (MD) No.11982 of 2016
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