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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 10.11.2016

Pronounced on : 17.11.2016

CORAM

The Hon'ble Mr. Justice S.NAGAMUTHU
AND
The Hon'ble Mr. Justice M.V.MURALIDARAN

WP (MD) No.14734 of 2016
and
WMP (MD) Nos.10896 and 10897 of 2016

Vaigai Sand Lorry Owners Association,
Rep. by its
Secretary C.Ramachandran,
1/192, Indhira Nagar 2nd Street,
Kolimedu, Viraganoor Post,
Madurai - 9.

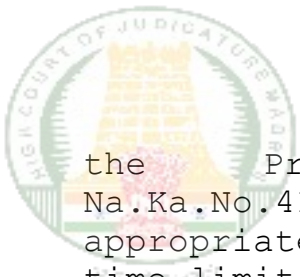
.. Petitioner

Vs

1. The District Collector,
Madurai District,
Madurai.
2. The Superintendent of Police,
Madurai District,
Madurai.
3. The Assistant Director,
Department of Mines and Minerals,
Collectorate,
Madurai.
4. The Assistant Executive Engineer,
Public Works Department,
R.C.Subdivision,
Lalgudi,
Trichy District.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for the issuance of writ of Mandamus, directing the respondents to initiate appropriate action against the Lorries engaged in carrying sand from the quarries of the Government above the permitted limit prescribed under the Motor Vehicles Act and as per



the Proceedings of the 1st respondent in Na.Ka.No.416/2013/minerals, dated 09.04.2015 and also to initiate appropriate action against the overloading of lorries within the time limit that may be stipulated by this Court.

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Petitioner : Mr.V.Karthikeyan
Respondents : Mr.M.Govindan (for R1 to R4)
Special Government Pleader

O R D E R

The writ petitioner, who is an Association by name Vaigai Sand Lorry Owners Association, represented by its office Secretary C.Ramachandran, having office at No.1/192, Indhira Nagar 2nd Street, Kolimedu, Viraganoor Post, Madurai District has filed this petition in WP(MD)No.14734 of 2016 sought for the relief of issuance of writ of Mandamus, directing the respondents to initiate appropriate action against the Lorries that carry sand from the quarries of the Government above the permitted limit prescribed under the Motor Vehicles Act and as per the Proceedings of the 1st respondent in Na.Ka.No.416/2013/minerals, dated 09.04.2015 and also to initiate appropriate action against the overloading of lorries within the time limit that may be stipulated by this Court.

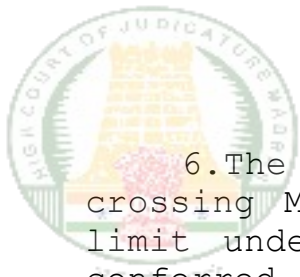
2. The case of the petitioner is that for construction of the buildings purpose, the sand is sold by the Government from the Primary yards and the Secondary yards. The Primary Yards are located in the river beds itself and the permitted limit for an ordinary lorry with 6 tyres is two units i.e. 10,200 kg., which is the permitted quantity as per the Motor Vehicles Act. The petitioner further stated that the quarries, which is situated in Karur District Supply Sand to the western Districts of Tamil Nadu and the lorries operating in the area carry only two units of sand which is sold at a rate of Rs.3,200/-. The sand for the Southern Districts of Tamil Nadu i.e. South of Trichy is being supplied by the Secondary Yards which are situated away from the riverbeds.

3.The petitioner also come forward by saying that the Secondary Yards do not follow the Norms of two unit and the members of the Association and other operators were compelled to carry 3 to 4 units of sand for a price of Rs.4,500/-. The permit receipt has issued only for two units but the price of the sand has not entered in the permit issued by the 4th respondent. Due to the non-mentioning of the price of sand in the permit receipt, huge monetary loss is caused to the Government as the permit reflects only two units which is Rs.3,200/- whereas the lorries carry 3 to 4 units of sand for a price of Rs.4,500/- for every load. The excess amount of Rs.1,300/- for every lorry has not accounted for.



4. The petitioner further states that when the members of the Association insist for only loading of two units of sand as per the transport permit they were compelled to pay for four units of sand and take two units as insisted by them. The petitioner also states that the sand lorries when meet with an accident beyond the permitted limit they were facing the difficulty of getting the insurance amount since the sand weight exists the permitted limit under the Motor Vehicles Act and the Insurance Policy. Apart from this, the Association also states that the General Public, who were met with an accident with the sand lorries and they were also unable to get compensation from the Insurance Company due to the over loading of lorries. The petitioner also stated that the overloading of lorries also causes wear and tear to the vehicle quickly and also damage the National highways, which are put up at heavy cost.

