

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****DATED: 08.06.2017****CORAM:****THE HON'BLE MRS. JUSTICE J.NISHA BANU****W.P. (MD) No.5683 of 2017**

M. Abdul Jabbar

... Petitioner

-vs-

1. The District Collector,
Tirunelveli District,
Tirunelveli.

2. The Assistant Director of
Geology and Mining,
Tirunelveli.

3. The Commissioner of Geology and Mining,
Guindy, Chennai - 32.

.. Respondents

PRAYER: Writ Petition has been filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the first respondent to grant stoppage of period of lease for 17 months from 01.09.2018 in respect of the stone quarry measuring to an extent of 1.21.7 hectares in S.No.58/2A, 58/2B, 58/2C, 58/2E1A, 75/2A2B, 75/2B2, 76/1, Thazhiyuthu Village, Tirunelveli District, on payment of necessary charges.

For Petitioner : Mr.K.R. Krishnan

For Respondents : Mr.G. Muthukannan
Government Advocate

ORDER

This writ petition has been filed by the petitioner seeking for a direction to the first respondent to grant stoppage of period of lease for 17 months from 01.09.2018 in respect of the stone quarry operation measuring to an extent of 1.21.7 hectares in S.No.58/2A, 58/2B, 58/2C, 58/2E1A, 75/2A2B, 75/2B2, 76/1, Thazhiyuthu Village, Tirunelveli District, on payment of necessary charges.

2. Heard the learned counsel appearing for both sides. By consent, the writ petition itself is taken up for final disposal.

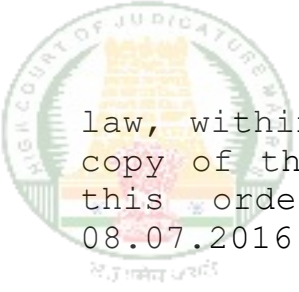


3.The petitioner averred among the other things in the petition that he has been granted lease for quarrying rough stone for a period of five years in his patta lands in S.Nos.58/2A, 58/2B, 58/2C, 58/2E1A, 75/2A2B, 75/2B2, 76/1, measuring to an extent of 1.21.7 hectares, at Thazhiyuthu Village, Tirunelveli District, by the District Collector on 02.03.2012, under Rule 19 of the Tamil Nadu Mines and Minerals Concession Rules, 1959. The necessary lease deed has also been executed in favour of the petitioner by the respondents on 02.09.2013 for five years commencing from 02.09.2013 to 01.09.2018. While so, the respondents herein have stopped the quarry operation of the petitioner on 05.10.2015 stating that there is excessive quarrying of rough stone from 1993 and the Revenue Divisional Officer, after conducting inspection, levied penalty without any application of mind. As against that order, the petitioner has filed an appeal before the District Collector and the same has been dismissed on 28.12.2015. Aggrieved by the same, the petitioner has filed a second appeal before the third respondent and the third respondent, by order dated 03.01.2017, has set aside the penalty proceeding. According to the petitioner, the respondents herein have stopped the quarry operation of the petitioner from 05.10.2015 to 10.03.2017 i.e., totally for a period of 17 months for non payment of penalty and pendency of the proceedings one after the other, in violation of the judgments of the Hon'ble Supreme Court in **2003(I) SCC 726 (Brij Raj Sing Vs. State of U.P.)** and a Division Bench Judgment of this Court in **W.P.Nos.1018, 1019 and 574 of 2010 (District Collector, Namakkal Vs. Anbarasi and others)**, dated 17.03.2011. Therefore, they are eligible to conduct quarry operation for those stopped period. In this regard, the petitioner has already sent a representation to the second respondent herein on 08.07.2016. As there was no response to the same, the petitioner has come up with this petition.

4.The learned counsel for the petitioner would submit that though the petitioner has come up with a larger prayer, the petitioner would be satisfied, if a direction is given to the second respondent herein to consider and dispose of the representation of the petitioner dated 08.07.2016 within a stipulated time.

5.The learned Government Advocate appearing for the respondents would submit that the representation of the petitioner would be considered and disposed of by the second respondent herein on merits and in accordance with law as early as possible.

6.In view of the above, this Court, without going into the merits of the contention raised by the petitioner, directs the second respondent to consider and dispose of the representation of the petitioner, dated 08.07.2016 on merits and in accordance with



law, within a period of eight weeks from the date of receipt of a copy of this order. The petitioner is directed to send a copy of this order along with a copy of the representation dated 08.07.2016 to the second respondent for earliest consideration.

7. This Writ Petition is, accordingly, disposed of. No costs.

Sd/-

Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar

To

1. The District Collector,
Tirunelveli District,
Tirunelveli.
2. The Assistant Director of
Geology and Mining,
Tirunelveli.
3. The Commissioner of Geology and Mining,
Guindy, Chennai - 32

+1cc to Mr.K.R. Krishnan, Advocate Sr.No.59103

+1cc to The Spl.Government Pleader Sr.No.59433

GCG

VB/JC/SAR2/29.06.2017/3P/6C

W.P. (MD) No.5683 of 2017

08.06.2017