



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.11.2017

CORAM:

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P(MD) No.19738 of 2017

T.N.Rajakumaran

... Petitioner

-vs-

1. The District Collector,
Kanyakumari District,
Kanyakumari.

2. The Assistant Director,
Geology and Mining,
Kanyakumari District.

... Respondent

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents to renew the lease of the petitioner for conducting rough stone quarry operation in the petitioner's patta land in S.F.Nos.622/3(P), 622/4 & 622/5 over an extent of 0.90.0 Hectares in Mancode Village in Vilavancode Taluk, Kanyakumari District on the basis of Environmental clearance issued to the petitioner on 27.10.2015 and Hill Area Conservation Authority clearance issued to the petitioner on 20.01.2012.

For Petitioner : Mr.M.Vallinayagam, Senior Counsel
For Mr.M.Gnanagurunathan

For Respondents : Mr.T.S.Mohamed Mohideen
Addl. Govt. Pleader

ORDER

This writ petition has been filed, seeking to direct the respondents to renew the lease of the petitioner for conducting rough stone quarry operation in the petitioner's patta land in S.F.Nos.622/3(P), 622/4 & 622/5 over an extent of 0.90.0 Hectares in Mancode Village in Vilavancode Taluk, Kanyakumari District on the basis of Environmental clearance issued to the petitioner on 27.10.2015 and Hill Area Conservation Authority clearance issued to the petitioner on 20.01.2012.



2. Heard the learned Senior Counsel for the petitioner and the learned Additional Government Pleader appearing for the respondents. By consent, this writ petition is taken up for final disposal at the admission stage itself.

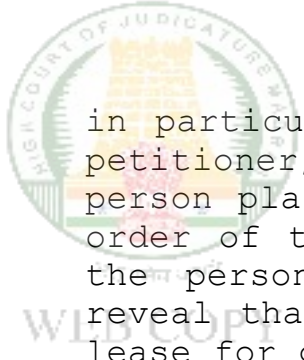
3. The case of the petitioner is that based on the clearance certificate from the Forest Department and after receipt of environmental clearance, he was granted licence on 10.02.2012 for quarrying rough stone / jelly for a period of five years as per Rules 19 & 20 of Tamil Nadu Minor & Mineral Concession Rules, 1959 by the 1st respondent and the said period of lease expired in the month of September, 2017. It is the further case of the petitioner that on its expiry, the petitioner made an application on 04.10.2017 for renewal of the licence for further period of five years and at that time, the respondents again insisted the petitioner to obtain clearance from Environment and Hill Area Conservation Authority (HACA), which is nothing, but arbitrary exercise of power. Aggrieved by the same, the petitioner is before this Court with the above prayer.

4. The learned Senior Counsel appearing for the petitioner would submit that the act of the respondents in insistence of production of environment clearance certificate is contrary to Sub Rule 3 of Rule 5 of the Environment Protection Rules, 1986, which stipulates that no fresh environmental clearance shall be required for a mining project or activity at the time of renewal of mining lease, which has already been obtained. He would further submit that the 1st respondent has already renewed the licence of a similarly placed person on 08.12.2015 and the petitioner alone has been singled out with some *mala fide* intention. He would also draw the attention of this Court to the observation made *inter alia* by the 1st respondent in the order dated 08.12.2015 granting renewal of licence to the said person, which is extracted hereunder for ready reference:

".....Generally, HACA gives clearance only for the area applied for quarrying activities and no time limit is prescribed by HACA in their clearance. Once the area is cleared by HACA, there is no necessity to approach for clearance for the same area for each renewal of lease for quarrying activities in the same area. Hence, it is clear that the clearance once obtained is applicable continuously for the subsequent periods without any time limit, thereby the clearance is applicable to this proposal also....."

Therefore, it is prayed that the application of the petitioner can also be processed in the light of the above proceedings dated 08.12.2015 and on the basis of the previous clearance certificate.

5. At the first blush, the argument advanced by the learned Senior Counsel for the petitioner sounds convincing. There is no concrete reason forthcoming on the side of the respondents



in particularly demanding production of HACA certificate by the petitioner, when the same was not insisted for in the case of the person placed in parallel manner. Moreover, a bare reading of the order of the 1st respondent dated 08.12.2015 issued in respect of the person standing on the similar footing would evidentially reveal that no such certificate is mandatory for each renewal of lease for quarrying activities in the same area.

6. Hence, this writ petition is disposed of, directing the respondents to take a decision on the application of the petitioner dated 04.10.2017 in respect of renewal of licence, by duly taking into consideration the previous certificates issued by the competent authorities and also keeping in mind the order dated 08.12.2015 passed in the case of similarly placed person, within a period of eight weeks from the date of receipt of a copy of this order after affording an opportunity of hearing to the petitioner. No costs.

Sd/-

Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar

To:

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

+ 1 cc TO Mr.M.Gnanagurunathan , Advocate in SR No. 87993
+ 1 cc TO The Special Government Pleader in SR No. 88208

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AE/SKN RSK/SAR1/30.11.2017/3P/5C

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