5. Narrating the above facts and circumstances, the writ petitioner Association made a representation on 11.06.2013 and pursuant to the above representation, the Commissioner of Geology and Mining by his proceedings dated 08.07.2013 has intimated the first respondent to initiate appropriate action and also communicate the same to the writ petitioner Association. Therefore, when they were no response or any reply from the first respondent, they approached this Court and filed a writ petition in W.P.(MD)No.17520 of 2013 with a prayer for a direction, directing the respondents for framing norms to carry sand within the District of Madurai. This Court by order dated 11.02.2015 directed the respondents therein to consider the representation of the petitioner and pass appropriate orders within six weeks from the date of receipt of the order. Pursuant to the above order, the first respondent has informed the Executive Engineers of the Public Works Department to consider the petitioner's representation dated 11.06.2013 and initiate appropriate action. Thereafter, the first respondent has also constituted a committee consisting of all authorities in the District to supervise the transport of Minerals. But, the said committee did not function and it was only on papers. The first respondent has also fixed the maximum quantity of sand that can be carried in the small and heavy lorries. The writ petitioner further states that everyday all the lorries should carry sand from the quarries to Madurai and other Southern Districts of Tamil Nadu are carrying beyond the permitted limit. Hence, the respondents have failed to initiate action as per the communication dated 09.04.2015. Therefore, the writ petitioner Association were constrained to sent reminder letter dated 16.02.2016 and 05.05.2016 to restrain the overload of sand lorries and also confiscate them, based on the communication dated 09.04.2015 in the order of the Hon'ble Division Bench of this Court.



6.The writ petitioner further states that all the sand lorries crossing Madurai District are carrying load beyond the permitted limit under the Motor Vehicles Act and the respondents who are conferred with the power of initiate appropriate action are not carrying on the duties conferred upon them. The user fee tollgate authorities also levied a fine of Rs.20/- invariably for all the sand lorries crossing the Chittampatti Tollgate located on the Trichy-Madurai Highway, the respondents have not cared to initiate action as per the decision taken in the proceedings of the 1st respondent dated 09.04.2005. Therefore, the writ petitioner further states that the Members of the writ petitioner Association were compelled to carry over load even if they are not prepared for the same, as the other lorry operators are ready to carry over load and deliver for the same rate. Therefore, the writ petitioner Association were prayed that the suitable directions to the respondents to initiate appropriate action as per the proceedings in Na.Ka.No.416/2013/minerals, dated 09.04.2015, there will be a heavy loss of money will be caused to the Government due to carrying of sand beyond the limit prescribed in the permit receipt. Therefore, the writ petitioner Association approached this Court for the above relief.

7.Denying all the averments, the fourth respondent has filed counter affidavit stating that as per introduction of Rule 38-A of the Tamil Nadu Minor Mineral Concession Rules, 1959, the right of quarry sand in the State now vests only with the State Government, who is Public Works Department, i.e. this fourth respondent herein. The State Government has issued amendment to the Tamil Nadu Minor Mineral Concession Rule 1959, by introducing of 38-C of the Tamil Nadu Minor Mineral Concession Rule 1959, on 11.02.2011, whereby the procedure for establishing the sand stockyard for second sales and its procedures.

8.The fourth respondent come forward by saying that the General Public who have need the sand for construction of their building can get directly through quarry operated by the Public Works Department in the river bed by paying the cost of sand in the form of Demand Draft on priority basis, i.e. first come first serve basis. The Public Works Department has strictly following the G.O.Ms.No.178/PW(I-Spl2) Department, dated 31.06.2008 in compliance with the Motor Vehicles Act 1988. Based on that, the Public Works Department loading 2 units and 3 units of sand based on the Vehicle classification i.e. Single axis and Multi axis trucks without any deviation. The fourth respondent also states that when the writ petitioner Association himself accepted the facts that the Public Works Department, sale the sand only 2 units. Whereas, the writ petitioner misinterpreted that the sand is being sold by the Government from the Primary and the Secondary Yards, since the Government has no secondary yards. The second sale sand stock yards are operated only by the private individuals



those who got permission from the District Collector concern as per the Rule 38-C of the Tamil Nadu Minor Mineral Concession Rule, 1959.

