

In the High Court of Judicature at Madras

Reserved on	12.11.2018
Pronounced on	19.11.2018

Coram:

The Hon'ble Mr.Justice M.VENUGOPAL
and
The Hon'ble Mr.Justice R.PONGIAPPAN

W.P.No.20747 of 2018

C.Venkatapathy

..Petitioner

Vs.

1. The District Collector,
Thiruvallur District,
Master Plan Complex,
NH 205, Thiruvallur,
Tamilnadu - 602 001
2. The Additional Director,
Department of Geology & Mining
Collectorate, Master Plan Complex,
NH 205, Thiruvallur
Tamilnadu - 602 001
3. The Chief Engineer,
Public Works Department,
Rajaji Salai, Chennai - 600 001
4. The Secretary,
Department of Environment & Forests,
Secretariat, Fort St.George,
Chennai - 600 009
5. The Tahsildar,
Ponneri Taluk,
No.23, Taluk Office Road,
Ponneri - 601 204
6. The Tahsildar,
Uthukottai Taluk,
Uthukottai Road,
Thiruvallur - 602 026
7. The Superintendent of Police,
Thiruvallur District, Thiruvallur

8. The Commissioner of Police,
Greater Chennai City,
Commissioner Office,
Vepery, Chennai - 600 007
 9. The Deputy Superintendent of Police,
Ponneri Taluk,
Behind Ponneri Judicial Magistrate Court,
Thiruvallur - 602 026
 10. The Deputy Commissioner of Police,
Madhavaram District
Madhavaram, Chennai - 600 060
 11. The Inspector of Police,
E-5, Solavaram Police station,
GNT Road, Thiruvallur District
 12. The Inspector of Police,
M-4, Redhills Police Station,
Redhills, Chennai
 13. The Inspector of Police,
C-2, Periyapalaiyam Police Station,
Thiruvallur District
Tamilnadu - 601 102
 14. V.G.Satish Babu
[R14 Impleaded vide Court
Order dated 03.09.2018 made
in W.M.P.No.25089 of 2018 in
W.P.No.20747 of 2018 by
MVJ & SRTJ]
- ..Respondents

Prayer: Writ Petition filed under Article 226 Constitution of India to issue a Writ of Mandamus by directing the Respondents 1 to 6 to (i) Remove all the encroachments in the water bodies including Puzhal Lake and Kannigaiperu Lake, Thiruvallur District nearby which quarrying permits have been issued (ii) Assess the sites in which quarrying was permitted and to ascertain whether such quarrying was operated in strict adherence to the Rules set out by the 1st and 2nd Respondents (iii) Initiate steps to assess the environmental impact cast upon by such illegal quarrying and to take steps to restore the environmental conditions which are pre-requisite for saving the perishing water bodies and reservoirs.

For Petitioner : Mr.M.Purushothaman
Ms.N.Andal Sri Shankari

For Respondents : Mr.R.Udayakumar for R1 to R13
Additional Government Pleader
Mr.R.Prabakaran, Senior Counsel
for Mr.V.Srinath - R14

O R D E R

M.VENUGOPAL, J.

The Petitioner has filed the present Writ of Mandamus [as a Public Interest Litigation] in directing the Respondents 1 to 6,

(i) To remove all the encroachments in the water bodies including Puzhal Lake and Kannigaiperu Lake, Thiruvallur District, nearby which quarrying permits have been issued.

(ii) To assess the sites in which quarrying was permitted and to ascertain whether such quarrying was operated in strict adherence to the Rules set out by the 1st and 2nd Respondents.

(iii) and to initiate steps to assess the environmental impact caused by such illegal quarrying and to take steps to restore the environmental conditions which are pre-requisite for saving the perishing water bodies and reservoirs.

2. According to the Petitioner, he is a local resident and he is practicing as an 'Advocate'. As a matter of fact, in the Village Narivarikuppam located at Madhavaram Taluk, Redhills, an extent of 3.15.0 Hectare land was identified and permission was granted to quarry gravel, but, the Hitachi Machines, which can dig up to 20 feet are actively engaged in quarrying sand / gravel / savudu and duplicate details are rampantly used. Furthermore, 100 Lorries are actively engaged in quarrying sand / gravel / savudu every day. Based upon this permit, the sand mafia had now encroached upon the Puzhal Lake and now quarrying sand inside the Puzhal Lake illegally.

