

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 05.09.2018

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THE HONOURABLE Mr.JUSTICE S.M.SUBRAMANIAM

W.P. No.3212 of 2013

and

MP No.1 of 2013

R. Anup Kumar Lohia ... Petitioners

versus

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

2. The District Collector,
Madurai.

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

4. Deputy Director,
(Geology and Mining),
O/o Commissioner of Geology and Mining,
Chennai.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue writ of Certiorari to call for the records of the second respondent dated 28.12.2012 in Show Cause Notice No.ROC No.817/2012-Mines, and G.O. (Ms) No.272 Industries (MMB.1) Department, dated 14.12.2012 issued by the first respondent and quash the same.

For Petitioner : Mr.N.Senthilkumar

For Respondents: Mrs.A. Shrijayanthy

Special Government Pleader

O R D E R

The show cause notice issued by the second respondent in proceedings dated 28.12.2012 is under challenge in this writ petition.

2. The learned counsel for the petitioner states that the lease was granted in favour of the writ petitioner and the lease deed dated 28.02.2011 and the period of lease is in force. The writ petitioner has not commenced the mining activities. Therefore, the impugned show cause notice has been issued without any basis.

3. The learned counsel for the petitioner states that the violations stipulated in the show cause notices are incorrect and the writ petitioner has not committed any such violation at all.

4. This Court is of an opinion that the pleadings made in this regard by the writ petitioners on merits cannot be adjudicated by this Court in the present writ petition, in view of the fact that the writ petitioner has challenged the very show cause notice issued in proceedings dated 28.12.2012. On a perusal of the impugned show cause notice the authorities competent has detected certain violations during inspection / evaluation reports by the special team. Thus, all such explanations now placed before this Court shall be pleaded before the Competent Authorities by way of an explanations or objections. In other words, the writ petitioner is bound to submit his explanations / objections to the competent authorities enabling them to consider the merits and the demerits of the case. Contrarily, no writ petition can be entertained challenging the show cause notice and the merits and demerits raised in the writ petition can never be adjudicated which relates to complex facts and circumstances.

5. No writ can be entertained against a show cause notice in a routine manner. Judicial Review against the show cause notice is certainly limited. A writ petition against a show cause notice shall be entertained, if the same has been issued by an authority having no jurisdiction or competency or if an allegation of malafides are made or if the same is in violation of the statutory rules in force. Even in case of raising an allegation of malafides, the authorities against whom such an allegation is raised to be impleaded as party respondent in the writ proceedings. In the absence of any one of these legal grounds, no writ petition can be entertained against the show cause notice.

6. Intermetent intervention in official functioning are certainly not desirable. The competent authorities on initiation of such proceedings based on the inspection / evaluation report can never be scrolled in a routine manner. On initiation of such proceedings, the authorities must be allowed to complete the enquiry in all respects and the same should reach its logical conclusion. In the event of such intermetent intervention, the parties to the lis may take undue advantage and cause great financial loss to the state exchequer. Admittedly the lease period is in force. Thus, the writ petitioner has to submit his explanation / objections

in respect of the violations detected and stated in the impugned show cause notice.

7. This being the principles to be followed, the writ petitioner is at liberty to submit his explanation / objections on the show cause notice. In the event of submitting any such explanations, the authorities competent are bound to conduct an enquiry by affording reasonable opportunity to the writ petitioner and take a decision on merits in accordance with law and pass final orders

8. In this view of the matter, the writ petitioner has not established any acceptable ground for the purpose of quashing the show cause notice issued against the writ petitioner. Thus, the writ petition is devoid of merits and stands dismissed. No costs. Consequently, connected miscellaneous petition is also closed.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

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To

1. State of Tamil Nadu,
Rep. by Principal Secretary to Government
Industries (MMB.1) Department,
Secretariat, Fort St. George, Chennai.
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Madurai.
3. Assistant Director,
(Geology and Mining),
Tiruppur District.
4. Deputy Director,
(Geology and Mining),
O/o Commissioner of Geology and Mining,
Chennai.

- + 1 cc to Mr. J. Ravindran, Advocate SR.61575
+ 1 cc to Mr. Government Pleader Sr.61761

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(CS-IX)

EU (25/09/2018)

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