9. The fourth respondent also states that the second sale sand stock yard holders purchase the sand and process the said sand by manual grading/Machine grading for removal of stones, dust and unwanted elements such as shells, gravel, etc. to make the processed sand fit for construction. Therefore, the sand stock yard licensee's sold the processed sand at their affordable price. The fourth respondent also states that in fact the sand sold rate should be displayed at the entrance of the every sand stock yard based on the recommendation of the Lakhoni Committee in compliance of the direction of the Hon'ble First Bench of this Court. As per G.O.27, Industries (MMC.2) Department dated 17.02.2015, the District Collector, who monitored the said sand and sent a report to the State Government for the review of appellate Forum headed by the Secretary Mines. As per the G.O. stated supra, without exhausted the remedy available in the above said G.O. as per the order of the Hon'ble First Bench of Madras High Court in its order vide W.P.No.772 of 2015, the writ petitioner has directly approached this Court.

10. The fourth respondent also states that the second sale yard holders has to issue the sale slip which was prescribed in the Tamil Nadu Minor Mineral Concession Rule, 1959 as per the Rule 38-C (2)(b) Appendix XVIII and duly authenticated by the Taluk Headquarters Deputy Tahsildar / AD Mines / Assistant Executive Engineer / Assistant Engineer as in Appendix XIX. He also stated that it has not mentioned in the sale slip as mandatory, it has only a sale slip permitted to carry the sand from second sale stock yard authorised by the concern authority. As per the G.O.Ms.No.178/PW(I-Spl2) Department, dated 31.06.2008 has issued only to the Public Works Department to fix the cost of sand against the quantity of sand. The fourth respondent also stated that the sand has being sold only 2 units or 3 units in sand quarries operated by the Public Works Department based on the permissible capacity of the trucks. Whereas the second sale sand stock yard owners sold the processed sand to the customers as per the permissible capacity of the trucks.

11. The fourth respondent also further stated that the Public Works Department strictly complied the order of this Court made in W.P.(MD)No.17520 of 2013 dated 11.02.2015 and the order of the District Collector, Madurai vide Lr.No.416/2013/Mines dated 09.04.2015.

<https://hcservices.ecourts.gov.in/hcservices/> 12. The fourth respondent also further stated that the cases have been registered as overloaded vehicles by the Revenue Divisional Officer under Mines Act. The Police Department



conducting frequent vehicle check and register the cases on overloaded vehicles under Indian Penal Code and Motor Vehicles Act. The Transport Department also conduct vehicle check and fine the overloaded vehicles under Motor Vehicles Act then and there. Bringing notice of this Court about the registration of the cases, the respondent also produced the F.I.R.s registered against the vehicles in the typed set of papers.

13.The fourth respondent has denied that as per the communication dated 09.04.2015, no action was taken by the respondents. The other allegations that the petitioner Association Members are compelled to carry load even if they are not prepared for the same, as the other lorry operators are ready to carry over load and deliver for the same rate was also denied by the respondents.

14.The respondent also states that the rate of the sand has not mentioned in the sale slip has not mandatory as per the Tamil Nadu Minor Mineral Concession Rule, 1959. Sale slip has a slip permitted to carry the sand from the second sale stock yard authorised by the concern authorities.

15.During the hearing of the case, the writ petitioner has filed an Additional Affidavit as per direction of this Court. In the Additional affidavit, the writ petitioner states that the fourth respondent under whose control the Government Quarries are functioning has charged a sum of Rs.4,500/- for the 3 units of sand carried in the lorries owned by writ petitioner Association members and also the other lorries transporting sand to the Southern Districts. The writ petitioner also stated that in the Additional affidavit that the permitted limit for the 6 wheel lorries of the petitioner Association members has only 2 units and the transport permit issued by the fourth respondent also reflects the same. The writ petitioner Association stated that the value of the 2 units of sand has only Rs.3,200/-, whereas the permit receipt issued by the fourth respondent reflects the quantity of sand. The allegations of 3 units of sand being transported has proved by the weighment certificate obtained from the weigh bridges situated at Trichy and Madurai.

16.The fourth respondent also states that the Toll plazas were levied over load charges for every trip of sand load. The unladen weight of the petitioner Association lorry has 6.7 tons and the Registration Certificate also states that the petitioner Association lorry has entitled to carry 10 tons of load. The first respondent also stated that as per the proceedings dated 09.04.2015 that 6 wheel lorries can weigh a maximum of 16.2 tons (16,200 kgs. or 35,700 lbs.), which has in consonance with the provisions of the Motor Vehicles Act.



