



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.09.2016

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

W.P. (MD) Nos.15338 to 15343 of 2016

AR.KARUPPAIAH	... Petitioner in WP(MD). 15338/ 2016
T.VIJAYAKUMAR	... Petitioner in WP(MD). 15339/ 2016
K.THANGAVEL	... Petitioner in WP(MD). 15340/ 2016
T.BALAMURUGAN	... Petitioner in WP(MD). 15341/ 2016
V.RAMACHANDRAN	... Petitioner in WP(MD). 15342/ 2016
G.SAKTHIVEL	... Petitioner in WP(MD). 15343/ 2016

- Vs. -

1 THE DISTRICT COLLECTOR,
DINDIGUL DISTRICT.2 THE ASSISTANT DIRECTOR,
GEOLOGY AND MINING,
DINDIGUL DISTRICT.

... Respondent in all Wps.

Prayer in WP(MD). 15338/ 2016 :

Writ Petition is 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.788/2A in Periya Ayyampulli Kanmai, Ayyampulli Village, Palani Taluk, Dindigul District to an extent of 2.70.0 Hectares based on the application submitted by Petitioner to the 1st respondent on 19.08.2015.

Prayer in WP(MD). 15339/ 2016 :

Writ Petition is 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.349(P) in Porunthakulam Kanmai, Periyampatti Villge, Palani Taluk, Dindigul Dist, in an extent of 57.94.0 Hectares based on the application submitted by him to the 1st respondent on 24.08.2016.

Prayer in WP(MD). 15340/ 2016 :

Writ Petition is 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.128/1 in Thamaraiikulam Kanmai, Sinthalakundu Village, Dindigul West Taluk, Dindigul District to an extent of 74.75.5 Hectares based on the

application submitted by petitioner to the 1st respondent on 27.08.2015.

Prayer in WP(MD). 15341/ 2016 :

Writ Petition is 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.126(P) in Eravimangalam Kanmai, Eravimangalam Village, Palani Taluk, Dindigul District in an extent of 14.86.0 Hectares based on the application submitted by him to the 1st respondent on 19.08.2015.

Prayer in WP(MD). 15342/ 2016 :

Writ Petition is 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.261 in Puthukulam Kanmai, Kothaimangalam Village, Palani Taluk, Dindigul District to an extent of 14.86.0 Hectares based on the application submitted by petitioner to the 1st respondent on 19.08.2015.

Prayer in WP(MD). 15343/ 2016 :

Writ Petition is 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.755 Athikarikulam Kanmai, A.Kaliyamputhur Village, Palani Taluk, Dindigul District in an extent of 27.70.5 Hectares based on the application submitted by him to the 1st respondent on 27.08.2015.

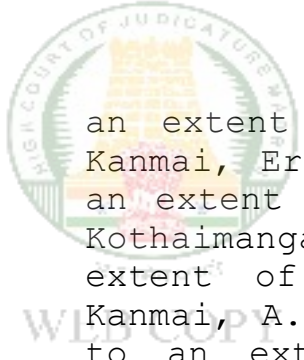
For Petitioners : Mr.M.Gururaj
in all WPS

For Respondents : Mr.R.Anandharaj, Government Advocate
in all WPS

C O M M O N O R D E R

Since the issue involved in all these writ petitions is one and the same, all the writ petitions are taken up together and disposed of by a common order.

2. These writ petitions have been filed seeking direction to the first respondent to grant permission to the petitioners for quarrying gravel sand in S.No.788/2A in Periya Ayyampulli Kanmai, Ayyampulli Village, Palani Taluk, Dindigul District to an extent of 2.70.0 hectares, in S.No.349(P) in Porunthakulam Kanmai, Periyampatti Village, Palani Taluk, Dindigul District to an extent of 5.70.0 hectares, in S.No.128/1 in Thamaraikulam Kanmai, Sinthalakundu Village, Dindigul West Taluk, Dindigul District to



an extent of 74.75.5 hectares, in S.No.126(P) in Eravimangalam Kanmai, Eravimangalam Village, Palani Taluk, Dindigul District to an extent of 14.86.0 hectares, in S.No.261 in Puthukulam Kanmai, Kothaimangalam Village, Palani Taluk, Dindigul District to an extent of 14.86.0 hectares and in S.No.755 in Athikarikulam Kanmai, A.Kalaiyamputhur Village, Palani Taluk, Dindigul District to an extent of 27.70.5 hectares respectively, based on the applications submitted by the petitioners to the first respondent on 19.08.2015, 24.08.2015 and 27.08.2015 respectively, forthwith.

3. According to the petitioners, they have submitted applications on 19.08.2015, 24.08.2015 and 27.08.2015 respectively before the first respondent, the District Collector, Dindigul District, seeking permission to quarry gravel sand in various tanks and the applications are pending and not yet considered. Hence, they have come forward to this court seeking for the aforesaid relief.

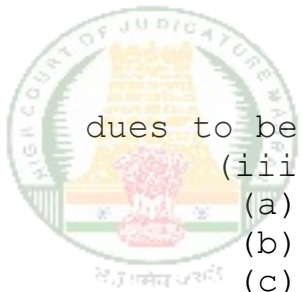
4. Now, the learned Government Advocate submitted that the Government made an Amendment to Rule 12(2) Tamil Nadu Minor Mineral Concession Rule and introduced 12 (2-A) on 23.09.2016, which is extracted hereunder, and the petitioner should submit his application as per the amended Rule.

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 AppendixVI-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 District 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 :-

- | | |
|--|----------|
| 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, Convener
as the case may be. | |

(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.

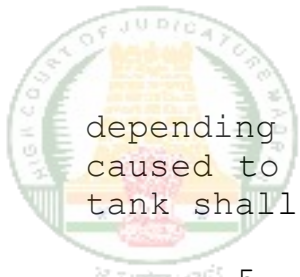
(d) For selection of eligible applicants, the Special Committee shall take into consideration the nature of proposed usage of minerals, previous experience and performance of the applicant in the field of quarrying and mineral trade and to furnish specific recommendations on the quantity of mineral to 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 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. At this juncture, the learned counsel for the petitioners submitted that already they have complied with all the conditions as required under amended Rule 12(2-A) and they filed necessary affidavits to the District Collector.

6. In the above said circumstances, the first respondent is directed to consider the petitioners' applications, as per amended Rule 12(2-A) and pass appropriate orders, on merits and in accordance with law within a period of six weeks from the date of receipt of a copy of this order.

7. With the above direction, these writ petitions are disposed of. No costs.

Sd/
Assistant Registrar(RTI)

/True Copy/

Sub Assistant Registrar.

To

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

+1CC to the Special Government Pleader, SR.No. 51930

W.P. (MD) Nos.15338 to 15343 of 2016
09.09.2016

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