

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Special Original Jurisdiction)

Friday, the Sixth day of April Two Thousand Eighteen

PRESENT

THE HON'BLE MR.JUSTICE T.S.SIVAGNANAM

and

THE HON`BLE DR JUSTICE G. JAYACHANDRAN

WMP No.5747 of 2017

IN WP.16841/2014

FEDERATION OF INDIAN GRANITE & [PETITIONER]
STONE INDUSTRY, REP. BY ITS GENERAL
SECRETARY, 429/7, 12TH CROSS, SADASHIVANAGAR,
BENGALUR, KARNATAKA-560 080.

Vs

1 K.R.RAMASWAMY @ TRAFFIC [RESPONDENTS]
RAMASWAMY, S/O.RANGASWAMY, SOCAIL ACTIVIST/
SENIOR CITIZEN, NO.223A, NSC BOSE ROAD,
CHENNAI-1.

2 THE CENTRAL VIGILANCE
COMMISSIONER, SATARKATA BHAVAN, GPO COMPLEX,
NEW DELHI-110 023.

3 THE SECRETARY,
MINISTRY OF HOME AFFAIRS, NORTH BLOCK, NEW
DELHI-110 001.

4 THE SECRETARY,
MINISTRY OF ENVIRONMENT AFFAIRS, INDIRA
PARYAVARAN BHAVAN, JOR BAGH ROAD,
NEW DELHI-110 003.

5 THE REGIONAL SPECIAL DIRECTOR,
ENFORCEMENT DIRECTORATE, SOUTHERN REGION, 26,
HADDOWS ROAD, CHENNAI-6.

6 THE CHIEF SECRETARY
GOVERNMENT OF TAMIL NADU, FORT ST. GEORGE,
CHENNAI-9.

7 THE SECRETARY TO GOVERNMENT,
INDUSTRIES DEPARTMENT, FORT ST. GEORGE,
CHENNAI-9.

8 THE SECRETARY TO GOVERNMENT,
HOME DEPARTMENT, FORT ST. GEORGE, CHENNAI-9.

9 THE GEOLOGICAL SURVEY OF INDIA
UNION OF INDIA, NEW DELHI.

10 THE MINISTRY OF COMMERCE AND
INDUSTRY, UNION OF INDIA, NEW DELHI.

11 THE DEPARTMENT OF MINES AND
SAFETY, UNION OF INDIA, NEW DELHI.

12 THE ZOOLOGICAL SURVEY OF INDIA
UNION OF INDIA, NEW DELHI.

13 THE NATIONAL BIO DIVERSITY
AUTHORITY, UNION OF INDIA, NEW DELHI.

14 THE SECRETARY,
REVENUE DEPARTMENT, STATE OF TAMIL NADU,
SECRETARIAT, FORT ST. GEORGE, CHENNAI-600 009.

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to constitute a Committee comprising of the representatives from the (1) Geological Survey of India, (2) Indian Bureau of Mines, (3) National Institution of Rock Mechanics, KGF, Bangalore, (4) Officials of Geology and Mining, Government of Tamilnadu, 5) Officials of Tamil Nadu Minerals Limited, Chennai and (6) Ministry of Commerce and Industries, Union of India for the purpose of in respecting all the granite quarries located in Madurai District and file its report with regard to the quantum of mass excavated minerals, sale-worthy recovery of granite taking into consideration waste materials generated during granite quarrying operations and also materials kept adjacent to lease area, within a specified time fra.

Order : This petition coming on for orders upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of MR.P.WILSON SENIOR COUNSEL FOR M/S.RICHARD WILSON, Advocate for the petitioner and of M/S.T.SUNDARAVADANAN, Advocate for the 1st respondent and of MR.G.KARTHIKEYAN, ASGI for the 2 to 4 & 9 respondents and of MR.M.K.SRINIVASAN, Advocate for the 5th respondent and of MR.B.PUGALENDI, Additional Advocate General assisted by M/S.T.N.RAJAGOPALAN, Special Government Pleader on behalf of the 6 to 8 & 14 respondents and of MS.HEMA, Central Government Standing

Counsel for the 11th respondent and of M/S.C.P.MOSES, Advocate for Special Officer Appointment by High Court, and of M/S.M.RADHAKRISHNAN, Advocate for the Special Officer/Legal Commissioner, the court made the following order:-

Heard Mr.P.Wilson, learned Senior Counsel for Mr.Richardson Wilson, learned counsel appearing for the Federation of Indian Granite & Stone Industry.

2. It is stated that the petitioner is an Association consisting of members, who are all engaged in granite exploitation and export. The petitioner Association has been impleaded as a respondent in W.M.P.No.29732 of 2016, pursuant to an order dated 04.10.2016.

3. Learned counsel appearing for the writ petitioner would submit that he was not heard when the impleading application was ordered and there were two other parties, who sought for impleadment and those implead petitions were dismissed, while the implead petition filed by the petitioner association was allowed.

4. We do not wish to go into the controversy any further at this juncture, as we propose to examine as to whether the prayer sought for by the petitioner in W.M.P.No.5747 of 2017 can be considered. The petitioner seeks for a direction to constitute a committee comprising of representatives from the Geological Survey of India, Indian Bureau of Mines, National Institute of Rock Mechanics, KGF, Bangalore, Officials of Geology and Mining, Government of Tamil Nadu, Officials of Tamil Nadu Minerals Limited Chennai and Ministry of Commerce and Industries, Union of India for inspecting all the granite quarries located in Madurai District and file a report with regard to the quantum of mass excavated minerals, sale worthy recovery of granite taking into consideration waste materials generated during granite quarrying operations and also materials kept adjacent to lease areas.

