

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.03.2018

CORAM

The HON'BLE MS.INDIRA BANERJEE, CHIEF JUSTICE

AND

The HON'BLE MR.JUSTICE ABDUL QUDDHOSE

W.P.No.6079 of 2018  
and WMP.No.7496 of 2018

C.Neelakandan

.. Petitioner

vs.

1.The District Collector,  
Thiruvannamalai District.

2.The Assistant Director,  
The Department of Mines & Minerals,  
Thiruvannamalai District.

3.The Thasildhar,  
Chetput Taluk,  
Thiruvannamalai District.

4.The Village Administrative Officer,  
Melacherry Village,  
Chetput Taluk,  
Thiruvannamalai District.

5.E.Anandha Kumar,  
Director & CEO,  
Selvi Earth Movers & Transport Pvt. Ltd.,  
Earth Movers & Contractors,  
No.2/1421, First Street, Echankadu,  
Anna Nagar,  
Chennai - 600 117.

.. Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of mandamus directing the first respondent to consider the petitioner's representation dated 7.3.2018 and further direct the first respondent to issue public notice and to give opportunities

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to the petitioner's native villagers to put forth their grievances in public consultation regarding the quarrying activities being taken place by the first respondent in Kalyanapuram village, Melacherry post, Chetput Taluk, Thiruvannamalai District-604 502.

For Petitioner : Mr.S.Silambu Selvam

For Respondents : Mr.E.Manoharan  
Addl. Government Pleader  
for respondent Nos.1 to 4

ORDER

(Made by Ms.Indira Banerjee, Chief Justice)

This writ petition, in public interest, has been filed to restrain respondent No.5 from carrying on stone quarrying activities at Melacherry village in Chetput Taluk, Thiruvannamalai District.

2. Learned Additional Government Pleader appearing on behalf of the respondent authorities submits, on instructions, that no permission has yet been granted to respondent No.5 for carrying on quarrying activities.

3. Rule 41 of the Tamil Nadu Minor Mineral Concession Rules, 1959 provides that no lease shall be granted or renewed by the District Collector concerned unless there is a mining plan duly approved by the concerned Assistant Director or Deputy Director of Geology and Mining of the District concerned by way of proceedings under Rules 6, 7, 8, 8-A, 12, 17, 18, 19 and 38-A of the said Rules.

4. Sub-rule (3) of Rule 41 provides that no mining plan shall be approved unless it is prepared by a qualified person recognized in this behalf by the State Government or by a qualified person recognized by the Indian Bureau of Mines. The draft mining plan is required to contain the following details:

- (i) The plan of the precise area showing the nature and extent of the minor minerals;
- (ii) Spot or spots where the excavation is to be done in the first five year plan period and its extent;
- (iii) A tentative scheme of mining for the first

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- five years of the lease;
- (iv) Details of the geology and lithology of the precise area including mineral reserves of the minor mineral;
- (v) The extent of manual mining or mining by the use of machinery and mechanical devices on the precise area; the plan of the precise area showing natural water courses, limits of reserved and other forest areas and density of trees etc.
- (vi) Environmental clearance and any other conditions and this would, of course, obviously include the existence of agricultural lands in the vicinity, which might adversely be affected by reason of the quarrying."

5. Rule 42 of the Tamil Nadu Minor Mineral Concession Rules, 1959 requires environment clearance from the State Level Environment Impact Assessment Authority or the Ministry of Environment and Forests, as the case might be.

6. Our attention has been drawn by the petitioner to Rule 31 of the Granite Conservation and Development Rules, 1999. However, this is not the case of quarrying of granite and those Rules can have no application.

7. Rule 3 of the Tamil Nadu Minor Mineral Concession Rules, 1959 provides that an application for grant of a quarrying permit is to be made in the Form prescribed in Appendix X to the said Rules to the District Collector.

8. On an application being made, the District Collector, may grant quarrying permit for any minor mineral other than the minor minerals covered under Rule 8-A and 8-C of the said Rules for a quantity not exceeding 2,000 cubic feet. The District Collector may also, for reasons to be recorded in writing, refuse to grant such permit. In this case, we are informed that no quarrying lease and/or permit has yet been granted even though an application is pending.

9. Photographs have been handed over in Court by the learned counsel appearing on behalf of the petitioner. Some of the photographs show pictures of machines. However, from the photographs, one cannot say that quarrying activities are actually being carried out.

10. The petitioner has not adverted to any Rule or

Regulation, which requires the respondent authorities to issue any public notice or to give the other villagers hearing before permitting quarrying activities. However, the District Collector and the other authorities would necessarily have to consider the application strictly in accordance with the Tamil Nadu Minor Mineral Concession Rules, 1959, including the restrictions contained therein. Such restrictions are contained in Rule 36 of the Tamil Nadu Minor Mineral Concession Rules, 1959.

11. Sub-rule (1-A) of Rule 36, prohibits the grant of lease for quarrying stone within 300 metres from any inhabited site. Similarly, there are restrictions on quarrying of stone or other minor minerals in locations in and around the forest areas etc.

12. In our view, the writ petition is premature since no license has yet been given. A writ of mandamus cannot be issued directing the respondent authorities to publish a notice or to give the villagers hearing since the Rules do not provide for such public notice or for hearing the villagers. However, any pending application can only be considered in strict compliance of the Tamil Nadu Minor Mineral Concession Rules, 1959.

13. The writ petition is disposed of with a direction on the respondent authorities to ensure that there is no contravention of the Tamil Nadu Minor Mineral Concession Rules, 1959. No costs. Consequently, WMP.No.7496 of 2018 is closed.

Sd  
ASSISTANT REGISTRAR ( CS IX)

TRUE COPY

SUB ASSISTANT REGISTRAR

To:

- 1.The District Collector,  
Thiruvannamalai District.
- 2.The Assistant Director,  
The Department of Mines & Minerals,  
Thiruvannamalai District.
- 3.The Thasildhar,  
Chetput Taluk,  
Thiruvannamalai District.

(5)

4.The Village Administrative Officer,  
Melacherry Village,  
Chetput Taluk,  
Thiruvannamalai District.

1CC TO MR. S. SILAMBU SELVAN, ADVOCATE SR: 21064  
1CC TO THE GOVT PLEADER SR: 20642

W.P.No.6079 of 2018

DM  
9 APRIL 18



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