



For Appellant : Mr.Veera Kathiravan,
Senior Counsel for
M/s.Veera Associates

For R-1 to R-3: Mr.A.K.Baskarapandian,
Special Government Pleader

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JUDGMENT

(Judgment of the Court was delivered by
M. SATHYANARAYANAN, J.)

By consent, the main Writ Appeal itself is taken up for final disposal.

2. Mr.A.K.Baskarapandian, learned Special Government Pleader accepts notice on behalf of the respondents.

3. The appellant/writ petitioner filed W.P(MD)No.168 of 2018 praying for issuance of a Writ of Certiorarified Mandamus to call for the notification dated 21.12.2017, issued by the third respondent insofar as Item No.33 alone and quash the same with a further direction, directing the first respondent to decide the appeal.

4. It is the case of the appellant that the appellant Association is a registered Association under the Societies Registration Act, 1975, bearing Registration No.49/2007 and the object of the said Association is to arrange for employment for the Bonded Labourers, who have been rescued and rehabilitated. The appellant would state the third respondent vide Government Gazette dated 11.05.2015 had called for application from Self Help Groups and Associations of Bonded Labourers, for issuance of lease directly under Rule 8(10-A) of the Tamil Nadu Minor Mineral Concession Rules, 1959.

5. According to the appellant, relevant and necessary enclosures have also been annexed along with the said application. However, to the shock and surprise, the said application was rejected by the third respondent vide proceedings dated 12.01.2017. Challenging the legality of the same, the appellant filed a statutory appeal before the second respondent under Rule 36(c)(2) of the Tamil Nadu Minor Mineral Concession Rules, 1959 and along with the said appeal, the appellant Association prayed for interim stay of the operation of the order passed by the third respondent apprehending that further process may take place in pursuant to the notification. The appellant after filing the appeal, has also submitted a representation to the third respondent to defer the further proceedings in respect of Item No.33 of the notification. However, fresh notification was issued on 14.02.2017 under Rule 8(1) of the Tamil Nadu Minor Mineral Concession Rules, 1959. Therefore, the appellant filed W.P(MD)No.3355 of 2017, praying for issuance of

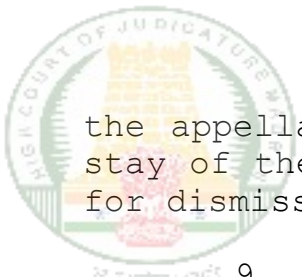


a Writ of Certiorari to quash the notice dated 14.02.2017 issued by the Collector of Madurai District, insofar as Item No.19 is concerned and consequently, to direct the Commissioner of Geology and Mining, Guindy, Chennai, to decide the appeal and this Court vide order dated 18.04.2017, has finally disposed of the matter, by directing the first respondent to dispose of the appeal, within a period of four weeks from the date of receipt of a copy of the order and to meet the ends of justice, also directed that Serial No.19 of the notification shall not be brought for public auction.

6. Mr.Veera Kathiravan, learned Senior Counsel appearing for the appellant would submit that the Collector of Madurai District has dismissed the appeal vide proceedings dated 07.12.2017 and challenging the legality of the same, the appellant has also filed a second appeal before the Secretary to Government, Industries Department, Chennai on 19.12.2017 and along with the said second appeal, the appellant has also filed a petition for direction, directing the Collector of Madurai District not to lease out the land in S.F.No.207(Part-2) admeasuring to an extent of 1.50.0 hectare in Thiruchunai Revenue Village, Iyyapatti Panchayat, Melur Taluk, Madurai District and pending disposal of the said second appeal, records have also been called for by the said appellate authority from the file of the Commissioner of Geology and Mining, Guindy, Chennai-32 as well as from the Collector of Madurai District and therefore, in all fairness, the Collector of Madurai District, shall not proceed further with the auction in respect of the said item. However, it is further contended that the learned Judge without taking note of the same, directed disposal of the said appeal dated 19.12.2017 and the learned Judge could have directed the second appellate authority to take up the direction petition first and give a disposal. Since it has not been done so, the appellant is constrained to approach this Court by filing this writ appeal.

