



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :24.04.2017

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THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P (MD) Nos.7374 and 7375 of 2017
and

W.M.P. (MD) .Nos.5791 and 5792 of 2017

S.Sudarsan ... Petitioner in W.P.(MD).No.7374/2017

T.Vijay ... Petitioner in W.P.(MD).No.7375/2017

Vs.

1. The Chairman,
Standing Committee of National Board of Wild Life,
Indian Paryavaran Bhavan,
Jarbagh Road,
New Delhi-3

2. The District collector,
Thoothukudi District,
Thoothukudi.

... Respondents in both WPs

PRAYER: Petitions filed under Article 226 of the Constitution of India, praying for the issuance of Writs of Mandamus to direct the first respondent to to grant clearance for operation of rough stone quarry in SF.Nos.801 and 802 in Padamanabamangalam Village, Srivaikundam Taulk, Thoothukudi District by considering the applications preferred by the petitioners taken on file of the 1st respondent as proposal No.FP/TN/QR/870/2016 and No.FP/TN/QR/871/2016 dated 29.08.2016 within the period that may be stipulated by this Hon'ble court and consequently forbear the 2nd respondent from taking any coercive action against the petitioner in furtherance of his proceedings in RC.No.GM1/536-2/2016 and RC.No.GM1/536-5/2016 dated 14.02.2017 pending disposal of the above clearance applications by the first respondent.

For Petitioners : Mr.M/s.Ajmal Associates

For R.2 : Mr.R.Anandharaj

Government Advocate

**COMMON ORDER**

The writ petitions have been filed praying for the issuance of Writs of Mandamus to direct the first respondent to grant clearance for operation of rough stone quarry in SF.Nos.801 and 802 in Padamanabamangalam Village, Srivaikundam Taluk, Thoothukudi District by considering the applications preferred by the petitioners, which were taken on file by 1st respondent as proposal No.FP/TN/ QRY/870/2016 and No.FP/TN/QRY/871/2016 dated 29.08.16 and consequently forbear the second respondent from taking any coercive action against the petitioners in furtherance of his proceedings in RC.No.GM1/ 536-2 and 536-5 of 2016 dated 14.02.2017 pending disposal of the above clearance applications by the first respondent.

2. By consent, both the writ petitions are taken up for final disposal.

3. Since the issue involved in both the writ petitions are one and the same, they are taken up together and decided by this common order.

4. The petitioners would aver among other things that pursuant to the notification issued in the Thoothukudi District Gazette on 28-06-2010, the petitioners participated in the tender cum auction for quarrying lease of rough stone quarry in the porampoke lands in S.F.Nos.801 and 802, Padmanabamangalam Village, Srivaikundam Taluk and the 2nd Respondent also issued order for grant of quarry lease for the lease period of 10 years between 09-08-2010 and 08-08-2020. While so, the Hon'ble Supreme Court in the case of **Deepak kumar vs State of Haryana** reported in **2012 4 SCC 629** stated that in respect of all quarries, environmental clearance has to be obtained even if the extent of quarry is less than five Hectares though such clearance was not mandated under the Notification of Ministry of Forest, Government of India, dated 14.09.2006 (Environmental Impact Assessment Notification). However, in compliance thereof, the petitioners had also obtained clearance from the State Environmental Impact Assessment Authority on 30.08.2016. While so, the second respondent called upon the petitioners to obtain clearance from the first respondent Board, as the quarrying site is located within 10 kms of the Vallanadu Black Buck Sanctuary and accordingly, the petitioners applied for the same on 29.08.2016 with all necessary documents and the requisite fee in this regard and the first respondent had also taken on file, however, he is yet to decide on the same.

<https://hcservices.ecourts.gov.in/hcservices/> In a given situation, the second respondent issued a notice to the petitioner on 09.01.2017 stating that unless the



clearance certifications are produced, action would be taken against them. On receipt of the same, the petitioners had preferred representations stating that the petitioners had applied for the clearance from the first respondent as early as on 29.08.2016 and therefore prayed that no coercive action should be taken against them.

6. Under the said circumstances, the second respondent has issued a final notice on 14.02.2017 stating that clearance should be produced by 09.04.2017 failing which the operation of quarry would be suspended immediately and also, it would be cancelled. Hence, he came forward to file the present writ petitions.

7. Learned counsel for the petitioners would submit that as per the direction of the second respondent, the petitioners have already applied for clearance from the first respondent on 29.08.2016 and though it was taken on file by the first respondent, no order has been passed on the application. Hence, he prayed for appropriate orders.

8. Learned Government Advocate would submit that since the petitioner has not obtained clearance certificate as required under the Act despite giving ample time to the petitioner, a warning was given to the petitioner dated 14.02.2017.

9. Considered the submissions made on either side and perused the materials available on record.

10. Since the petitioner has already applied for clearance certificate on 29.08.2016 to the first respondent which is pending with him and in view of the fact the petitioner has already produced all the other necessary certificates as required under the Act, the first respondent is directed to dispose of the applications of the petitioners dated 28.08.2016 within a period of four weeks from the date of receipt of a copy of this order and the second respondent shall not take any coercive action against the petitioners.

These writ petitions are allowed to the extent indicated above. No costs. Connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (T&P)

/True Copy/



1.The Chairman,
Standing Committee of National Board of Wild Life,
Indian Paryavaran Bhavan,
Jarbagh Road,
New Delhi-3

2.The District collector,
Thoothukudi District,
Thoothukudi.

+ 2 CC TO M/s.AJMAL ASSOCIATES, IN SR No. 53760, 53759

SSM

TE/RR/SAR-IV : 02/05/2017 : 4P/5C

W.P(MD)Nos.7374 and 7375 of 2017 and
W.M.P.(MD).Nos.5791 and 5792 of 2017
22.03.2017