17. The writ petitioner also stated in the Additional Affidavit that the Members of the writ petitioner Association were never taken any Demand Drafts as submitted by the fourth respondent before this Court. The writ petitioner Association states that they have been paying only cash of Rs.4,500/- in the counter which has set up in the quarry site. They were not aware of the alleged Demand Draft numbers that are written in the permit issued for transport of sand. The writ petitioner Association also states that after filing of this writ petition, the fourth respondent has refused to supply sand from the Public Works Department quarry to the lorries of Madurai District and all their members are transporting sand from the private licensee whose yard has situated at Kondaiyampettai adjacent to the Kollidam River. The sand lorries of western Districts are supplied with sand from the Public Works Department Quarry situated at Thiruvatchi Village.

18. The fourth respondent filed an Additional Counter dated 15.09.2006, for the additional affidavit filed by the writ petitioner, in which the fourth respondent stating that petitioner Mr. Ramachandran, representing the facts of sand quarry operation by the Public Works Department before this Court. The fourth respondent also states that originally the writ petitioner has been filed the affidavit with misleading contents and now trying to improve the falsehood with some malafide intentions by way of filing additional affidavit and typed set of papers before this Court.

19. The allegations of the petitioner that the lorries are paying Rs.4,500/- for every load and issuing permit receipt only for 2 units, which is Rs.3,200/- is strongly denied by the fourth respondent and in the original affidavit as well as in the additional affidavit, the writ petitioner has mislead this Court.

20. The fourth respondent further stated that the above said allegation is totally false and the Public Works Department is selling the sand for Rs.1,040/- per 2 unit by getting Demand Draft as per G.O.Ms.No.325 dated 23.12.2013. The fourth respondent also come with the clear picture by saying that the cost of sand, unit of sand sold and Demand Draft number are clearly mentioned in the Public Works Department permit slip of sand quarry, which is filed before this Court. The writ petitioner has never submits the above said allegation before any competent authority. The petitioner misrepresented the facts and the allegations are totally denied.

21. The allegation that collecting of Rs.1,300/- over the amount of Rs.3,200/- for 2 units and causing huge monetary loss to the Government is totally baseless and strongly denied by the fourth respondent. The fourth respondent also denied the allegation that due to non mentioning of the price of sand in the



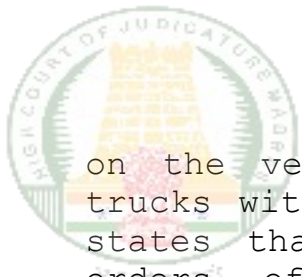
permit receipt, huge monetary loss is caused to the Government as the permit reflects only 2 units which is Rs.3,200/- whereas the lorries are paying Rs.4,500/- for every load. The excess amount of Rs.1,300/- for every lorry is not accounted for.

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22.The fourth respondent further states that as per the documents produced by the writ petitioner shows differently as Rs.1,040/- per 2 units. The cost of sand Rs.1,040/- for 2 units is collected only through Demand Draft as per the G.O.Ms.No.396, dated 16.06.2014. The fourth respondent also stated that the writ petitioner in his typed sets I and II annexed 8 permit slips of Public Works Department sand quarry in which only 3 permit slips are legible to read, in his own document of petitioner the cost of sand is stated as Rs.1,040/- units of sand sold and Demand Draft numbers for cost of sand Rs.800/-, loading charges Rs.200/- and Value added Tax Rs.40/- are clearly mentioned. It is the case of the fourth respondent is that the above 3 legible permit slips 9 Demand Drafts mentioned and the Public Works Department in a regular course entered the Demand Draft number in the Department Remittance Register, and remitted the amount in the bank through treasury challan in the corresponding head of account. The copies of Department Remittance Register, treasury challan and Demand Draft for corresponding date of issue of permit slip are produced by the fourth respondent.

23.The further case of the fourth respondent is that as per the allegation set out in the affidavit that the cost of sand is Rs.3,200/- for 2 units (i.e. Rs.1,600/- per unit) whereas the Public Works Department is collecting Rs.4,500/- for 3 to 4 units (i.e. Rs.1,500/1125 per unit). Thereafter, the writ petitioner improves his affidavit and alleges that the amount collected for 3 units of sand is Rs.4,500/- (i.e. Rs.1,500/- per unit). Therefore, the writ petitioner himself has given contradicting statement about the price of sand. The fourth respondent also denied equally as per allegation in the additional affidavit, after filing the writ petition, the Public Works Department were refused to supply sand from Public Works Department quarry to the lorries of Madurai District and instructed to purchase sand from private stock yard. On verification of the records, it is made clear that the writ petition was filed on 19.07.2016 and the first hearing was on 11.08.2016. As per the above, the writ petitioner himself annexed the permit slips issued by the Public Works Department dated 16.08.2016 and 17.08.2016. Therefore, it is clearly shows the malafide intention of the petitioner to mislead this Court.

