

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 14-09-2018

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THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.Nos.859, 860, 2356, 2357 and 3637 of 2013

And

M.P.Nos.1, 1, 1, 2 and 2 of 2013 and 1, 1 and 1 of 2015

P.Periyasamy ... Petitioner in WPs 859&860/2013

M/s.Coramandel Agencies,
Represented by its Partner
Mr.R.Veeramani,
No.8, 2nd Street,
Ganapathy Colony,
Gopalapuram,
Chennai-600 086. ... Petitioner in WPs 2356&2357/2013

M/s.Galaxy Enterprises,
Represented by its Proprietor Mr.S.R.Kumar,
No.8, 2nd Street,
Ganapathy Colony,
Gopalapuram,
Chennai-600 086. ... Petitioner in WP 3637 of 2013

...Vs...

1.State of Tamil Nadu,
Represented by Principal Secretary to Government,
Industries (MMB-1) Department,
Secretariat,
Fort St. George,
Chennai.

2.The District Collector,
Madurai District,
Madurai.

3.Assistant Director,
(Geology and Mining),
Tiruppur District.

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4. Deputy Director,
(Geology and Mining),
O/o. Commissioner of G&M,
Chennai-32.

... Respondents in all the WPs

WPs 859 & 860 of 2013 are filed Under Article 226 of the Constitution of India praying to issue Writs of Certiorari, calling for the records of the second respondent dated 13.12.2012 in Show Cause Notice No. Roc. Nos.806/2012-Mines and G.O.(Ms.) No.273, Industries (MMB-1) Department dated 14.12.2012, 797/2012-Mines and G.O.(Ms.) No.252, Industries (MMB-1) Department dated 14.12.2012 by the first respondent and quash the same.

WPs 2356 & 2357 of 2013 are filed Under Article 226 of the Constitution of India praying to issue Writs of Certiorari, calling for the records of the G.O.(Ms.) Nos.227, Industries (MMB-1) Department, dated 14.12.2012 and 270 Industries (MMB-1) Department, dated 14.12.2012 by the first respondent and show cause Nos.Roc.No.749/2012-Mines and 815/2012-Mines of the second respondent dated 13.1.2013 and quash the same.

WP 3637 of 2013 is filed Under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records of the G.O.(Ms.) No.255, Industries (MMB-1) Department, dated 14.12.2012 by the first respondent and show cause No.Roc.No.800/2012-Mines of the second respondent dated 28.12.2012 and quash the same.

For Petitioner in all WPs : Mr.A.Jenasenan

For Respondents in all WPs: Mrs.A.Shrijayanthi,
Special Government Pleader.

C O M M O N O R D E R

The show cause notices issued to these writ petitioners based on the Inspection Report, are under challenge in these writ petitions.

2. The learned counsel, appearing on behalf of the writ petitioners, in all these writ petitions made a submission that in respect of the orders of suspension issued by the competent authorities suspending the quarrying operation, the writ petitioners are abiding by that and no quarrying operations are continuing even after the interim orders granted by this Court in view of the fact that the quarrying operations are totally stopped and no further Government Orders are required in respect of the order of suspension issued by the competent authorities.

3. The learned counsel for the writ petitioners made a submission in respect of the show cause notice that the show cause notice itself is untenable on the ground that the reports submitted by the Experts Committee has not been taken into consideration. It is mainly contended that the factual aspects prevailing in the field has not been taken note of by the authorities competent in respect of issuance of show cause notice to the writ petitioners. In the absence of considering all these factual aspects, show cause notice is unsustainable.

4. The learned Special Government Pleader, appearing on behalf of the respondents, opposed the said contentions of the learned counsel for the writ petitioners, by stating that the show cause notices are issued based on the inspection conducted by the competent authorities. The show cause notices state that the writ petitioners are at liberty to submit their objections/explanations and even a personal hearing is provided. Thus, the present writ petitions are filed without availing the opportunity provided to the writ petitioners by way of show cause notices. Thus, the writ petitions are liable to be rejected.

5. Considering the arguments as advanced, this Court is of an opinion that adjudication in respect of the order of suspension of quarrying operation is not required. As far as the show cause notices are concerned, this Court is of an opinion that the factual aspects are set out in the show cause notices and thus the evaluation reports and the factual aspects, enclosed along with the show cause notices, must be answered by the writ petitioners. In other words, the writ petitioners are at liberty to submit their explanations/ objections in respect of the allegations set out in the show cause notices. Contrarily, the present writ petitions are filed challenging the very show cause notices and without availing the opportunity provided to the writ petitioners to explain their stand.

6. No writ proceedings against the show cause notice can be entertained in a routine manner. Judicial Review against the show cause notice is certainly limited. On initiation of any proceedings under the Statute, the competent authorities must be allowed to continue the proceedings and conclude the same by following the procedures contemplated under law. Undoubtedly, opportunities must be provided as per the procedures. The persons, against whom such show cause notices are issued, must be heard properly and they must be permitted to submit their explanations/objections in respect of the allegations set out in the show cause notices. However, the writ proceedings cannot be entertained during the intermittent period in view of the fact that such interference will paralyse the finalisation of the proceedings initiated under the Statutes. Every proceedings initiated under the Statute must be allowed to be completed in

all respects, but the same should reach its logical conclusion. The Constitutional Courts also must be cautious while entertaining the writ proceedings against the show cause notices in view of the fact that certain factual aspects can never be adjudicated during the intermittent period, the authorities competent have undertaken the process of investigation and adjudication. Thus, any writ petition filed only after the final order alone can be considered for admission.

7. However, the writ proceedings can be entertained against a show cause notice, if the same is issued by an authority having no jurisdiction or competency or an allegation of mala fide is raised or if the same is in violation of the statutory rules in force. Even, in the case of, raising the allegation of mala fides, the authority, against whom such an allegation is raised, to be impleaded as a party respondent in his personal capacity in the writ proceedings. In the absence of any one of these legal grounds, no writ proceedings can be entertained in a routine manner as the authorities competent must be allowed to execute the same by following the procedures contemplated under law. Even, in case, where the mistake crept in during the process of conducting an enquiry, the Court must direct the competent authorities to rectify the errors and continue the same and conclude the proceedings in all respects in accordance with law. This being the legal principles to be followed, this Court is of an opinion that the writ petitioners are bound to submit their explanations/objections to the show cause notices and avail the opportunities provided to them by the authorities and only after passing of the final orders, they can prefer the appeal contemplated under the Statutes.

8. In this view of the matter, the writ petitioners are at liberty to submit their explanations/objections and on receipt of any such explanations/objections, the competent authorities may provide a reasonable opportunity to the writ petitioners, including the personal hearing and thereafter considering their cases based on the materials available on record and the Inspection Reports and the Experts Committee Reports and all other materials available and pass orders on merits and in accordance with law.

9. With these observations, all the writ petitions stand dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are also dismissed.

Sd/-
Assistant Registrar(CO)

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Sub Assistant Registrar

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To

1.The Principal Secretary to Government,
State of Tamil Nadu,
Industries (MMB-1) Department,
Secretariat,
Fort St. George,
Chennai.

2.The District Collector,
Madurai District,
Madurai.

3.Assistant Director,
(Geology and Mining),
Tiruppur District.

4.Deputy Director,
(Geology and Mining),
O/o.Commissioner of G&M,
Chennai-32.

+5cc to Mr.A.Jenasenan, Advocate sr.no.63936, 63935, 63937,
63938, 63939.

+1cc to Government Pleader sr.no.64145

W.P.Nos.859, 860, 2356,
2357 and 3637 of 2013

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