3. It is averred in the Writ Petition that at the Baniyan Tree Lake, Hitachi Machines are now engaged in quarrying sand illegally near Puzhal Lake around 30-40 5 Horse Power motors, to pump out the water from the said illegal quarrying activities are used rampantly inside the North Western part of the Puzhal Lake. In spite of several representations and protests made by the local residents, no action was taken against the sand mafia, who had encroached upon Water Bodies and merrily indulging in illegal quarrying by fabricating dispatch slips and bills with Government Logo. Further, the permission for quarrying savudu was allotted at the Kannigaiperu Village in the adjoining areas of the Kannigaiperu Village, which provides water for the

agricultural lands and live stocks in the Locality.

4. The stand of the Petitioner is that quarrying permit was issued to quarry 'Sarvudu' by the Respondents 1 and 2 and the individuals, who were permitted to quarry sand have illegally encroached upon the Kannigaiperu Lake / Water Body and Kannigaiperu are actively engaging in quarrying river sand, in collusion with the notorious sand mafia of Tamilnadu.

5. The Local Residents on 29.07.2018 staged a protest at Kannigaiperu against the Transport vehicles, actively engaged in encroaching the water body and illegally quarrying of river sand in the guise of quarrying 'Savudu'. Although specific instructions were issued by the authorities to those quarrying Savudu/Gravel to cover the transport vehicles carrying sand with tarpaulin sheets, the drivers and transport vehicle owners have thrown caution to the winds and are transporting sand in uncovered vehicles. Only two units of sand is alone to be permitted in the vehicles. More than 5 or 6 Units of sand is being illegally taken in these vehicles. The Respondent nos.5 - 13, who were well aware of these facts had not taken any action against these transport vehicles due to the reasons best known to them.

6. The version of the Petitioner is that the illegally quarrying sand /savudu /gravel are being sold in black market with huge profit margins. The sand stolen from water bodies are shifted to Aattanthangal Village Nallur Panchayat, Thiruvallur District and are also dumped in the land allotted for Government Higher Secondary School at Padianallur near Muneeswarar Angala Easwari Temple. The Petitioner had sent representations through Fax to the 1st Respondent / District Collector, Thiruvallur on 01.08.2018 and also sent E-mails to the Respondents 7 to 13 and also sent the representation through Speed Post on 01.08.2018, left with no other option, the Petitioner has filed the present Writ Petition.

7. It is the submission of the Learned Additional Government Pleader for the Respondents 1 to 13 that on 11.08.2018 ,when the present Writ Petition came up for hearing, this Court was pleased to grant an Interim order in directing the Respondents to stop quarrying operation and in fact, the 1st Respondent / District Collector, Thiruvallur had called for the reports from the (i) Executive Engineer, Public Works Department, Kusasthaliyar Basin Division, Tiruvallur (ii) Executive Engineer, Public Works Department, Araniyar Basin Division, Chepauk, Chennai -5, Sub Collector, Tiruvallur, Revenue Divisional Officer, Ponneri, Revenue Divisional Officer, Ambattur, Tahsildar, Madavaram, Tahsildar, Uthukottai and Tahsildar, Ponneri.

8. The Learned Additional Government Pleader for the Respondents 1 to 13 points out that in the report of the Tahsildar, Madavaram [Vide his letter dated 12.08.2018] it was mentioned that 'During the inspection, it was verified that the lessee was removing Gravel in S.No.1 Redhills tank of Madavaram Taluk, over an extent of 290 meter on the northern side and 85 meter on the eastern and western side and to a depth of 0.90 meter. Further, there were no quarrying operation at present in the above area and as such, no machineries and lorries are found in the spot. Moreover, necessary orders were issued to the Village Administrative Officer and Village Assistant concerned to stop any illicit quarrying work in the aforesaid area'. In short, it is the plea of the Respondents 1 to 13 that the Tahsildar, Madavaram had reported that the quarrying operation was carried out in the aforementioned area and the measurements were 290mX85mX0.90m = 22185m³.