24.The fourth respondent by strictly followed the G.O.Ms.No.178/PW (I-Spl2) Department, dated 31.06.2008 in compliance with the Motor Vehicles Act, 1988. Based on that, the Public Works Department loading 2 units and 3 units of sand based



on the vehicle classification i.e. Single axis and Multi axis trucks without any deviation. The fourth respondent also further states that the Public Works Department strictly complying the orders of this Court in W.P.(MD).No.17520 of 2013, dated 11.02.2015 and the order of the District Collector, Madurai vide Lr.No.416/2013/Mines dated 09.04.2015. It is made clear that the several cases are being registered against the overloaded vehicles by the Revenue Divisional Officer under Mines Act. The Police Department conducting frequent vehicle check and register the cases on overloaded vehicles under Indian Penal Code and Motor Vehicles Act. The fourth respondent also further stated that in the Additional affidavit as per G.O.135, dated 13.11.2009, the Taluk level committee headed by Tahsildar along with the officials of the Police Department, Mines Department, Transport Department, Forest Department and Public Works Department regularly inspecting the quarry site, once in every fortnight and it is being reviewed by the District level committee headed by the District Collector in every month. The Government has formed the appellate forum headed by the Industrial Secretary vide G.O.Ms.No.27 Industries Department, dated 17.02.2015, pursuant to the order passed by the Hon'ble First Bench of this Court in its order vide W.P.No.772 of 2015 to review the functioning of the District level committee.

25.The fourth respondent further says that the Public Works Department is effectively managing the quarries and supplying the sand to the lorries guided by the Government orders. Admittedly, among the customers i.e. lorry drivers and owners there is existence of some competitions and somebody having desire to be treat them as a privileged persons which cannot be possible. Hence, the customers always making their level best attempt by throwing muds lining allegations against the responsible officers. But any how the authorities strictly following the Government instructions and the orders of this Court.

26.The fourth respondent also further stated that the writ petition is not a bonafied Public Interest Litigation with some hidden motive. The writ petitioner has not approached this Court with clean hand and petitioner submitted many misrepresentation before this Court. It is also stated by the fourth respondent that the sand will be available either at quarry site managed by the Public Works Department, from the Sand stock yard which are managed by the private licencees, available from the separation units and cart load taken in guise of domestic purpose. Wherever there is transit of overloading, they are liable for the legal act which is taken care of by the Revenue, Transport and Police Departments taking legal action against them and hence, he sought for dismissal of the writ petition.

27.After filing the necessary affidavit, this Court directed the Regional Level Committee to make inspection in the quarry and



file a report before this Court. Accordingly, on 28.10.2016 an inspection was conducted by the Regional Level Committee at Trichy Region by the following officers:

1. Er. S. Thinakaran, B.E. (Hons), M.E. (Structures), Chief Engineer, PWD, WRD, Trichy Region.
2. Er. B. Kanagaraj, Superintending Engineer, PWD, WRD, Environmental Circle, Trichy.
3. Er. M. Ranganathan, Superintending Engineer, PWD, WRD, Ground Water Circle, Thanjavur.
4. Er. R. Gunasekaran, Deputy Chief Engineer, PWD, WRD, Trichy Region, Trichy.
5. Er. D. Kalaiselvan, Executive Engineer, River Conservancy Division, Trichy.
6. Er. R. Venkatesh, Assistant Executive Engineer, River Conservancy Sub-Division, Lalgudi, Trichy.
7. Er. S. Dhanasekar, Junior Engineer, Upper Anicut Section, Trichy.

28. The inspection report dated 28.10.2016 has given before this Court is as follows:-

"Sand Quarry at Thiruvasi Village of Manachanallur Taluk in Trichy District.

The Committee inspected the sand quarry site in S.F.No.144/2 (Part) of Kollidam River bed in Thiruvasi Village of Manachanallur Taluk in Trichy District. The sand quarry is functioning after getting Environmental Clearance from State Environmental Impact Assessment Authority, Chennai in Lr.No.SEIAA/TN/F.No.4072 EC/1(a)/2296/2014 Dt.27.10.2015 and District Collector approval in Lr.No.Rc.No.99/2015/Mines Dt.15.12.2015 and the quarrying operations was commenced on 03.03.2016.

During the time of inspection, it was found that 6 number of lorries, bearing the following numbers.

- | | |
|------------------|-------------------|
| 1) TN 60 1485 | 4) TN 59 C 9344 |
| 2) TN 74 U 7364 | 5) TN 01 AQ 2534 |
| 3) TN 59 AA 5370 | 6) TN 67 AF 7062, |

were in queue at sand quarry site for loading sand.

