

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :14.09.2018

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No. 12743 of 2016
W.M.P.Nos.11146 and 11147 of 2016

M/s.P.R.Granites,
Rep.by its Managing Partner
Mr.P.Rajasekaran,
No.10/1, Deputy Collector Colony,
First Street, K.K.Nagar,
Madurai - 625 020. ..Petitioner

vs

1. The State of Tamil Nadu,
Rep.by the Additional Chief Secretary,
Industries Department,
Fort St.George,
Chennai - 600 009.
2. The Commissioner of Geology and Mining,
Guindy, Chennai - 600 032.
3. The District Collector,
Madurai District. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari in the nature of writ to call for the records pertaining to the impugned order of the first respondent, bearing G.O.(Ms).No.250, Industries (MMB-1) Department, dated 12.10.2015, pertaining to the patta lands of the petitioner measuring 1.15.0 hectares, comprised in S.F.Nos.149/2, 151/4, 151/5, 151/6, etc., situated in Idayapatti Village, Madurai North Taluk, Madurai District and quash the same.

For Petitioner : Mr.K.Ramakrishna Reddy

For Respondents: Ms.A.Shrijayanthi,
Spl.Government Pleader.

O R D E R

The order issued by the first respondent in G.O.Ms.No.250, Industries (MMB-1) Department, dated 12.10.2015 is under challenge in this writ petition.

2. Through the impugned order, the Government declared the mining lease granted to Tvl.P.R.Granites in the government order for multi coloured granite over an extent of 1.15.0 hectares of patta lands in S.F.Nos.149/2, 151/4, 151/5 and 151/6A of Idayapatti village, Madurai North Taluk, Madurai District as lapsed.

3. The learned counsel appearing on behalf of the writ petitioner mainly contended that the merits raised by the writ petitioner in the present writ petition were not considered in the order impugned issued by the respondent and thus G.O.Ms.No.250 is a non speaking order and the explanations/objections submitted by the writ petitioner on 02.09.2015 had not been considered at all. The writ petitioner has raised various grounds on merits in respect of continuation of quarry in the particular area. The learned counsel for the petitioner further states that during the relevant point of time, the transport permissions were also in operation and the same was issued. That apart, the inspection was conducted behind the back of the writ petitioner and these factors should be informed by the respondents, who are the original authorities.

4. At the outset, it is contended that the order impugned in the present writ petition did not speak anything about the grounds raised by the writ petitioner in his objections. Any order passed by the Government must contain the reasons and the reasons must be arrived after adjudicating the grounds raised by the writ petitioner. Though the writ petitioner has submitted elaborate objections on 02.09.2015 along with the documentary evidence and also during the personal hearing, he had made certain representations, however, none of the grounds are adjudicated or recorded in the impugned order. Thus, the failure on the part of the respondents in this regard would vitiate the impugned order itself.

5. The learned Special Government Pleader appearing on behalf of the respondents opposed the contention by stating that the elaborate counter affidavit filed by the respondents establishes that the inspection report is correct and the decision was taken based on the inspection report. The facts submitted by the original authority in this regard at paragraph No. 17 of the counter affidavit are as follows:

"17. With regard to the averments made in para 10 of the affidavit, it is submitted that, the quarry was inspected by the Assistant Geologist, Deputy Tahsildar and the Surveyor of the department and based on which the Assistant Director of Geology and Mining, Madurai has reported that,

1. Tvl. P.R.Granites has not exhibited sign board, regarding lease details in the area granted under lease.
2. The boundary marks are not erected in and around the area granted under lease which is a violation of the Rule 36(4) of the Tamil Nadu Minor Mineral Concession Rules, 1959.
3. Tvl.P.R.Granites has not maintained pit mouth register and not maintained correct accounts showing the quantity and other particulars of all minerals obtained and despatched from the quarry as required under Rule 36(5) (a) of the Tamil Nadu Minor Mineral Concession Rules, 1959.
4. Tvl.P.R.Granites has not submitted statutory returns as required under the rule 41 (Form-F, Half yearly return, Form-G, Annual return) rules 42 and 45 of the Granite Conservation and Development Rules, 1999.

It is further submitted that, based on the report of the Assistant

Director of Geology and Mining, the Government was requested vide District Collector, Madurai Letter Roc.No.979/2012-Mines, dated 13.03.2013 and 29.07.2015 to declare the quarry lease granted to the petitioner as lapsed as per Section 4-A(4) of the said Act".

It is contended that the objections raised by the writ petitioner was considered by the first respondent while passing the impugned order.