9. The Learned Additional Government Pleader for the Respondents 1 to 13 submits that the RDO, Ambattur in his report dated 12.08.2018 had issued suitable instructions to the Tahsildar, Madavaram in order to prevent or stop illicit quarrying of mineral from the above tank and monitor the same.

10. The Learned Additional Government Pleader for the Respondents 1 to 13 contends that in the report of the Executive Engineer, PWD, Kusasthalaiyar Basin Division dated 16.08.2018, it was mentioned that S.No.1(P) in Redhills Tank was inspected by him on 14.08.2018 and found that the quarrying operation was carried out, as per the measurement 292mX86mX0.90m [Average] = 22601m³.

11. The Learned Additional Government Pleader for the Respondents 1 to 3 points out that the Executive Engineer, PWD, Kosasthalaiyar Basin Division, Tiruvallur had reported that, as per the above measurements, it was found that nearly 3993 lorry roads were quarried from the aforesaid Survey Number and as per reports received from the Revenue and Public Works Department Officials, the lessee had quarried 22601 m³ of gravel from the above area out of 28350 cubic metre of gravel permitted in District Collector's Proceedings dated 04.07.2018.

12. The Learned Additional Government Pleader for the Respondents 1 to 13 brings it to the notice of this Court that W.P.No.17447 of 2018 was filed by one J.Durairaj seeking to call for the records of the Impugned Order dated 23.06.2018 passed by the 2nd Respondent / Additional Director, Department of Geology and Mining Collectorate, Tiruvallur, Tamilnadu and consequently to direct the official Respondents to level the pits in the

Kannigaiperu Lake and also remove the blocks in the sluice within the specified time. Further, it is represented on the side of the Respondents 1 to 13 that this Court had granted Interim Stay on 12.07.2018 and later, the Petitioner was directed to approach the National Green Tribunal for redressal of his grievances and to seek appropriate relief etc.,

13. The Learned Additional Government Pleader for the Respondents proceeds to point out that the Petitioner had clubbed those sites as illegally quarrying in the present Writ Petition and the 1st Respondent / District Collector had called for a report from the Executive Engineer, PWD, Araniyar Basin Division, Chennai - 5 and the report dated 13.08.2018 was received from the said Executive Engineer, PWD, Araniyar Basin Division whereby and whereunder that '(i) The quarrying was done in accordance with the rules specified in District Collector's proceedings Rc.No.1679/2013/Kanimam-2, dated 23.06.2018 and there is no illegal quarrying as alleged by the petitioner in the writ petition'.

14. The Learned Additional Government Pleader for the Respondents 1 to 13 submits that the 1st Respondent / District Collector, Thiruvallur had received a letter dated 14.08.2018 from the 6th Respondent / Tahsildar, Ponneri Taluk pertaining to the storage of Minerals at Padianallur Village and Attanthangal Village of Ponneri Taluk, wherein it was mentioned that S.Nos.121/1 and 121/2 of Padianallur Village, Ponneri Taluk were registered as Grazing Ground Poramboke in the Village Accounts and a proposal was submitted to the allocation of lands for Government Buildings, viz., Fire Service Department and Forest Department and further, on inspection, it was found that no heaps of sand was stored. Further, the report of the Tahsildar, Ponneri points out that the Survey No.40/1 and 9 others in patta lands of Attanthangal village stands in the name of 1) Dayalan 2) Chellammal 3) Sarojammal and 4) Vasantha vide Patta No.4977 and further, during inspection, it was found that no heaps of sand was stored in the vacant portion of the aforementioned survey numbers. In substance, the stand of the 1st Respondent / District Collector, Thiruvallur is that as per the Report of the Executive Engineer, PWD, Kosasthaliyar Basin Division and other Reports of the concerned officials, the quarrying operation was carried out within the permissible limit and there is no excess quarrying as alleged by the Petitioner in the Writ Petition.