The Committee enquired the drivers of the lorries about the mode of payment made by them for the cost of the sand. The drivers stated that they brought Demand Draft taken by them and further stated that they never pay cash to the Public Works Department officials at quarry site. It was verified and found that they have given Demand Draft taken from Nationalised Bank. It is also enquired that whether there was any compulsion to get excess load of sand by the



officials at quarry site after collecting additional cost. The drivers denied and stated that they got only 2 units for lorries with six wheels and 3 units for Taarus lorries. The Committee ensured the quantity of sand loaded in to the Lorries. The Committee perused the records maintained at the sand quarry site and it revealed that, for each load of sand the cost is collected only through Demand Draft.

Sand Quarry at Kilayanallur South Village of Manachanallur Taluk in Trichy District.

The Committee inspected the sand quarry site in S.F.No.148(Part) of Kollidam River bed in Kilayanallur South Village of Mannachanallur Taluk in Trichy District. The sand quarry is functioning after getting Environmental Clearance from State Environmental Impact Assessment Authority, Chennai in Lr.No.SEIAA/TN/F.No.4071 EC/1(a)/2291/2014 Dt.27.10.2015 and District Collector approval in Lr.No.Rc.No.100/2015/Mines Dt.22.01.2015 and the quarrying operations was commenced on 03.03.2016.

During the time of inspection, it was found that 3 number of lorries, bearing the following numbers.

- 1) TN 67 AD 5982
- 2) TN 55 W 6831
- 3) TN 28 AK 1314, were in queue at sand quarry site for loading sand.

The Committee enquired the drivers of the lorries about the mode of payment made by them for the cost of the sand. The drivers stated that they brought Demand Draft taken by them and further stated that they never pay cash to the Public Works Department officials at quarry site. It was verified and found that they have given Demand Draft taken from Nationalised Bank. It is also enquired that whether there was any compulsion to get excess load of sand by the officials at quarry site after collecting additional cost. The drivers denied and stated that they got only 2 units for lorries with six wheels and 3 units for Taarus lorries. The Committee ensured the quantity of sand loaded in to the Lorries. The Committee perused the records maintained at the sand quarry site and it revealed that, for each load of sand the cost is collected only through Demand Draft."



29.As per inspection made by the Regional Level Committee on 28.10.2016, the Committee has observed is as follows:-

"Summary:-

The Committee observed that,

1. The lorries with 6 wheels are loaded with 2 units of sand and taarus lorries are loaded with 3 units of sand only.

2. The cost of sand is collected only in the form of Demand Draft obtained from schedule Bank.

3. For cost of sand of 2 units, a Demand Draft of Rs.1050 and for 3 units a Demand Draft of Rs.1575 is collected. The cost includes cost of sand, loading charges and

VAT.

4. The Departmental officials or employees do not demand or collect any cost whatsoever in the form of cash.

5. The lorries taking sand to Madurai and other southern Districts were also loaded without any restriction, at the Sand quarry sites of Thiruvasi and Kiliyanallur village in Kolidam river bed bearby the Trichy Town."

30.The report also states that there was no cash transaction at sand quarry site for the cost of sand, the transaction is only through Demand Drafts and that there is no excess loading of sand. The Committee also states that the officials of the sand quarry site have also been instructed to follow the Government Rules and Regulations scrupulously without any deviations. On filing the above inspection report of the Committee, this Court directed the writ petitioner to file their reply for the above inspection report before this Court.

31.Accordingly, on 08.11.2016, the writ petitioner has filed an affidavit stated that the Thiruvatchi sand quarry caters the need of the state and nearly 1000 lorries load sand everyday. The writ petitioner also states that the Committee has arranged for the lorries from Madurai alone to file the affidavit on behalf of the Committee to falsify the writ petitioner averments in this writ petition with regard to payment of cash and the excess loading of sand.

32.The writ petitioner also states that the Committee itself has been Headed by the Chief Engineer has not whispered anything with regard to the weightage certificate furnished by the writ petitioner. The writ petitioner also states that the typed set of papers and the alleged demand drafts, which have been taken in one bank namely Karur Vysya Bank, Jeeyapuram, Trichy District. The writ petitioner also states that



the Committee has only conducted an eye wash inspection on 28.10.2016 a day before Deepavali when all the lorries were away from work. It is also stated that the lorries said to have been present at the time of inspection have only been setup by the 4th respondent. The writ petitioner also states that the Public Works Department Quarry at Thiruvatchi Village has now been closed and now sand is supplied to the private licensee only. Even the Secondary Yards supply 3.34 units (17 tons) sand which is beyond the permitted limit of 9 tons under the Motor Vehicles Acts and the proceedings of the first respondent dated 09.04.2016 for six tyre lorries. Therefore, they denied the inspection that the finding of the Committee that there was no cash transaction and no excess load impacted on 28.10.2016, a day before Deepavali is only eye wash and even as on today the lorries are permitted to carry sand beyond the permitted limit prescribed in the Motor Vehicles Act and the proceedings of the first respondent. Hence, the writ petitioner prayed this Court to grant the relief by allowing the writ petition.

