



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED :22.03.2017

CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P (MD) No.21022 of 2015

and

W.M.P. (MD) .No.1 of 2015

P.Balasundhara Raj

... Petitioner

Vs.

1.The District collector,
Theni District, Theni.

2.The Assistant Director (Geology and Mines),
Department,
Theni District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus to direct the first respondent to give necessary direction to the second respondent for issuing trip sheet to the petitioner, enabling him to transport the dust sand from the patta land in Survey No.100/1 to an extent of 2.56.0 hectares, situated at Rasingapuram Village, Bodinayakanoor Taluk, Theni District as per the order of the first respondent in proceedings dated 06.07.2015 in Na.Ka.No.73/Kanimam/2013.

For Petitioner : Mr.R.Suriyanarayanan

For Respondents : Mr.R.Anandharaj
Government Advocate

ORDER

This writ petition has been filed praying for the issuance of a Writ of Mandamus to direct the first respondent to give necessary direction to the second respondent for issuing trip sheet to the petitioner, enabling him to transport the dusty sand from the patta land in Survey No.100/1 to an extent of 2.56.0 hectares, situated at Rasingapuram Village, Bodinayakanoor Taluk, Theni District as per the order of the first respondent in proceedings dated 06.07.2015 in Na.Ka.No.73/Kanimam/2013.

2. By consent, this writ petition is taken up for final disposal.

<https://hcservices.ecourts.gov.in/hcservices/> The petitioner would aver among other things that on 25.04.2013, the petitioner made application before the first respondent to remove the dusty sand comprised in S.No.100/1 to the



extent of 2.56.0 hectares situated at Rasingapuram Village, Bodinayakanoor Taluk, Theni District. According to the petitioner, if the dusty land is not removed, the lands of the petitioner will become unfit for cultivation.

WEB COPY

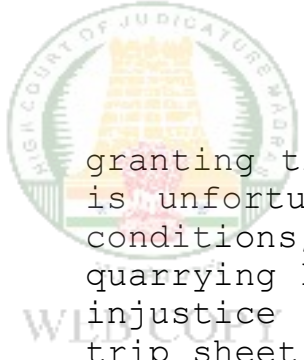
4. The case of the petitioner is that while applying for permission for removal of dusty sand, he had complied with all the formalities as provided under the Act. While so, the Revenue Official and the second respondent inspected the lands of the petitioner and submitted the report. The petitioner also submits that he has paid seniorage fee and agreed to pay the fee for every trip of sand. If the printed trip sheet is not issued for carrying the sand, the sand cannot be carried from the lands of the petitioner. It is the further case of the petitioner that the second respondent refused to issue the trip sheet without any valid reasons and it is alleged that due to some political influence, the trip sheet was not given to the petitioner. The petitioner has given written representation dated 18.11.2015 through registered post and the same was served on 19.11.2015, but, the respondents have not taken any positive progress based on the compliant given by the petitioner. Therefore, the petitioner has come forward with the present writ petition.

5. This writ petition has been pending since 26.11.2015 onwards and a number of times, the matter was adjourned for filing counter affidavit by the respondents. However, no counter affidavit has been filed by the respondents and hence, the matter was proceeded based on the materials available before this Court.

6. However, the learned Government Advocate appearing for the respondents, on instruction, would state that the petitioner has not produced environmental clearance Certificate as required by the respondents.

7. Heard the submissions of the learned counsel for the petitioner and the learned counsel for the respondents.

8. The only objection raised by the respondents is that the petitioner did not obtain environmental clearance certificate and therefore, the trip sheet was not issued to the petitioner, but the petitioner would draw the attention of this Court to the license granted by the first respondent for quarrying the dusty sand dated 06.07.2015 available at Page No.5 of the typed set of papers, wherein, it has been specifically stated that quarrying permission was granted as the petitioner has submitted the approved mining plan, clearance from the Tamil Nadu Pollution Control Board and the State Level Impact Assessment authority and complying with all the conditions of the the Tamil Nadu Minor Mineral Concession Rules, 1959, permission has been granted and therefore, the reasons stated by the respondents for not



granting trip sheet cannot be countenanced in the eye of law. It is unfortunate that the petitioner after complying with all the conditions, permission has been denied and his legitimate right of quarrying by not issuing the trip sheet, according to me, a grave injustice has been caused to the petitioner by not issuing the trip sheet from 18.10.2015 onwards.

9. In the light of the above discussion, this writ petition is allowed and consequently, the first respondent is directed to give the trip sheet to the petitioner forthwith on receipt of a copy of this order and also directed the respondents to allow the petitioner to quarry for the period in which trip sheet was denied to him. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(AD II)

/True Copy/

Sub Assistant Registrar

To

1.The District collector,
Theni District, Theni.

2.The Assistant Director (Geology and Mines),
Department,
Theni District.

+1cc to Mr.R.Suriyanarayanan,Advocate in SR.No.17795/17

W.P (MD) No.21022 of 2015
22.03.2017

SSM

kk/JC/SAR4-26.04.2017-3P-4C