15. The Learned Senior Counsel for the 14th Respondent submits that the 14th Respondent filed an application under Rule 12(2) of Tamilnadu Mines and Mineral Concession Rules, 1959 on 09.09.2014 for grant of permission to do quarrying and 5000 lorry loads of gravel from No.1, PWD Tank from Redhills Village,

Madhavaram Taluk, Thiruvallur District for Commercial Purpose of laying roads. In fact, the authorities, after inspection, had recommended for the grant of permission to remove gravel and recommendations in this regard were made by the Village Administrative Officer, as per his report dated 05.01.2015, the report of Revenue Tahsildar dated 05.01.2015, report of Tahsildar, Madhavaram, dated 11.01.2015 and the report of R.D.O., Ambattur dated 05.02.2015.

16. The Learned Senior Counsel for the 14th Respondent points out that the Executive Engineer, P.W.D, Kusasthalaiar Division had inspected the aforesaid area on 09.10.2014 and submitted a report to the District Collector to grant permission to quarry after imposing usual recommendations. Further, the District Collector, had approved the area and mining plan submitted by the 14th Respondent. The environmental certificate was approved and clearance for the same has been granted vide Letter No.SEIAA-TN-F.No.3578/EC/1(a)/2227/2015 dated 30.10.2015.

17. In fact, the District Collector, had advised to secure the extension of environmental certificate because of its expiry from the District Committee and since the road contract work and other works in connection with the quarry were stagnated, the 14th Respondent filed W.P.No.28853 of 2016 and W.P.No.24928 of 2016 [as Petitioners] seeking a relief of Mandamus directing the District Collector to issue proceedings in his favour to quarry 4723 lorry roads of gravel in PWD tank comprised in S.No.1, Red Hillsd Village, Madhavaram Taluk, Ponneri Taluk, Thiruvallur District for 60 days period pursuant to the District Collector's proceedings within a specified time relief.

18. The Learned Senior Counsel for the 14th Respondent brings it to the notice of this Court that this Court was pleased to pass an order dated 17.08.2016 in the aforesaid Writ Petition directing the District Collector, Thiruvallur District to place eligible application before the Special Committee, as per amended Rule 12 of Tamilnadu Minor Mineral Concession Rules, 1959 for scrutinising the Petitioner's application and after getting its recommendations and thereafter, pass appropriate orders and to dispose of the same. Further that, the 1st Respondent / District Collector through his proceedings dated 04.07.2013 was pleased to issue orders in favour of the 14th Respondent, as per earmarked area in the Map and permitted the 14th Respondent to quarry, the period commencing from 04.07.2018 to 01.09.2018 imposing special conditions.

19. That apart, it is represented on behalf of the 14th Respondent that the 14th Respondent had paid a sum of Rs.62,22,191/- towards seigniorage fee, cost of mineral and security deposit, later, the 14th Respondent had commenced his quarrying operation from 05.07.2018 till 11.08.2018 because of

the reason that the 14th Respondent had not complied with the illegal demands made by the Writ Petitioner, the Writ Petitioner had commenced writing to the authorities by way of representations alleging illegal quarrying, which is factually a incorrect one.

20. The Learned Counsel for the 14th Respondent comes out with a categorical plea that the present grant to the 14th Respondent is only to quarry 4725 lorry loads of gravel in PWD Tank and the quarrying of gravels are necessary to the Tank maintained by PWD. Furthermore, the Petitioner has not approached this Court with clean hands and the present Writ Petition filed under caption 'Public Interest Litigation' is to be dismissed.

21. As a matter of fact, the 1st Respondent / District Collector, Tiruvallur District in Proceedings No.N.K.738/2014/Minerals dated 04.07.2018 had accorded permission to the 14th Respondent [Petitioner in W.P.No.28853 of 2016] for quarrying gravel from the lake, P.W.D., Survey No.1 [P], Chengundram Village, Madhavaram Circle, Thiruvallur District for 315 meter length, 100 meter wide, depth 0.90 meter, as mentioned in field map by P.W.D. with certain conditions, per lorry load 6 cubic meter, 4725 lorry loads or 28350 cubic meters, with certain conditions from the Environmental Department and subject Minerals Resources Rules within 60 days [04.07.2018 to 01.09.2018] imposing 27 Conditions.