33. We heard Mr.V.Karthikeyan, learned counsel appearing for the petitioner and Mr.M.Govindan, learned Special Government Pleader, appearing for the respondents 1 to 4 and perused all the records.

34. It is a case of the writ petitioner is that it is a main grievance of the writ petitioner that as per the permit, it reflects only two units which is Rs.3,200/- whereas the lorries are paying Rs.4,500/- as cash for every load. The excess amount of Rs.1,300/- for every lorry is not accounted for. The writ petitioner also stated that the lorries are compelled to pay for 4 units of sand and take 2 units as insisted by the petitioner Association. Further, the case of the writ petitioner is that the District Level Task Force has not functioning and due to the compulsion of over load, the penalty imposed to the lorries for over loading. The writ petitioner also states that the writ petitioner never produced any Demand Draft directed by the Public Works Department.

35. As per G.O.Ms.No.396/Public Works (W.Spl.) Department Dated 16.06.2004, the Government have decided to collect the sale of sand amount from the users at depots in the form of Demand Draft, instead of cash from any one of the Nationalised/Co-operative/Schedule Banks. The Government have issued further G.O.Ms.No.178 P.W(W.spl) Department dated 31.06.2008 that the loading of 2 units and 3 units were based on the vehicle classification i.e. Single axis and Multi axis without any deviations. Hence, for effective monitoring at root level / <https://hccservicescourts.org.in/hccservices> it quarrying / mining / transportation of minerals and to minimize loss of Revenue, the State exchequer, the Government direct the Collectors of all Districts to reconstitute



the existing District Level Task Forces with composition of following officials:

1. District Collector - Chairman
2. Superintendent of Police
3. District Forest Officer
4. District Revenue Officer
5. Regional Transport Officer
6. Revenue Divisional Officers
7. Deputy Superintendent of Police
8. Assistant Director (Panchayat)
9. Assistant Director (Town Panchayat)
10. Commissioners of Municipalities
11. District Level Official from Tamil Nadu Pollution Control Board.
12. Deputy Director (Mines) / Assistant Director (Mines) - Member Secretary / Convenor.
13. The E.E. (PWD.WRO).

36.As per the above G.O., the Government also directed all the Collectors to constitute Taluk Task Forces with the composition of following officials:

1. Tahsildar - Convenor
2. Inspector
3. Forest Officer (Forest Range Officer)
4. A Representative of Department of Geology and Mining in the concerned District.
5. A Representative of Regional Transport Officer.
6. Village Administrative Officers
7. Sub Inspector of Police
8. AE (PWD-WRO).

37.As per the Rule 38-C of the Tamil Nadu Minor Mineral Concession Rule 1959, it clearly defined about the storage and transportation of sand and it was represented by the respondents that they have followed the same without any rooms of complaints.

38.Apart from this, as per G.O.Ms.No.27 Industries Department dated 17.02.2015, as per direction of the Hon'ble First Bench of this Court, while hearing the writ petition in W.P.No.772 of 2015, the Hon'ble First Bench on 13.01.2015, directed the Government to constitute an Appellate Forum consisting of a senior I.A.S. officer (in service), the Commissioner of Geology and Mining and an outsider for hearing appeals against the decisions taken by the Committee on those complaints. The Court also expressed by them, so that such complaints would not straightaway be entertained by this Court and the District Level Task Force is directed to dispose the same and pass orders on the petitions within a stipulated period of two months from the date of receipt of the petition. Pursuant to the order of the District Level Task Force, the orders



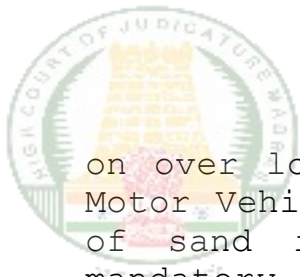
of the District Level Task Force or if orders are not passed on the complaint petitions within the stipulated time i.e. two months, an appeal may be preferred before the Appellate Forum within a period of 30 days. Therefore, in the said G.O. the Government has formed an Appellate Forum for hearing the Appeals and the Appellate Forum is constituted with the following officials:-

