



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.09.2018

CORAM:

WEB COPY

THE HONOURABLE MR. JUSTICE V. PARTHIBANW.P. (MD) Nos.11312 & 11313 of 2018 and
W.M.P. (MD) Nos.10304 & 10305 of 2018

Souriamkuzhiyil Traders,
rep.by its Proprietor
Shijo Joseph
Nedumkandam PO
Nedumkandam, Idukki
Kerala State-685 508

... Petitioner in W.P. (MD)
No.11312 of 2018

Ovelil Cement Products
rep.by its Proprietrix Ancy
Ovelil Building
KP/XI/312C, Kochuthovala
XI, Kochuthovala
Kochuthovala-685 509
Kerala State

... Petitioner in W.P. (MD)
No.11313 of 2018

vs.

1. The Secretary to Government
Geology & Mining Department
Government of Tamil Nadu
Fort St.George, Chennai-600 009

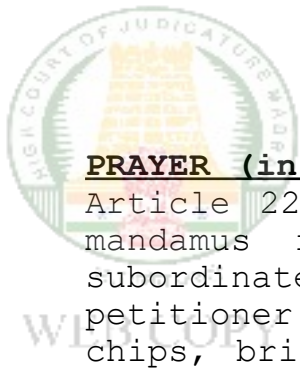
2. The District Collector,
Theni District.

3. The Assistant Director,
Geology & Mining, Theni.

4. The District Revenue Officer,
Theni District.

... Respondents in both W.Ps.

PRAYER (in W.P. (MD) No.11312 of 2018): Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of mandamus forbearing the respondents 2 & 4 herein their men, subordinates and their officials from in any manner preventing the petitioner from carrying and transporting crusher dust/gravel from Uthamapalayam, Theni District, Tamil Nadu to Idukki District, Kerala through the check posts of Cumbum Mettu, Kumuli check post and Bodi Mettu check post, without following the due process of law.



PRAYER (in W.P.(MD) No.11313 of 2018): Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of mandamus forbearing the respondents 2 & 4 herein their men, subordinates and their officials from in any manner preventing the petitioner from carrying and transporting crusher dust, jelly, chips, brick & sand from Uthamapalayam, Theni District, Tamil Nadu to Idukki District, Kerala through the check posts of Cumbum Mettu, Kumuli check post and Bodi Mettu check post, without following the due process of law.

For Petitioner : Mr.K.Appadurai

(in both W.Ps.)

For Respondents : Mr.B.Pugalendhi

(in both W.Ps.) Additional Advocate General
for Mr.A.Muthu Karuppan
Additional Government Pleader

COMMON ORDER

The reliefs sought in both the writ petitions are similar and identical and the issues and grounds raised therein are also similar and identical and therefore, both the writ petitions have been taken together for common disposal as hereunder.

2. The case of the petitioners is as follows:

2.1. The petitioners are engaged in the business of stocking and selling of minor minerals and also engaged in manufacture of hallow blocks. For the purpose of their business, the petitioners used to procure and sell crusher dust and jelly etc., and transport the same to Kerala State, through the check posts, namely, Cumbum Mettu Check Post, Kumili Check Post and Bodi Mettu Check Post.

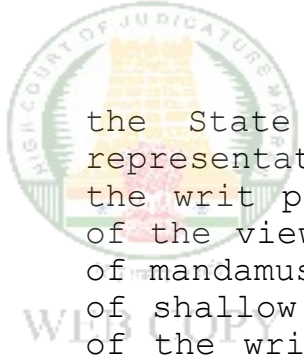
2.2. According to the petitioners, from March 2018, they were refused to transport the minor minerals and other materials into the State of Kerala, despite the fact that they had valid transit pass and permit issued by the third respondent. According to the petitioners, the refusal of transporting the minor minerals in the check posts, was only on the basis of the oral instruction given by the second respondent and according to the petitioners, such refusal was contrary to law, cannot be enforced and detrimental to the interest of the petitioners, who are having valid permit and transit pass issued by the competent Authority. Since the petitioners' vehicles carrying permitted minerals were prevented from entering into the State of Kerala, without any written orders, they are before this Court seeking the relief as stated above.



3. The learned counsel appearing for the petitioners would strongly contend that the Authorities have no power to prevent the petitioners from transporting the permitted minor minerals into the State of Kerala, despite the fact that they are having valid transit pass and permit issued by the competent Authority. When the petitioners are having valid transit pass and permit in respect of their business, it is not within the authority of the respondents to illegally and arbitrarily give instructions to the persons, who are manning the check posts, to deny entry of the vehicles carrying minerals into the State of Kerala. Such an action on the part of the respondents has resulted in huge loss and hardship to the petitioners and therefore, they are before this Court seeking its intervention in the matter.

4. The learned Additional Advocate General appearing for the respondents would submit that the relief as sought by the petitioners herein cannot be granted, since in the entire affidavits no specific instance of any official intercepting the vehicles belonging to the petitioners had been mentioned. He would submit that in fact, in this regard, no representation has been submitted by the petitioners to the Authority concerned and in the absence of any representation in regard to the grievances projected in the writ petitions, the petitioners cannot seek a blanket direction forbearing the respondents from preventing them from carrying on the business of transportation of minerals. According to the learned Additional Advocate General, in case any Authority has illegally or unjustly intercepted the vehicles carrying minor minerals, despite the fact that the petitioners are having valid transit pass and permit issued by the competent Authority, the same can be brought to the knowledge of the Authority concerned for action to be initiated. In the absence of any such instance being pointed out by the petitioners in the affidavits filed in support of the writ petitions, the petitioners are not entitled to grant of any relief.

5. This Court is in agreement with the submissions made by the learned Additional Advocate General for the reason that no material has been produced before this Court to show any specific instance, wherein the Authority concerned had acted high-handedly or unreasonably or illegally, while interfering with the business of the petitioners. The averments contained in the affidavit do not disclose any specific cause of action for this Court to intervene and grant any relief to the petitioners. The affidavit contain bald averments stating that from March 2018, the petitioners were prevented from carrying on their business, without any supportive materials. In fact, it could be seen from the documents that the petitioners have not even submitted any representation, in this regard, highlighting their grievances as against the respondents. In the absence of any representation and demand of action on the part of the respondents, needless to mention that writ of mandamus would not lie. The writ of mandamus can be sought only when there was a legitimate demand and no action being taken on such demand by



the State Authority. In this case, admittedly, there is no representation in regard to the so-called grievances projected in the writ petitions by the petitioners and therefore, this Court is of the view that the petitioners are not entitled for issue of writ of mandamus. Such a writ of mandamus cannot be issued on the basis of shallow and bald averment and the affidavit as filed in support of the writ petition is completely bereft of any details and also does not disclose any specific cause of action for this Court to interfere at the instance of the petitioners.

6. For the above said reasons, this Court is of the considered view that both the writ petitions lack merits and substance and therefore, they are dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Joint Registrar (Judicial)

/True Copy/

Sub Assistant Registrar (CS-I)

To:

1. The Secretary to Government,
Geology & Mining Department,
Government of Tamil Nadu,
Fort St.George, Chennai-600 009.
2. The District Collector,
Theni District.
3. The Assistant Director,
Geology & Mining, Theni.
4. The District Revenue Officer,
Theni District.

+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 82829
+ 2 CC TO Mr.K.APPADURAI, ADVOCATE IN SR Nos. 82529 & 82530

KRK
TE/VB/SKN/SAR-1 : 22/10/2018 : 4P/8C

W.P.(MD) Nos.11312 & 11313 of 2018 and
W.M.P.(MD) Nos.10304 & 10305 of 2018
05.09.2018