22. It appears that the Petitioner had addressed a complaint / representation dated 01.08.2018 to the 1st Respondent / District Collector, Thiruvallur District and 13 Respondents [In Writ Petition], wherein he had stated that in the village Naravarikuppam located at Madhavaram Taluk, Redhills, an extent of 3.15.0 Hectare land was identified and permission was granted to quarry gravel and further that, enormous Hitachi Machines, which can dig up to 20 feet are actively engaged in quarrying sand / gravel / savudu and duplicate bills are rampantly used. Further, it was mentioned that around 100 Lorries are actively engaged in quarrying sand / gravel and savudu every day and that based upon the permit, the sand mafia had now encroached upon the Puzhal Lake, operating inside the Puzhal Lake illegally. Moreover, to pump out the water from the said illegal quarrying activities carried on rampantly at Puzhal Lake, 30-40 5 Horse Power Motors were put into use.

23. Continuing further, in the aforestated complaint dated 01.08.2018 addressed to the 1st Respondent and other Respondents, it was mentioned that the permission for quarrying 'Savudu' was allotted at Kannigaiperu Village in the adjoining areas of the

Kannigaiperu Lake, which provides water for the agricultural lands and live stocks in the locality. In short, the Petitioner had stated in his complaint that persons, who were permitted to quarry 'Savudu' had illegally encroached upon the Kannigaiperu Lake / Water Body and Kannigaiperu and were actively engaged in quarrying river and in collusion with notorious sand mafia of Tamilnadu etc.,

24. Ultimately, the Petitioner in the complaint had made a request for removal of encroachment in the water bodies nearby which quarrying permits were issued in Thiruvallur District, to prevent illegal quarrying in water bodies and other lands adjoining the permitted places and further, requested to assess the sites, in which quarrying were permitted and to ascertain whether such quarrying was operated, in adherence to the Rules set out by the Department of Geology and Mines and if irregularities were found, prayed for initiation of steps to assess the environmental impact cast upon by such illegal quarrying and to take immediate steps to restore the environmental conditions for saving the perishing Water Bodies and Reservoirs.

25. In fact, the W.M.P.No.26255 of 2018 filed by the Writ Petitioner, seeking to implead Chairman and Secretary, ISRO, Satellite Centre, Government of India, Department of Space, Vimanpura Post, Bangalore, Karnataka - 560 017 in this Writ Petition, was dismissed by this Court on 11.09.2018.

26. It comes to be known that in W.P.No.17447 of 2018 [filed by the Petitioner, J.Durairaj], the District Collector, Thiruvallur District, as 2nd Respondent [1st Respondent in W.P.No.20747 of 2018], had filed a counter among other things stating that 7th Respondent therein, viz., Stalin was granted permission to quarry 4729 lorry loads of Savudu from S.F.No.916 of PWD Eri of Kannigaiperu Village, Utukottai Taluk for a period 50 days, as per proceedings Rc.No.1679/2013/G&M-2 dated 23.06.2018, pursuant to the orders passed by this Court on 04.11.2016 in W.P.No.38445 of 2016. A specific plea was taken by the 1st Respondent / District Collector, Thiruvallur that only after due enquiry and verification of the area by R.D.O., Thiruvallur, Executive Engineer, PWD and Assistant Director, Geology to the Mining, Thiruvallur, the Special Committee constituted for this purpose had inspected the subject area on 27.03.2018 and recommended the case for grant of permission to the 7th Respondent in W.P.No.17447 of 2018. In short, the plea of the 1st Respondent / District Collector, Thiruvallur District is that permission was accorded to the 7th Respondent in W.P.No.17447 of 2018 only after following procedure laid down in the Rules in order to protect the Tank Bed and further, it is projected that permission to the 7th Respondent in W.P.No.17447

of 2018 to remove Savudu from the Water Bodies under Rule 12(2-A) of Tamilnadu Minor Mineral Concession Rules, 1959 was granted with an intention of desilting the tanks so as to keep them fit for holding more water etc.,

27. Besides the above, it may not be out of place for this Court to make a pertinent mention in W.P.No.17447 of 2018 filed by one J.Durairaj, as Petitioner, against the State of Tamilnadu and Seven [7] others therein, this Court on 27.08.2018 had observed the following and disposed of the Writ Petition without costs.