1.	The Secretary to Government	Industries Department
2.	The Secretary to Government	Public Works Department
3.	The Secretary to Government	Revenue Department
4.	The Secretary to Government	Environment and Forests Department
5.	Commissioner of Geology and Mining	
6.	Professor, Dr.Ambujam	Director, Centre for Water Resources, Anna University

39. Therefore, as per the above, it is made clear that the Hon'ble First Bench of this Court by its order in W.P.No.772 of 2015, dated 13.01.2015, the writ petitioner has to approach the District Level Task Force and thereafter to approach the Appellate Forum as constituted as per the above G.O.Ms.No.27, Industries Department, dated 17.02.2015. Thereafter only they have to approach this Court. But, without complaining the said, the writ petitioner Association directly approached this Court and filed the above writ petition with the above prayer.

40. On perusal of the records, particularly the typed set filed by the respondents, in which page-13 to 54, it is made clear that we came to know that the Public Works Department in a regular course entered the Demand Draft number in the Department Remittance Register, and remitted the amount in the bank through treasury challan in the corresponding head of account, which clearly shows that the person, who approached the Public Works Department for transport the sand, they have to pay the amount as per the unit at the rate of Rs.1,040/- and that amount to be paid through the Demand Draft. Apart from this, we have also perused the documents filed by the petitioner from page-55 to 59, it is clearly shows that the Sub-Collector has passed an order for seizing all the lorries for over loading and fine amount was imposed on the said vehicles.

41. The respondent also come forward by saying that the vehicle check and register the case conducted by the appropriate Revenue Divisional Officer under the Mines and Minerals Act and the Police Department also conducting the vehicle check and register the case



on over loading the vehicle under the Indian Penal Code and also Motor Vehicles Act. It is a case of the respondent that the rate of sand is not mentioned in the sale receipt which is not mandatory as per the Tamil Nadu Minor Mineral Concession Rule, 1959. Sale slip is a slip permitted to carry the sand from the second sale stock yard authorised by the concern authority.

42.As per the inspection report, we have also come to know that the committee namely the Regional Level Committee at Trichy Region was enquired the drivers in the inspection made on 28.10.2016 about the mode of payment for the cost of sand. The Committee came to know that the drivers were replied to the committee that they were brought Demand Draft and further they never pay cash to the Public Works Department officials at quarry site. Further, when the Committee made enquiry with the drivers, the drivers were replied that they have given Demand Draft taken from Nationalised Bank and also states that there was any compulsion of the drivers to get excess load of sand, but they were transport only 2 units for lorries with six wheels and 3 units for Taarus lorries. The Committee also given in the report that the Committee perused the records maintained at the sand quarry site and it revealed that for each load of sand the cost is collected only through Demand Draft. For cost of sand of 2 units, a Demand Draft of Rs.1,050/- and for 3 units a Demand Draft of Rs.1575/- is collected, in which includes the cost of sand, loading charges and VAT. The Committee also stated that the Public Works Department officials or the employees do not demand or collect any cost whatsoever in the form of cash. The lorries taking sand to Madurai and other Southern Districts were also loaded without any restriction at the Sand quarry sites of Thiruvashi and Kiliyanallur Village in Kollidam river bed nearby the Trichy Town.

43.When the respondent says that they had loaded two units only and collected Rs.1,050/- and Rs.1,575/- for 3 units that too receiving the amount by way of Demand Draft, this Court expect as per the above Government Orders cited supra, the same shall be scrupulously followed by the respondents, particularly Public Works Department while quarrying and loading in the lorries. Therefore, we are inclined to dismiss the writ petition with the above observation. Accordingly, the writ petition is dismissed without cost. Consequently, the connected M.P.s. are closed.

Sd/

Assistant Registrar(C.S-II)

/TRUE COPY/



To

1. The District Collector,
Madurai District,
Madurai.
2. The Superintendent of Police,
Madurai District,
Madurai.
3. The Assistant Director,
Department of Mines and Minerals,
Collectorate,
Madurai.
4. The Assistant Executive Engineer,
Public Works Department,
R.C.Subdivision,
Lalgudi,
Trichy District.

+1cc to M/s.V.Karthikeyan, Advocate, in SR No.69907.

+1cc to Special Government Pleader in SR.No.70245.

Order made in
WP (MD) No.14734 of 2016
and WMP (MD) Nos.10896 and 10897 of 2016
17.11.2016

VS

msm/mpa/sar1/18.11.16/p17/7c(IT)