6. This Court is of an opinion that mere consideration of the objections is not sufficient. The objections raised and the reason for conclusion must be recorded in the impugned order. But in the present case, the objection raised by the petitioner has not been considered at all. Mere submissions in the counter affidavit are not sufficient to uphold the order in the writ petition.

7. Contrarily, the competent authorities while passing the final order who are quasi judicial in nature must record the reasons for arriving such conclusion. It is not as if mere consideration is sufficient. Recording the same is vital and important, enabling the aggrieved person to understand the

reasoning which is being the importance for recording the reasons by the competent authorities while taking decision. In the impugned order, it is accepted by the competent authority that the personal hearing was provided and the written statement was also taken into consideration. But no reasoning or findings are recorded for the purpose of arriving the conclusion that the mining license became lapsed.

8. Thus, this Court is of the opinion that the first respondent shall be directed to reconsider the entire files including the written submissions made by the writ petitioner on 02.09.2016, by recording the merits and demerits of the findings of the original authority as well as the objections submitted by the writ petitioner on 02.09.2015, a speaking order shall be passed within a specific period. In this view of the matter, the first respondent is directed to reconsider the objections/written submissions filed by the writ petitioner on 02.09.2015 and the inspection report of the original authority submitted on 29.07.2015 and other connected files and pass orders a fresh on merits and in accordance with law and more specifically recording the reasons, within a period of eight weeks from the date of receipt of a copy of this order.

9. With the above directions, this writ petition stands disposed of. Consequently, connected miscellaneous petitions are closed. No costs.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

pns/rts

To

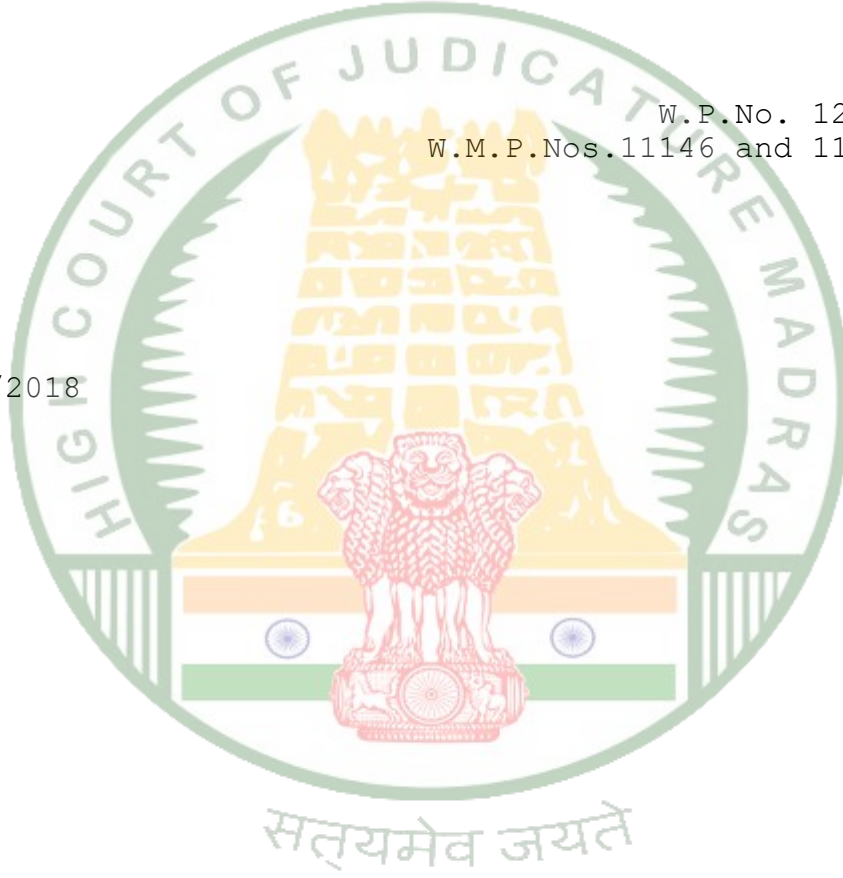
1. The Additional Chief Secretary,
State of Tamil Nadu,
Industries Department,
Fort St.George,
Chennai - 600 009.
2. The Commissioner of Geology and Mining,
Guindy,
Chennai - 600 032.

3. The District Collector,
Madurai District.

+2cc to M/S.K.Ramakrishna Reddy, Advocate Sr.63645
+1cc to the Government Pleader Sr.64146

W.P.No. 12743 of 2016
W.M.P.Nos.11146 and 11147 of 2016

gp[col
srg 24/10/2018



WEB COPY