'2.Mr.E.Manoharan, the learned Additional Government Pleader appearing for Respondents 1 to 6 submits that the proper forum to redress the grievance of the Petitioner is the National Green Tribunal. However, due to non-functioning and non-appointment of a Member to the National Green Tribunal, the present writ petition has been filed before this Court. He further submits that now it is learnt that the matters regarding environment protection are taken up in regular basis through Video Conferencing or some other method.

3. In that view of the matter, it is redundant for us to entertain the matter to finalise the things before us as the matter has to be adjudicated before the Appropriate Adjudicating Forum. Hence it is for the petitioner to move the National Green Tribunal for redressal of his grievance and seek appropriate relief. It is needless to observe that the Tribunal shall consider the case of the petitioner on merits and in accordance with law. However, the interim order of stay already granted by this Court shall continue for a period of two weeks from today.'

28. The Learned Senior Counsel for the 14th Respondent submits that this Court in the present Writ Petition No.20747 of 2018, on 11.08.2018, had directed the Respondents not to allow any person or vehicle to lift or transport any type of Soil, Sand, Savudu or Vandal from Puzhal and Kannigaiperu Lake until further orders. Further, it is represented on behalf of the 14th Respondent that because of Stay of Interim Orders passed by this Court on 11.08.2018 in the present Writ Petition, 14th Respondent was prevented from quarrying for 20 days and as such, the period of quarrying is to be extended.

29. It is to be pointed out that the Rule 12(g) of the Tamilnadu Minor Mineral Concession Rules, 1959, enjoins as under:

'12(g). Permission granted under this sub-rule shall not be renewed or extended for any reason including that the person permitted could not mine or

remove the mineral for whatever reason. He will not be entitled for refund of any cost or money incurred in the process. If the permitted quantity is not removed within the stipulated period, the applicant will not be entitled for removal of unutilised quantity of mineral.'

30. Be that as it may, in view of the fact that the 1st Respondent / District Collector, Thiruvallur District based on the reports of the Executive Engineer, Public Works Department, Kusasthalaiyar Basin Division, Thiruvallur, Executive Engineer, Public Works Department, Araniyar Basin Division, Chepauk, Chennai - 5 and other officials had opined that the quarrying operation was carried out within the permissible limits and there was no excess quarrying, as pleaded by the Petitioner in the present Writ Petition, this Court keeping in mind the orders passed by this Court in W.P.No.17447 of 2018 on 27.08.2018 wherein it was observed that it is for the Petitioner therein to move the 'National Green Tribunal' for redressal of his grievances and seek appropriate relief etc., and also this Court, after taking into account of the attendant facts and circumstances of the instant case, in an encircling manner, comes to an inevitable, resultant conclusion that the Writ Petitioner is not entitled to claim the reliefs as prayed for by him in the present Writ Petition. Consequently, the present Writ Petition fails.

In fine, the Writ Petition is dismissed. No costs.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

ssd

To

1. The District Collector,
Thiruvallur District,
Master Plan Complex,
NH 205, Thiruvallur,
Tamilnadu - 602 001
2. The Additional Director,
Department of Geology & Mining
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M-4, Redhills Police Station,
Redhills, Chennai

13. The Inspector of Police,
C-2, Periyapalaiyam Police Station,
Thiruvallur District
Tamilnadu - 601 102

+3cc to Mr.M.Purishothaman, Advocate, S.R.No.78579

+1cc to the Government Pleader, S.R.No.79527

W.P.No.20747 of 2018

SS(CO)
GSP(06/12/2018)



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