

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.11.2017

CORAM

THE HONOURABLE Mr.JUSTICE V.PARTHIBAN

W.P.No.9896 of 2006
and
W.P.M.P.No.11121 of 2006

P.Boominathan

... Petitioner

Vs.

1. The Director of Geology and Mining,
Thiru.Vi.Ka. Industrial Estate,
Guindy, Chennai 600 032.
2. The District Collector,
Madurai District at Madurai.
3. The Revenue Divisional Officer,
Madurai.

... Respondents

PRAYER : Petition filed under Article 226 of The Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records of the 1st respondent's proceedings in Na.Ka.No.6336/M.M.S/2000 dated 27.02.2006, by confirming the order of the 2nd respondent in Na.Ka.No.1137/2004/Mining.A, dated 07.05.2005 and the third respondent's proceedings in Na.Ka.No.9870/2004-F, dated 26.07.2004 and quash the same and direct the respondents to refund the penalty amount of Rs.25,000/- to the petitioner.

For petitioner : Mr.M.Muthappan

For respondents : Mr.S.V.Duraisolaimalai,
Additional Government Pleader

O R D E R

Heard Mr.M.Muthappan, learned counsel for the petitioner and Mr.S.V.Duraisolaimalai, learned Additional Government Pleader appearing for the respondents.

2. The petitioner has approached this Court for seeking the following relief,

"To issue a Writ of Certiorarified Mandamus, to call for the records of the 1st respondent's proceedings in Na.Ka.No.6336/M.M.S/2000 dated 27.02.2006, by confirming the order of the 2nd respondent in Na.Ka.No.1137/2004/Mining.A, dated 07.05.2005 and the third respondent's proceedings in Na.Ka.No.9870/2004-F, dated 26.07.2004 and quash the same and direct the respondents to refund the penalty amount of Rs.25,000/- to the petitioner."

3. The case of the petitioner is as follows:-

The petitioner had transported sand from the Government Quarry with valid permit on 17.07.2004 in the Vehicle No.TN-59-S-1164. The vehicle was intercepted on that day at 12.45p.m. and found that he was carrying excess load of sand and the same was not permitted. Therefore, a penalty was imposed on the petitioner by the third respondent for Rs.25,507/-. The amount was paid under protest by the petitioner.

4. Thereafter, an appeal was preferred to the second respondent against the penalty imposed by the third respondent. The second respondent confirmed the order passed by the third respondent. According to the petitioner, the Collector had passed orders by giving a different reasoning which was not a subject matter of the original order passed by the third respondent. However, aggrieved by the order passed by the Collector, the petitioner preferred second appeal to the first respondent under Rule 36(c) (2) of the Tamil Nadu Minor Mineral Concession Rules, 1959.

5. According to the petitioner, the first respondent without considering the submissions made by him in proper perspective, dismissed the case of the petitioner, thereby confirmed the orders passed by both the second and third respondents. These orders are put to challenge in the present writ petition.

6. The learned counsel for the petitioner would submit that all the three authorities did not take into consideration the explanation offered by the petitioner. According to him, the action could be taken only under the Motor Vehicles Act, in case of illicit transport of Quarry material and the same cannot be taken by the respondents herein. Even otherwise, he would contend that there was no proper application of mind on the part of the authorities and therefore, orders are liable to be interfered with from this Court.

7. Upon notice, learned Additional Government pleader

appearing for the respondents, entered appearance and filed a counter. The learned counsel for the respondents would draw the attention of this Court to the orders passed by the respondents, particularly, the first respondent. From the order, it could be seen that the first respondent had considered the submissions made by the petitioner and in fact, it was concluded that at the time when the vehicle was intercepted, there was an admission of fact that the vehicle had carried excess load of Quarry material.

8. That being the case, this Court does not find any infirmity in the orders passed by all the respondents. Therefore, the writ petition lacks merits and substance and the same is dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

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To

1. The Director of Geology and Mining,
Thiru.Vi.Ka. Industrial Estate,
Guindy, Chennai 600 032.
2. The District Collector,
Madurai District at Madurai.
3. The Revenue Divisional Officer,
Madurai.

+1cc to Mr.M.Muthappan, Advocate, S.R.No.82976
+1cc to the Government Pleader, S.R.No.83691

CS/27/12/17

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