



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.04.2017

CORAM:

THE HON'BLE MRS.JUSTICE J.NISHA BANU

W.P.(MD) No.8206 of 2017

and

WMP(MD)No.6308 of 2017

K.Kathir Kamaraj

... Petitioner

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

Prayer: Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus directing the first respondent to grant clearance for operation of rough stone quarry in S.F.Nos.794/1 and 794/3 in Padmanabamangalam Village, Srivaikundam Taluk, Thoothukudi District by considering the application preferred by the petitioner taken on the file of the first respondent as proposal Nos.FP/TN/QRY/548/2016 and FP/TN/QRY/549/2016 within a stipulated time and consequently forbear the 2nd respondent from taking any coercive of action against the petitioner in furtherance of his proceedings in RC.No.GM1/536-3/2016 and RC.No.GM1/536/4/2016, dated 14.02.2017 pending disposal of the above clearance application, dated 26.01.2016.

For Petitioner

: Mr.S.Muthalraj

For Respondents

: Mr.G.Muthukannan

Government Advocate

O R D E R

This writ petition has been filed for issuance of a writ of Mandamus directing the first respondent to grant clearance for operation of rough stone quarry in S.F.Nos.794/1 and 794/3 in Padmanabamangalam Village, Srivaikundam Taluk, Thoothukudi District by considering the application preferred by the petitioner taken on the file of the first respondent as proposal Nos.FP/TN/QRY/548/2016 and FP/TN/QRY/549/2016 within a stipulated time and consequently forbear the 2nd respondent from taking any coercive action against the petitioner in furtherance of his proceedings in RC.No.GM1/536-3/2016 and RC.No.GM1/536/4/2016, dated 14.02.2017, pending disposal of the above clearance application, dated 26.01.2016.



2. By consent of both the parties, this writ petition is taken up for final hearing.

3. The petitioner averred among the other things that Notification No.6, dated 28.06.2010 came to be issued in Thoothukudi District Gazette, calling for application for bidders to participate in the tender cum auction for the quarrying lease of rough stone quarry in poramboke lands in S.F.Nos.794/1 and 794/3, Padmanabamangalam Village, Srivaikundam Taluk, Thoothukudi District and that the petitioner participated in the above tender and he became a successful bidder and by the proceedings of the second respondent, dated 20.09.2010, permission was granted to the petitioner for stone quarrying for a period of 10 years from 20.09.2010 to 19.09.2020.

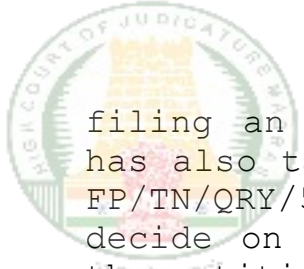
4. As per the orders of the Hon'ble Supreme Court, the petitioner was directed to obtain environmental clearance certificate and as per the above orders, the petitioner obtained clearance certificate from the concerned authority on 30.08.2016. In the meantime, the petitioner had been doing quarry operation for the past 7 years without any blemish. While so, the respondent called upon the petitioner to obtain clearance from the first respondent Board, as the petitioner's quarry located within 10 kms of Vallanadu Black Buck Sanctuary and that the petitioner immediately had applied for the same with all necessary documents to the first respondent and the first respondent has taken the above application as proposal Nos.FP/TN/QRY/548/2016 and FP/TN/QRY/549/2016.

5. Pending disposal of the above proposals, the second respondent has issued a show cause notice to the petitioner dated 08.01.2017 stating that the clearance of the first respondent is awaited and unless the same is produced, action would be taken against the petitioner for which, the petitioner has given representation on 03.02.2017 stating that he had applied for clearance from the first respondent. But, the second respondent has issued a final notice on 14.02.2017 stating that if the petitioner does not produce the environmental clearance certificate before 09.04.2017, the operation of quarry will be suspended. Immediately, the petitioner has approached this Court for the relief stated supra.

6. The learned Government Advocate would submit that since the quarry is situated within 10 kms of the prohibited area of Vallanadu Black Buck Sanctuary and therefore, clearance has to be obtained from the first respondent.

7. Heard the learned counsel for the petitioner as well as learned counsel for the respondents.

<https://hcservices.ecourts.gov.in/hcservices/> The petitioner pertinent to point out that as soon as the second respondent directed him to produce clearance certificate from the first respondent, the petitioner has taken all possible efforts by



filing an application before the first respondent, who in turn, has also taken on file through proposal Nos.FP/TN/QR/548/2016 and FP/TN/QR/549/2016. However, the first respondent is yet to decide on the same. Therefore, there is no fault on the part of the petitioner.

9. Needless to mention that the petitioner has participated in the tender by complying with all the conditions and accordingly, license was granted to him and he had been quarrying for the past seven years. Now, since the first respondent has not passed any orders on the pending applications, the petitioner could not run the stone quarrying operation. Ventilating all these facts, the petitioner has also sent a detailed representation on 03.02.2017. But, it is yet to be disposed of, by the second respondent.

10. In my considered opinion, the respondents cannot circumvent the lawful right accrued on the petitioner for carrying out stone quarrying operations in one way or the other. The petitioner has taken all efforts for getting the clearance certificate from the first respondent and therefore, the ends of justice would be met if a direction is given to the first respondent to dispose of the application within the time frame and accordingly, this Court directs the first respondent to dispose of the application dated 26.01.2016, within a period of eight weeks from the date of receipt of a copy of this order and till then, there will be an order of *status-quo*.

9.The writ petition is disposed of accordingly. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(RTI)

/ True Copy /

Sub Assistant Registrar(C.S.)

To

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.

+1 CC TO MR.S.MUTHAL RAJ, ADVOCATE,SR NO.54565

+1 CC TO SPECIAL GOVERNMENT PLEADER SR NO.55199

ssm

MAS/SV-MMS/SAR1:05.06.2017:3P-5C