5. At the very outset, we wish to point out that the prayer sought for by the petitioner in this Miscellaneous Petition is premature. The writ petition was filed as a Public Interest Litigation not restricted to the granite quarries in Madurai District, but in respect of all quarries within the State of Tamil Nadu with regard to exploitation of the minerals. In the said writ petition one of the issue, which was considered was the allegation against over exploitation of granite quarries in Madurai District. It is in this regard, directions were issued and Legal Commissioner was appointed, who has now submitted his report. The Government have filed their response and the annexures have been retained by the Court in safe custody.

6. The learned Senior Counsel appearing for the petitioner by referring to the affidavit filed by the petitioner association styled

as a counter affidavit of 8th respondent dated 31.12.2016 and in particular referring to paragraphs 10, 11 and 12 would submit that what is the total quantity of granite mined in the Country, the quantity of granite exported from the Country, which have been given in a tabulated format. The learned Senior Counsel also referred to other statistics with regard to the amount of granite, which were exported State wise. It is submitted that Tamil Nadu stands 4th in the percentage of production of granite as published in the Indian Minerals Year Book 2013 and the State wise share of export of granite is 13%. Insofar as Tamil Nadu is concerned, the share of export of granite is Rs.6808.65 crores. Further, the particulars furnished by the Department of Geology and Mining, Government of Tamil Nadu under the Right to Information Act was referred to for the period from 1996-97 to 2012-2013, that is for 17 years, the total percentage of export of share of granite from Madurai District is 41.10% for an export value of Rs.2798.43 crores. These statistics are referred to by the learned Senior Counsel for the Association to buttress his submission that the figures given by the Legal Commissioner are not sustainable as no proper scientific method has been adopted by the Legal Commissioner while assessing the recovery proceedings.

7. The learned Senior Counsel appearing for the Association has also made elaborate submission on how the recovery has been calculated and in this regard, relied on certain photographs to substantiate his contention. Further by referring to the counter affidavit filed by the Under Secretary, Department of Commerce, Union of India, New Delhi viz., the 10th respondent dated 28.07.2017, it is submitted that the said authority has confirmed that whatever export data which has been stated by the petitioner association in their counter affidavit dated 03.11.2016, furnished in respect of granite by the petitioner association and additional counter affidavit dated 31.12.2016, are correct. Therefore, it is his submission that the Government both Central Government and State Government have become wiser after the petitioner association stepped into the litigation.

8. We fail to understand as to how and in what manner the statistics which have been referred to by the learned Senior Counsel improves the case of the Association. Reference to the counter affidavit of the Ministry of Commerce contending that they have accepted the export data furnished by the petitioner association in the counter affidavit and additional counter affidavit is "correct" is a self serving submission. The counter affidavit uses the expression "correct" to mean that the data which is referred to in the affidavit is correct and nothing more. Therefore, we find that reference to the export statistics at the National level, State level and District level can have absolutely no impact on the present litigation which pertains to illicit mining.

9. We have heard the learned Additional Advocate General on the above submissions.

10. The learned Additional Advocate General has referred to the counter affidavit filed by the Chief Secretary. In fact the submission, which was made by the learned Additional Advocate General, was referred in the counter affidavit, more particularly in page 83 of the counter affidavit in serial Nos.105 and 106.

11. Thus the submission of the learned Senior Counsel is to discredit the report submitted by the Legal-Commissioner, discredit the observations made by the State Government Officials, discredit the observations made by the Central Government Officials and that all the Officials are thoroughly confused and are not clear as to how the matter has to be gone about and that is why they propose to refer the issue to Indian Bureau of Mines.

12. We take strong objection to the stand taken by the petitioner association projecting as if they are the only expert body in the country, who have expertise in such matters. It is high time that the petitioner association should change their opinion about themselves.

13. The prayer sought for by the petitioner is to constitute a committee consisting of various Officials of their choice, some of whom have been named in the petition. It is not for the petitioner Association to choose whose opinion is to be sought for, more particularly when the petitioner finds fault with the entire official machinery alleging that all are confused and lack expertise.

14. In our considered view, we are yet to hear the learned Advocate General, who is unable to be present in Court today, as he has been urgently called for some other matter outside the State. Therefore, the Court will take a decision as to how the matter requires to be considered and what directions to be issued. Therefore, we are of the clear view that the prayer sought for in the present Miscellaneous Petition by the petitioner Association is not sustainable. For such reasons, we decline to accede to the prayer and consequently, W.M.P.No.5747 of 2017 is dismissed.

-sd/-

06/04/2018

/ TRUE COPY /

Sub Assistant Registrar (Statistics / C.S.)
High Court, Madras - 600 104.

TO

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SECRETARIAT, FORT ST. GEORGE, CHENNAI-600 009.

C.C. to M/S.RICHARDSON WILSON Advocate on payment of necessary charges

The Government Pleader, High Court, Chennai SR.NO. 4431

Order

in
WMP.5747/2017

in
WP.16841/2014

Date :06/04/2018

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