

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.12.2018

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

WP.No.27885 of 2018

WMP.No.32428 of 2018

M/s.RMP Traders by its Proprietor G.Suresh
Tiruvallur 602002

Petitioner

Vs

1.The District Collector, Thiruthani Road
Tiruvallur

2.The Assistant Director of Geology and
Mines Department, Thiruthani Road
Tiruvallur

Respondents

Prayer:- This Writ Petition is filed, under the Article 226 of Constitution of India, to issue a Writ of Mandamus to direct the Respondent to consider the application of the Petitioner for grant of licence to store and transport sand filed under Rule 38 (C) (3) of the Tamil Nadu Minor Mineral Concession Rules, 1959, filed on 19.06.2015 in line with the inspection report of the Revenue Divisional Officer, Tiruvallur, dated 26.09.2017 and consequently, to direct the 1st Respondent to issue the said licence to the Petitioner to store and transport sand under the said Rule, without any hindrance.

For Petitioner : Mr.N.V.Prakash

For Respondents : Mr.M.Karthikeyan, AGP

ORDER

The prayer in this Writ Petition is to direct the Respondent to consider the application of the Petitioner for grant of licence to store and transport sand filed under Rule 38 (C) (3) of the Tamil Nadu Minor Mineral Concession Rules, 1959, on 19.06.2015, in line with the inspection report of the Revenue Divisional Officer, Tiruvallur, dated 26.09.2017 and consequently, to direct the 1st Respondent to issue the said

licence to the Petitioner to store and transport sand under the said Rule, without any hindrance.

2. This court heard the learned counsel on either side and also perused the materials placed on record.

3. According to the learned counsel for the Petitioner, the Petitioner had filed an application, dated 19.06.2015, seeking licence to store and transport sand under Rule 38(C)(3) of the Tamil Nadu Minor Mineral Concession Rules, 1959 (herein after called as Rules), along with requisite documents and paid the non refundable application fee of Rs.5,000/- and the said application is still pending, without being considered so far. Further, though a report, dated 26.09.2017 had been submitted by the concerned Revenue Authority, no action has been taken by the Respondents. Hence, this Writ Petition has been filed, seeking the relief, as stated above.

4. In the counter affidavit filed by the 1st Respondent, it is stated that the Petitioner had made an application, dated 19.06.2015 for the grant of licence for the storage and transportation of sand under Rule 38C of the said Rules and a copy of the said application was forwarded to the Revenue Divisional Officer, Tiruvallur and Tahsildar, Tiruvallur on 15.12.2016, with a request to inspect the area applied for offer their availability report along with necessary details. The Executive Engineer, Public Works Department, Kusasthalaiyar Basin Division, Tiruvallur was also addressed to inspect the area applied for and offer recommendations, including the suitability of the area and sent his report to take further action. On the basis of the inspection, it was recommended that the Applicant may be granted licence to store sand purchased from Government quarry and sell sand on retail price as per the provisions of the said rules. The Revenue Divisional Officer, Tiruvallur had also submitted a report, dated 26.09.2017, making recommendations as made by the Tahsildar, Tiruvallur. The said Executive Engineer had also submitted a report dated 26.10.2018, stating that sand is being sold directly or on line booking by the Public Works Department and therefore, there is no possibility of the stockyard to be formed by any individual and to sell sand and at present, no sand quarrying is functioning in the Tiruvallur District and hence, the question of granting licence for the formation of the sand stockyard to the Petitioner in the area applied for does not arise and consequently, the Petitioner is entitled for the relief as prayed for in this Writ Petition.

5. With respect to the averments made in the counter affidavit filed by the 1st Respondent, a copy of GO(D)No.215, Public Works (F1) Department, dated 02.06.2017 has been produced before this court and in the said Government Order, in paragraph 2, it is stated as under:-

"2. GO.Ms.No.95, Industries (MMC.I) Department, dated 01.10.2003, orders were issued amending the Tamil Nadu Minor Mineral Concession Rules, 1959, by introducing a new Rule 38A, whereby all existing leases for quarrying sand in Government land and permission/leases granted in ryotwari lands ceased to exist with effect from 02.10.2003 and the important task of sand mining in rivers was entrusted to Public Works Department. In Go.Ms.No.451 Public Works Department, dated 03.10.2003, orders were issued permitting the Regional Chief Engineer, Water Resources Department for directly operating the sand quarry in locations identified by the Public Works Department and storing the quarried sand in depots for onward sale to the users. Since then, sand quarries have been operated by the Public Works Department and now, it has been decided to streamline the sand sale."

6. The Petitioner had approached the Respondents, seeking licence to store and transport sand. Considering the averments made in the counter affidavit filed by the 1st Respondent in the light of the said GO(D)No.215, Public Works (F1) Department, dated 02.06.2017 and the report dated 26.10.2018, of the Executive Engineer, Public Works Department, Kusasthalaiyar Basin Division, Tiruvallur, this Court is of the considered view that by introduction of a new Rule 38A, all the existing leases for quarrying sand in Government land and permissions/leases granted in ryotwari lands ceased to exist with effect from 02.10.2003 and that since the sand is being sold directly or on line booking by the Department, there is no possibility of the stockyard to be formed to sell sand to any individual and consequently, the question of granting of such licence to the Petitioner does not arise, as there is no substance in the contentions of the learned counsel for the Petitioner. Accordingly, this Court is not inclined to grant the relief sought for this Writ Petition.

7. In the result, this Writ Petition is dismissed. No costs. Consequently, the connected MP is closed.

8. After dictating of this Order, dismissing this Writ Petition, the learned counsel for Petitioner has prayed this Court to direct the Respondents to refund the non refundable application fee paid to them. The 1st Respondent shall consider the said request of the Petitioner, positively.

Sd/-
Asst.Registrar (CS VI)

/true copy/

Sub Asst. Registrar

Srcm

To

1.The District Collector, Thiruthani Road,Tiruvallur

2.The Assistant Director of Geology and Mines Department,
Thiruthani Road
Tiruvallur

+1cc to Government Pleader in sr.no.87448

WP.No.27885 of 2018

mr(co)
nr 22/01/2019