7. The learned Senior Counsel appearing for the appellant would submit that in the event of auction being allowed to be conducted, the second appeal itself would become infructuous and no prejudice will be caused to the second respondent by deferring the auction in respect of Item No.33 of the notification dated 21.12.2017 in Na.Ka.No.1678/2017 (Mines) and prays for appropriate orders.

8. Per contra, Mr.A.K.Baskarapandian, learned Special Government Pleader appearing for the respondents has drawn the attention of this Court to the order passed by the Commissioner of Geology and Mining, Guindy, Chennai, dated 07.12.2017 and would submit that a categorical finding has been given that the appellant Association is not registered as per the norms of Swarnajayanti Gram Swarozgar Yojana (SGSY) Scheme and instead, it has been registered under the Societies Registration Act, 1975 and taking into consideration all the relevant facts and circumstances only, the first appeal filed by the appellant came to be rejected. Since



the appellant is not having any vested right, they cannot pray for stay of the auction insofar as the said item is concerned and prays for dismissal of this writ appeal.

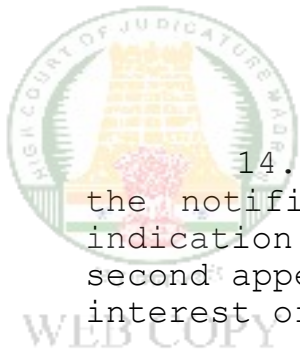
9. This Court heard the rivals submissions and perused the materials placed before it.

10. It is to be noted at this juncture that the first appeal filed by the appellant was rejected by the Commissioner of Geology and Mining, Guindy, Chennai - 32, vide proceedings dated 07.12.2017. Challenging the legality of the same, the appellant has filed second appeal before the Secretary to Government, Industries Department, Chennai on 19.12.2017 and along with the said second appeal, the appellant has also filed a petition for direction, praying for appropriate direction, directing the Collector of Madurai District not to lease out the land in S.F.No.207(Part-2) admeasuring to an extent of 1.50.0 hectare in Thiruchunai Revenue village, Iyyapatti Panchayat, Melur Taluk, Madurai District and according to the learned Senior Counsel for the appellant, the second appellate authority had called for records from the Commissioner of Geology and Mining, Guindy, Chennai and from the Collector of Madurai District.

11. This Court taking into consideration the above facts and circumstances, is of the considered view that it would suffice to direct the second appellate authority namely the first respondent herein to take up the petition for direction initially and give a disposal, in accordance with law, within a stipulated time frame; and to give an option to the said official to take up the appeal and dispose of the same at an early date.

12. Though the learned Senior Counsel appearing for the appellant would submit that till the disposal of the petition for direction or the main second appeal, auction in respect of Serial No.33 of the notification of the third respondent dated 21.12.2017 shall be deferred, this Court is not inclined to do so, for the reason that the further proceedings in respect of Item No.33 is always subject to the result of the second appeal to be decided by the first respondent.

13. Accordingly, the first respondent is directed to take up the petition for direction filed by the appellant if the papers or otherwise in order and after eliciting response from the Commissioner of Geology and Mining, Guindy, Chennai - 32 as well as from the Collector of Madurai District, can give a disposal, on merits and in accordance with law, within a period of two weeks from the date of receipt of a copy of this judgment and the said official has had an option to take up the main second appeal and give a disposal, on merits and in accordance with law, within a further period of four weeks thereafter and communicate the decision taken, to the appellant/Writ Petitioner.



14. It is also brought to the knowledge of this Court that in the notification itself, insofar as Item No.33 is concerned, an indication is given that the auction is subject to the result of the second appeal pending before the first respondent and therefore, the interest of the appellant has also been taken care of.

15. The Writ Appeal stands disposed of accordingly. No Costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (T & P)

/True Copy/

Sub Assistant Registrar

To

1.The Secretary to Government,
Industries Department,
Fort St. George,
Chennai.

2.The Commissioner of Geology and Mines,
Guindy,
Chennai.

3.The District Collector,
Madurai District,
Madurai.

+1cc to M/S.VEERA ASSOCIATES, Advocate SR.No.41878.

+1cc to Special Government Pleader in SR.No.42235.

W.A(MD)No.42 of 2018
10.01.2018

pm

SDS/RSK/SAR 4/19.01.2018/5P/6C