

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.09.2018

CORAM :

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.Nos.2328 and 2631 of 2013
and M.P.Nos.2 &3 of 2013

C.Paneer Mohamed ...Petitioner in W.P. No.2328 of 2013

C.Rabeek Raja ...Petitioner in W.P. No.2631 of 2013

Vs.

1.State of Tamil Nadu
Rep. By Principal Secretary to Government,
Industries (MM.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 G & M,
Chennai-32.

...Respondents in both
W.Ps.

Prayer in W.P.No.2328 of 2013: The writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records of the 2nd respondent dated 10.01.2013 in show cause Notice No.ROC.No.787/2012 - Mines, and the G.O. (Ms) No.242 (Industries (MMB-1) Department) dated 14.12.2012 by the 1st respondent, quash the same.

Prayer in W.P.No.2631 of 2013: The writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records of the 2nd respondent dated 23.01.2013 in show cause Notice No.ROC.No.752/2012 - Mines, and the G.O. (Ms) No.228 (Industries (MMB-1) Department) dated 14.12.2012 by the 1st respondent, quash the same.

For Petitioner : Mr.M.Manivasagam

For Respondents : Mr.A.Shrijayanthy,
Special Government Pleader

C O M M O N O R D E R

The show cause notices issued against the writ petitioners in respect of certain violations of the conditions imposed for carrying out the mining activities are under challenge in these Writ Petitions.

2.The writ petitioners were granted approval for mining as per the Act and Rules in force. Accordingly, the petitioners were conducting quarrying operations as per the provisions of Tamilnadu Minor Mineral concession Rules, 1959. The petitioners were transporting the quarrying materials from the site after obtaining proper transport permit upon payment of necessary fees, charges, etc. It is contended that the petitioners were continuing the mining operations in accordance with the Rules and orders in force.

3.The learned counsel for the petitioners states that the inspection was conducted in the absence of the writ petitioners and the authorities have taken wrong samples and raised the allegations without any basis. Thus, the impugned show cause notices are liable to be quashed.

4.The learned Special Government Pleader appearing for the respondents opposed the contention by stating that the inspection was conducted by the competent authority in respect of the mining operations carried on by the writ petitioners. Thus, there is no irregularity or illegality in respect of conducting inspection by the competent authorities in this regard. During the inspection, the competent authorities found various violations and irregularities in mining operations carried out by the writ petitioners. Setting out all such violations, the 2nd respondent issued show cause notices to the writ petitioners in proceedings dated 10.01.2013 and 23.01.2013 respectively. In spite of submitting their explanations, the writ petitioners have chosen to prefer the present Writ Petitions challenging the very show cause notices. Thus, the Writ Petitions are liable to be rejected.

5.No writ petition can be entertained challenging the show cause notice issued in a routine manner as the scope of the show cause notice is certainly limited. The show cause notice can be challenged if the same has been issued by the authority having no jurisdiction or competency or if an allegation of malafide are raised or if the same is in violation of statutory rules in force. Even in case of authorities against whom the allegations

are made is proved malafide to be impleaded as party respondent in the writ proceedings in is personal capacity. In the absence of any one of these legal grounds, no Writ Petition can be entertained against the show cause notice.

6. On receipt of the show cause notices, the writ petitioners are duty bound to submit their explanations/objections in respect of the allegations set out in the show cause notices and defend their case in the manner known to law. Intermittent intervention during such enquiry proceedings are not certainly preferable. All such proceedings initiated in respect of authorities competent must be allowed to conduct the enquiry and conclude the proceedings in all respect. The enquiry commenced must reach its logical conclusion. This being the principle to be followed, there is no reason what so ever to interfere with the impugned show cause notices issued by the 2nd respondent. Thus the petitioners are at liberty to submit their explanations/objections in respect of the show cause notices issued and defend their case in the manner known to law. In view of the said principles, the writ petitioners are directed to submit their explanations within a period of four (4) weeks from the date of receipt of a copy of this order. On receipt of the explanations/objections from the writ petitioners, the respondents are directed to conduct enquiry and pass final orders within a period of eight (8) weeks thereafter.

7. With these observations, the Writ Petitions stand dismissed. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

सत्यमेव जयते

gsa/vjt

To

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

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2.The District Collector
Madurai.

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

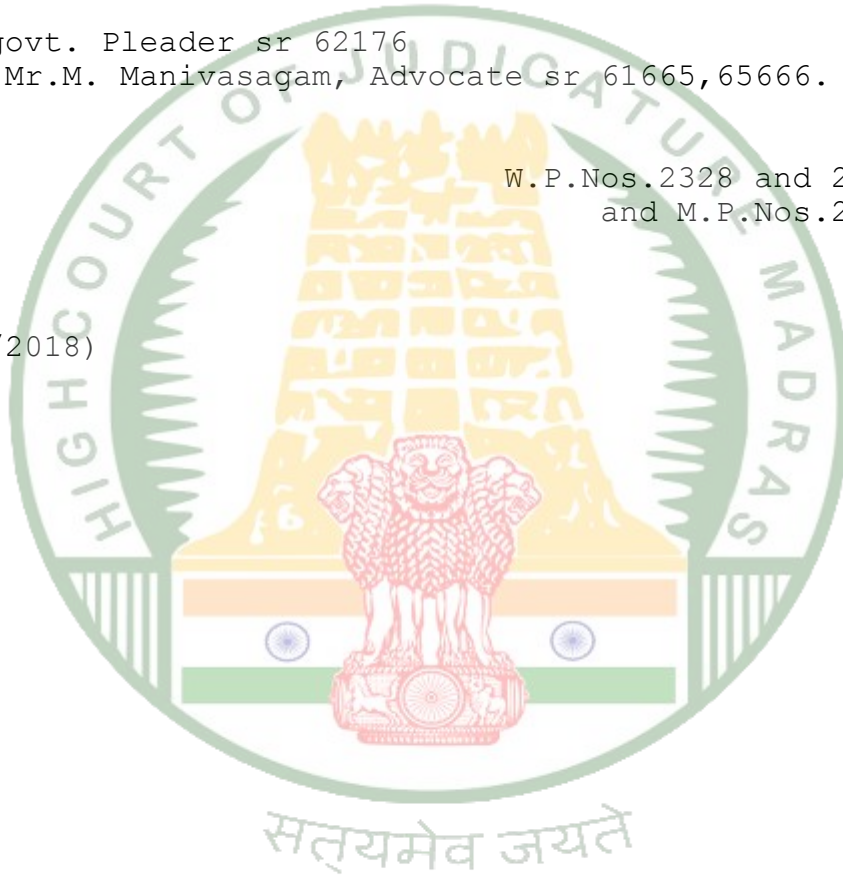
4.Deputy Director
(Geology and Mining)
O/o Commissioner of G & M,
Chennai-32.

+1 CC to govt. Pleader sr 62176

+2 ccs to Mr.M. Manivasagam, Advocate sr 61665,65666.

W.P.Nos.2328 and 2631 of 2013
and M.P.Nos.2 &3 of 2013

SJ(CO)
SRG(28/09/2018)



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