



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.07.2017

CORAM :

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P. (MD) No.4960 of 2015

M.Sirajudeen

... Petitioner

-vs-

1. The Commissioner of Geology and Mining,
Guindy, Chennai.

2. The District Collector,
Virudhunagar District,
Virudhunagar.

3. The Revenue Divisional Officer,
Sivakasi, Virudhunagar District.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, for issuance of a Writ of Mandamus, directing the respondents to consider the petitioner's representation dated 11.07.2014 and consequentially direct the 3rd respondent to dispose the proceedings in Na.Ka Aa4/8041/09 pending on the file of the 3rd respondent within a time frame that may be fixed by this Hon'ble Court.

For Petitioner : Mr.C.M.Arumugam

For Respondents : Mr.S.Kumar

Addl. Govt. Pleader

ORDER

This writ petition has been filed, seeking to direct the respondents to consider the petitioner's representation dated 11.07.2014 with a consequential direction to the 3rd respondent to dispose of the proceedings in Na.Ka Aa4/8041/09 pending on the file of the 3rd respondent.

2. The case of the petitioner is as follows:

i) He is the owner of the lorry bearing Reg.No.TN-30-V-7592 and has been using the same for carrying out transportation business. His lorry was seized by the 3rd respondent on 28.12.2009 on the ground that the vehicle did not reach the destination in time as stipulated in the transport permit;

ii) Thereafter, the 3rd respondent initiated proceedings and imposed a penalty of Rs.25,820/- vide his order in R.O.C.B4/8041/09 dated 11.01.2010 and the said order was challenged before the 2nd respondent, who, pursuant to the direction issued by this Court W.P.

(MD) No.4285 of 2010 on 01.04.2010 for disposal of his representation within twelve weeks, upheld the order of the 3rd respondent on 11.01.2010;

iii) The 3rd respondent, finding some material discrepancy in the report of the 3rd respondent, remitted the matter back to the 2nd respondent on 11.11.2011 for passing fresh orders. The 2nd respondent in turn remanded the entire records to the 3rd respondent for fresh consideration;

iv) In spite of the petitioner's appearance before the 3rd respondent for enquiry, no order has been passed in the pending proceedings and therefore, the petitioner sent a representation dated 11.07.2014 to the respondents 2 & 3 for early disposal of the proceedings and thereafter, filed the present writ petition to dispose of his representation dated 11.07.2014 with the consequential relief of disposing of the proceedings pending before the 3rd respondent.

3. Heard the learned counsel for the petitioner and the learned Additional Government Pleader appearing for respondents.

4. A close scrutiny of the averments in this petition would unravel that the 1st respondent, by way of remand, particularly directed the 2nd respondent / District Collector to examine the matter and to pass a fresh order in the appeal. But the 2nd respondent, by order dated 28.03.2012, delegated his power to the 3rd respondent to look into the matter afresh. In the considered opinion of this Court, such delegation is not in consonance with the Act, as the 3rd respondent/RDO is not the Appellate Authority under the Act. Therefore, the order of relegation dated 28.03.2012 is not valid in the eye of law.

5. However, considering the fact that the prayer in the writ petition is only to dispose of the petitioner's representation dated 11.07.2014 and also taking into account the fact that the 3rd respondent / RDO has no jurisdiction to decide the issue in appeal, this Court directs the 2nd respondent / District Collector to pass appropriate orders in the pending appeal on the basis of the representation dated 11.07.2014 and give quietus to the whole issue in line with the direction issued by the 1st respondent herein after affording an opportunity of hearing to the petitioner, within a period of six weeks from the date of receipt of a copy of this order. No costs.

The petition is disposed of.

Sd/-

Assistant Registrar(CS-I)

/True Copy/

Sub Assistant Registrar

To

<https://hcservices.ecourts.gov.in/hcservices/>

1. The Commissioner of Geology and Mining,
Guindy, Chennai.



2. The District Collector,
Virudhunagar District,
Virudhunagar.

3. The Revenue Divisional Officer,
Sivakasi, Virudhunagar District.

+1cc to THE SPECIAL GOVERNMENT PLEADER in SR. No.64562
+1cc to Mr.C.M.ARUMUGAM Advocate in SR. No.64706

RM/AR
JS/JC/SAR.1/17.7.2017/3P-6C

W.P. (MD) No.4960 of 2015
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