



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED :03.04.2017
CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

WEB COPY

W.P(MD)Nos.13355 and 18855 of 2014
and
M.P(MD)Nos.1 and 1 of 2014

W.P. (MD) .No.13355 of 2014:

Ponnu @ Narayanasamy

... Petitioner

Vs.

1.The Chief Controller of Mines,
Indian Bureau of Mines,
Nagpur.

2.The Regional Controller of Mines,
Indian Bureau of Mines,
C-4-A, 3rd Floor, C.G.O. Complex,
Rajaji Bhwaan,
Besant Nagar,
Chennai.

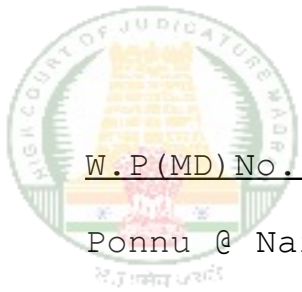
3.The Government of Tamilnadu,
Rep. By its Commissioner and Secretary,
Industrial Department,
Fort, St. George,
Chennai - 600 009.
Thoothukudi.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus directing the 2nd respondent to revoke the order of suspension made in TN/VOC/LST - 09/MDS dated 30.01.2012 issued by the second respondent on the basis of the representation dated 06.06.2014 in accordance with law within the time stipulated by this Court.

For Petitioner	: Mr.D.Sadiq Raja
For R.1&2	: Mr.Paul Pandian
For R.3	: Mr.R.Anandharaj,
	Government Advocate

(Amendment carried out vide Court order dated 05.06.2017)



W.P(MD)No.18855 of 2014

Ponnu @ Narayanasamy

... Petitioner

WEB COPY Vs.

1.The Director,
Geology in Mining,
Guindy,
Chennai.

2.The Assistant Director,
Geology in Mining,
Tuticorin.

3.The District Collector,
Collectorate,
Tuticorin District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus calling for the records relating to the impugned order passed by the 2nd respondent in his proceedings R.C.No.GM1/736/93, dated 13.11.2014 and quash the same and directing the 2nd respondent to issue permit to do mining lease in the properties covered in Lease Deed(i.e) extent of 4.10 Acres of Patta Lands in S.F.No.300/2A and 301/1A of Pannickerkulam Village, Kovilpatti Taluk, Tuticorin District till 05.04.2018.

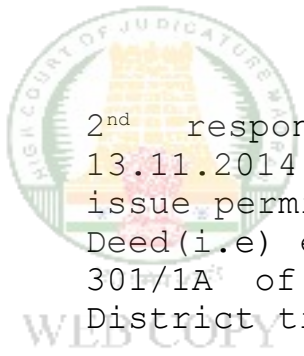
For Petitioner : Mr.S.Meenakshi Sundaram
For Respondents : Mr.R.Anandharaj,
Government Advocate

COMMON ORDER

Since the issue involved in both the writ petitions are one and the same, they are taken up together and decided by this common order

2. W.P.(MD).No.13355 of 2014 has been filed praying for a Writ of Mandamus directing the 2nd respondent to revoke the order of suspension made in TN/VOC/LST-09/MDS dated 30.01.2012 issued by the second respondent on the basis of the representation dated 06.06.2014 in accordance with law within the time stipulated by this Court.

<https://hcservices.ecourts.gov.in/hcservices/> Similarly, W.P.(MD).No.18855 of 2014 has been filed praying for the issuance of a Writ of Certiorarified Mandamus to call for the records relating to the impugned order passed by the



2nd respondent in his proceedings R.C.No.GM1/736/93, dated 13.11.2014 and quash the same and directing the 2nd respondent to issue permit to do mining lease in the properties covered in Lease Deed(i.e) extent of 4.10 Acres of Patta Lands in S.F.No.300/2A and 301/1A of Pannickerkulam Village, Kovilpatti Taluk, Tuticorin District till 05.04.2018.

4. The petitioner would aver among other things that the Government of Tamil Nadu vide G.O.Ms.No.181 Industries, dated 17.02.1983 granted mining lease for lime stone over an extent of 4.10 acres of patta lands in S.F.Nos.300/2A and 301/1A of Panikarkulam Village, Kovilpatti Taluk, erstwhile Tirunelveli District for a period of three years to the petitioner. The lease deed was executed on 18.10.1983 and the same was expired on 17.10.1986 and on application of the petitioner for renewal of lease, another 10 years was granted through G.O.Ms.No.565 Industries Department from 18.10.1986. The petitioner sought for extension for another period of 20 years.

