



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.02.2017

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THE HON'BLE MR.JUSTICE K. RAVICHANDRABAABU

W.P.(MD) No. 2553 of 2017

and

W.M.P. (MD) No.2122 of 2017

S. Chandresan

... Petitioner

-Vs-

1.The District Collector,
Tirunelveli District.

2.The Deputy Director of Geology and Mining,
Collectorate Campus,
Kokirakulam,
Tirunelveli District.

... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India, for the issuance of Writ of Mandamus directing the District Collector, the 1st respondent herein to furnish all the records to the petitioner company to submit a detailed explanation to the show cause notice dated 09.01.2017 and 06.02.2017 in R.C.No.M3/1424/2017 and direct him to pass orders in accordance with law in respect of the petitioner company situate in Thiruvambalapuram and Vijayapathi villages, Radhapuram Taluk, Tirunelveli District.

For Petitioner : Mr.S.Siva Thilakar

For Respondents: Mr.B.Pugalenth

Additional Advocate General

O R D E R

Mr.B.Pugalenth, learned Additional Advocate General takes notice for the respondents.

2. Heard the learned counsel for the petitioner and the learned Additional Advocate General for the respondents.

3. This Writ Petition is filed seeking for a Mandamus, directing the first respondent to furnish all the records to the petitioner-company to submit their explanation to the show-cause notices dated 09.01.2017 and 06.02.2017 in R.C.No.M3/1424/2017 and to direct him to pass orders in accordance with law in respect of the petitioner company situated in Thiruvambalapuram and Vijayapathi Villages, Radhapuram Taluk, Tirunelveli District.



3. It is stated that the petitioner-company is doing business in mining. The first respondent has issued a show-cause notice on 09.01.2017 calling upon the petitioner to show-cause by appearing in person on 23.01.2017 at 5.00 p.m., as to why action should not be taken against the petitioner for recovering the cost of unlawfully mined and transported minerals under Section 21(5) of the Mines and Minerals (Development and Regulation) Act, 1957 and to submit explanation for the quantum of 13,70,409.28 Metric Tons of raw sand/semi processed minerals unlawfully stored in the patta lands in Thiruvambalapuram and Vijayapathi Villages in Radhapuram Taluk, Tirunelveli District and for the unlawful export of illegally mined 1,87,718 Metric Tons of beach sand minerals for the period from 2012-13 to 2016-2017 to 2016-17 (up to 30.09.2016). The first respondent along with the show-cause notice enclosed the report of the Deputy Director of Geology and Mining, Tirunelveli, dated 08.01.2017. The said show-cause notice running to nine pages, contains so many facts and figures alleging the act of unlawful mining, storing and exporting of minerals in respect of the period specified in the show-cause notice.

4. Needless to say that the allegations made in the show-cause notice with certain particulars given therein are to be answered by the petitioner by giving explanation and supportive documents in their favour. Instead of doing so, the petitioner sent a communication on 21.01.2017 seeking for extension of time to appear in person and to submit their explanation and also by making a request for furnishing certain details and documents. In view of the fact that the petitioner did not appear on the date fixed for enquiry, the same was adjourned and lastly posted on 23.01.2017. Even on the said day, the petitioner did not appear and on the other hand, they wanted certain documents again. To the said request, the first respondent sent a communication on 06.02.2017 stating that the copies of required documents and copy of inspection report of the Deputy Director of Geology and Mining along with 2 volumes of documents on the assessment of raw sand and semi-processed minerals kept in Thiruvambalapuram and Vijayapathy Villages have already been provided to the petitioner-company under the references dated 09.01.2017 and 23.01.2017. It is also stated by the first respondent in his communication dated 06.02.2017 that copies of letter dated 05.10.2016 and 11.11.2016 received from the Assistant Commissioner of Customs, Tuticorin have also been provided. After saying so, the first respondent called upon the petitioner to appear for hearing on 15.02.2017 at 5.00 p.m., ie., today. At this juncture, the present Writ Petition is filed by the petitioner after sending a communication on 13.02.2017 reiterating their demands for furnishing of certain documents.

5. The learned counsel appearing for the petitioner submitted that unless the documents are furnished, the petitioner cannot participate in the enquiry.



6. On the other hand, the learned Additional Advocate General appearing for the respondents submitted that all the documents sought for by the petitioner were furnished as seen in the reply dated 23.01.2017 and 06.02.2017.

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7. Upon hearing the rival contentions of the parties, this Court is of the view that the petitioner instead of taking part in the enquiry by submitting the explanation with supporting documents, is only trying to protract the proceedings one way or other without allowing the first respondent to decide the matter on merits after considering the explanation given by the petitioner. When the allegation made against the petitioner in the show-cause notice is of serious nature, it is for the petitioner to give explanation with suitable supportive materials and take part in the enquiry. Without doing so, the petitioner cannot go on making a request one after another indirectly for postponing the enquiry for the reasons best known to the petitioner. Therefore, this Court is not inclined to entertain the writ petition.

8. The learned counsel appearing for the petitioner at this juncture submitted that the petitioner may be given three weeks time to give explanation to the show-cause notice, dated 09.01.2017 and to take part in the enquiry.

9. The learned Additional Advocate General is not having any objection for granting three weeks time for the petitioner to make the objection and to take part in the enquiry.

10. Accordingly, the petitioner is directed to give his explanation to the show-cause notice within a period of three weeks from today. On receipt of such explanation, the first respondent shall fix a date of enquiry and inform the petitioner. After hearing the petitioner, the first respondent shall pass orders on merits and in accordance with law within a period of two weeks from the date of conducting such enquiry.

With the above observations, this Writ Petition is disposed of. No Costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar (T&P)

/True Copy/

Sub Assistant Registrar



To:

1.The District Collector,
Tirunelveli District.

2.The Deputy Director of Geology and Mining,
Collectorate Campus,
Kokirakulam,
Tirunelveli District.

+1cc to M/S THE SPECIAL GOVERNMENT PLEADER SR.NO.8916

+1cc to M/S S.SIVATHILAKAR, ADVOCATE SR.NO.8323

PM

SM:PM-SAR 3:24.02.2017:4p/5c

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and
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