5. The government after careful examination granted renewal of mining lease for further period of 20 years subject to an agreement in compliance of the said government order and accordingly, an agreement was executed on 06.04.1998 and the petitioner would submit that any lease which is granted by the government should be executed by the government and the lessor as per Section 31(1) of the Tamil Nadu Mining Mineral Concession Rules which the date of commencement of the period for which a mining lease is granted shall be the date on which a duly executed deed under sub-rule (1) is registered for renewal for a period of 20 years was executed on 06.04.1998 in Form K and therefore the real date of commencement of the period of license is from 06.04.1998 and according to him, lease would expire only on 05.04.2018.

6. As there was no mining operation and there was labour problem and due to water logging in the mining area, the petitioner submits that he was not able to submit the monthly and annual return as required under the Act. Therefore, the Indian Bureau of Mines suspended his license and challenging the same, the petitioner was constrained to file W.P.(MD).No.11885 of 2014.

7. During the pendency of the afore-said writ petition, by an order dated 17.09.2014, the Regional Controller of Mines revoked the order of suspension with immediate effect. But, again, on the instruction of the Regional Controller of Mines, the said Scheme of Mines was withdrawn on 14.10.2013 on a wrong assumption under the wrong insistence by the Office of the Regional Controller of Mines stating that the lease was expired on 17.10.2006 itself and against which, W.P.(MD).No.18855 of 2014 has been filed by the petitioner for the relief stated supra.

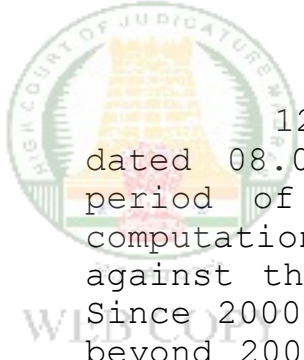


8. The Government has filed a detailed counter affidavit on behalf of the third respondent in which it is submitted that M/s.Sri Padmavathy Lime Products, Nallatinpudur, Kovilpatti Taluk, Tuticorin District was granted lease to quarry lime stone in S.F.No.300/2A and 301/A of Pannickkarkulam Village, Kovilpatti Taluk over an extent of 4.10 acres of patta land for a period of three years vide G.O.Ms.No.181 Industries Department dated 17.02.1983. The lease deed was executed on 18.10.1983 which was expired on 17.10.1986.

9. On expiry, the petitioner filed renewal of license for a further period of three years on 29.07.1985 and the same was recommended by the District Collector to the government. Since approved Mining Plan was required as per the amended Rule 22(3)(c) of the Mineral Concession Rules, 1960, government returned the renewal application to the petitioner and the writ petitioner resubmitted an application along with the approved Mining Plans.

10. In the meantime, the petitioner filed W.P.(MD). No.9927 of 1987 and obtained an order of interim injunction restraining the government not to interfere with the mining and removal of quarried mineral from the area. A perusal of the Permit Register maintained in the office of the second respondent shows that the writ petitioner firm has obtained transport permit lastly on 14.09.2000. The W.P.(MD).No.9927 of 1987 was dismissed on 28.01.1997. Then, the Commissioner of Geology and Mining, Chennai recommended of the renewal application for 20 years and the State Government issued order renewing the lease for 20 years with retrospective from 18.10.1986 vide G.O.(3D) No.138 Industries (MMA1) Department dated 08.08.1997 and the lease agreement in pursuant of the afore-said G.O dated 08.08.1997 was executed on 06.04.1998 and thereafter, no renewal application has been received from the petitioner and as per the afore-said G.O., lease was expired on 17.10.2006.

11. While so, the Power Agent of M/s.Sri Padmavathy Lime Products sent a representation dated 13.10.2014 to the third respondent requesting the respondents to issue transport permit stating that the lease is valid upto 05.04.2018 as the calculating lease period from the date of execution of the lease agreement, namely, from 06.04.1998 on virtue of the Rule 31(2) of the Tamil Nadu Minor Mineral Concession Rules, 1960. It is also the case of the government that the calculation of the lease period has been made by the petitioner firm on misconception and wrong interpretation of the Rule. Therefore, the second respondent sent a reply in his letter dated 13.11.2014 informing that his request for issue of transport permit cannot be complied with. Aggrieved



12. As per G.O.(3D).No.138 Industries (MMA1) Department dated 08.08.1997, it has been clearly stated that the renewal period of 20 years takes effect from 16.10.1986. Hence, the computation of the renewal period of 20 years from 06.04.1998 is against the government order and not sustainable under any rule. Since 2000 onwards, lessor has dismissed the mining operation and beyond 2006, he has not filed any application for renewal of his mining lease and therefore, he has not obtained transport pass from 2006 and therefore, even if the lessee was unable to continue mining for a continuous period of one year, due to the reasons beyond his control, the lessee should submit application to the government explaining the reasons as per Rule 28(2) of the Mineral Concession Rules, 1960, but the writ petitioner firm failed to submit any application till the expiry of the lease and therefore, non-compliance of the above rules has made the lease lapsed statutorily and therefore, the petitioner is not entitled to any pass.

13. Due to the non-operation of the quarry from 2000, the petitioner had failed to produce monthly and periodical reports prescribed under the Tamil Nadu Minor Mineral Concession Rules, 1959 and therefore, the Regional Controller of Mines issued orders the above proceedings in TN/VOC/LST-09/MDS dated 30.01.2012 suspending the quarrying activities of the petitioner firm. Against which, the writ petitioner filed W.P.(MD).No.13355 of 2014 against the order of suspension.

14. The Learned Government Advocate would further submit that the suspension order was issued inadvertently, by the second respondent to the petitioner and as there was no final order passed in the above lease, the Regional Controller of Examinations in letter No.78/15 withdrew the same. Even as per G.O.Ms.No.138 Industries Department dated 08.08.1997, the lease commences as per the original date of lease and therefore, the question of granting transport permit to the petitioner does not arise as statutorily lease had expired in the year 2006 itself. Hence, he prayed for appropriate orders.

15. Heard the rival submissions of the learned counsel for the petitioner as well as the learned Government Advocate appearing on behalf of the respondent No.3 and perused the materials available on record.

16. As rightly pointed out by the learned Government Advocate appearing for the respondent No.3 G.O.(3D)No.138 Industries (MMA.1) Department dated 08.08.1997 states in paragraph No.10 that the lease commenced on 16.10.1986 for a period of 20 years. Therefore, the lease as per the afore-said government order had expired on 17.10.2006. The suspension order which was inadvertently issued by the second respondent was subsequently



withdrawn as the lease itself had expired way back in the year 2006 itself. However, taking advantage over the same, the petitioner filed the subsequent writ petition for granting of transport permit contending that his lease was subsisting upto 2018 which cannot be countenanced in the eye of law. To sum up, in the case on hand, the respondents had rightly denied the request of the petitioner. Furthermore, the petitioner did not apply for the second renewal either within the period in Rule 24A (1) of the Tamil Nadu Minor Mineral Concession Rules, 1960 or till date. Hence, the lease granted to the petitioner by virtue of G.O. (3d).No.138 Industries (MMA1) Department dated 08.08.1997, is so specific on the date of the commencement of the lease and as per the afore-said lease, viewed from any angle, no writ interference is required in both the writ petitions.

17. In the result, both the writ petitions stand fail and they are accordingly dismissed. No costs. Connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(C.O)

**(*)AMENDED AS PER ORDER DATED
05.06.2017 MADE IN WP(MD)No.13355
and 18855 of 2014**

/True Copy/

Sub-Assistant Registrar

To,

(*)TO BE SUBSTITUTED TO THE ORDER ALREADY DESPATCHED ON 11.5.2017

- 1.The Chief Controller of Mines,
Indian Bureau of Mines,
Nagpur.
- 2.The Regional Controller of Mines,
Indian Bureau of Mines,
C-4-A, 3rd Floor, C.G.O. Complex,
Rajaji Bhwaan,
Besant Nagar,
Chennai.
- 3.The Commissioner and Secretary,
Government of Tamilnadu,
Industrial Department,
Fort, St. George,
Chennai - 600 009.



4.The Director,
Geology in Mining,
Guindy,
Chennai.

5.The Assistant Director,
Geology in Mining,
Tuticorin.

6.The District Collector,
Collectorate,
Tuticorin District.

+One cc to Mr.D.Sadiq Raja, Advocate, SR.No.18969

+One cc to Mr.P.Paul Pandi, Advocate, SR.No.18754

+One cc to The Special Government Pleader, SR.No.18932

+One cc to The Special Government Pleader, SR.No.19250

ssm

JS/MMS/7P/9.5.2017

RL/11C/7P/SKN/RSK/SAR1/15.6.2017

W.P (MD) Nos.13355 and 18855 of 2014

03.04.2017