



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED 10.10.2018

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THE HONOURABLE MR.JUSTICE V.PARTHIBAN

W.P(MD)No.17992 of 2018

and

W.M.P(MD)No15874 of 2018

T.Kumaresan

..Petitioner

Vs

- 1.The Commissioner of Geology and Mining,
Thiru.Vi.Ka.Industrial Estate,
Guindy, Chennai - 600 032.
- 2.The District Collector,
Kanyakumari District at Nagercoil,
Kanyakumari District.
- 3.The Chairman,
The District Level Environmental Impact Assessment Authority,
District Collectorate at Nagercoil,
Kanyakumari District.
- 4.The District Level Environmental Impact
Assessment Authority,
represented by its Member Secretary,
District Collectorate at Nagercoil,
Kanyakumari District.
- 5.The Assistant Director,
Department of Geology and Mining,
Office of the District Collectorate,
Kanyakumari District.

..Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus directing the respondents 3 and 4 to consider forthwith and pass orders upon the proposal dated 26.09.2017 submitted by the Petitioner in the light of Environmental Clearance granted by the Member Secretary, SEIAA (State Level Environment Impact Assessment Authority), Chennai to the Petitioner's quarry project (production level of 23020 M3 of rough stone) vide proceedings in Lr.SEIAA-TN/F.No.3254/EC/1(a)/2114, dated 1.4.2015 and the approved Modified Mining Plan granted by the fifth respondent vide proceedings in R.C.No.735/G&M/2008, dated



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For Petitioner :Mr.Issac Mohanlal
Senior Counsel
for Issac Chambers

For Respondents :Mr.M.Jeyakumar
Addl. Govt. Pleader

ORDER

The Petitioner has approached this Court seeking issuance of a Writ of Mandamus directing the respondents 3 and 4 to consider forthwith and pass orders upon the proposal dated 26.09.2017 submitted by the Petitioner in the light of Environmental Clearance granted by the Member Secretary, SEIAA(State Level Environment Impact Assessment Authority), Chennai to the Petitioner's quarry project(production level of 23020 M3 of rough stone) vide proceedings in Lr.SEIAA-TN/F.No.3254/EC/1(a)/2114, dated 1.4.2015 and the approved Modified Mining Plan granted by the fifth respondent vide proceedings in R.C.No.735/G&M/2008, dated 24.3.2017.

2.The present prayer in the Writ Petition falls in a narrow campus as explained hereunder:

3.The Petitioner is a mining licence-holder and submitted a Modified Mining Plan to the first respondent which was approved by the competent authority by proceedings, dated 24.3.2017. The approval was granted subject to certain conditions. As laid down in the said communication, the operative portion of the order granting approval by the said communication is reproduced hereunder:

'The Modified Mining Plan has been examined and it contains all the conditions stipulated in the rules. Hence, in exercise of the powers delegated by the Government, the Modified Mining Plan in respect of quarrying rough stone in patta land S.F.No.221/1(P) &214/1C2 of Painkulam village, Vilavancode Taluk of Kanniyakumari District is hereby approved subject to the following conditions:-

(1)That the Modified mind plan is approved without prejudice to any other Law applicable to the quarry lease from time to time whether such laws are made by the Central Government, State Government or any other authority.

(ii)This approval of the mining plan does not in any way imply the approval of the Government in terms of any other provisions of the Tamil Nadu Minor Mineral Concession Rules, 1959.

(III)That the modified ming plan is approved without prejudice to any other order or direction from any Court of competent jurisdiction.

(iv)The applicant is directed to submit the application in Form-I as prescribed by the MOEF along with the



approved Modified Mining Plan to the District Environmental Impact Assessment Authority to issue Environmental Clearance for enhanced production of rough stone.

(v) Quarrying should be done without any hindrance to the adjacent pattadars.

(vi) Quarry should be done after leaving a safety distance of 7.5 Kms all along the lease boundaries and there should not be any quarry operation within the safety distance.

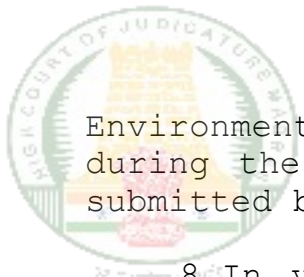
The applicant Thiru T.Kumaresan is directed to obtain Environmental Clearance from the District Level Environmental Impact Assessment Authority for the Rough Stone quarry over an extent of 0.47.5 hectares of Patta land in S.f.Nos.221/1(p) & 214/1C2 of Painkulam Village, Vilavancode Taluk as per the orders of the Honourable Supreme Court of India order dated 27.2.2012 in I.a.No.12-13/2011 in SLP No.19628-19629/2009 and as per the office Memorandum No.L-11011/47/20112-1A-11(M), dated 18.5.2012 of Ministry of Environment and Forest.
Encl.:Approved Modified Mining Plan.''

4.In pursuance of the order passed by the competent authority, it appears that the Petitioner also submitted an application before the third respondent on 26.9.2017 seeking environmental clearance from the District Level Environmental Impact Assessment Authority.

5.However, the proposal submitted on behalf of the Petitioner seeking environmental clearance has not been disposed of by the respondents 3 and 4, despite the fact that the State Level Environmental Impact Assessment Authority has already granted environmental clearance for the mining period, which is for a period of five years valid upto 2020. In response to the proposal submitted by the Petitioner, the Petitioner was called upon for hearing on 25.5.2018 and that the Petitioner appeared on the said date and thereafter, no action appears to have been taken in the matter. Therefore, the Petitioner is before this court seeking issuance of a Writ of Mandamus.

6.When the matter is taken up for hearing, Mr.Issac Mohanlal, learned Senior Counsel appearing for the Petitioner would submit that a direction may be given to the respondents 3 and 4 to take a decision in granting environmental clearance to the petitioner, since it is only a legal formality, in view of the recent amendment made in Environmental Protection Act, 1986. Therefore it becomes necessary to get clearance from the District Level Committee also. Therefore, as a matter of legal requirement, the Petitioner submitted proposal to the respondents 3 and 4. But unfortunately, the District Level Committee has not taken any decision so far.

7.The learned Additional Government Pleader appearing for the respondents would submit that the meeting of the District Level



Environment Impact Assessment Authority is going to be convened during the course of next few days and in the meeting, proposal submitted by the Petitioner would be considered.

8. In view of the above narrative and the submissions made on behalf of the respondents, this Court is of the considered view that in the fitness of things, the Writ Petition can be disposed of by giving the following directions in order to secure the ends of justice.

9. Accordingly, the respondents 3 and 4 are directed to pass final orders towards grant of environmental clearance in response to the proposal submitted by the Petitioner on 26.09.2017 in the next meeting slated to be convened in the next few days and communicate the same to the Petitioner. In case, for some reason, the meeting is not convened, there shall be a direction the respondents 3 and 4 to take a final call on the matter within a period of four weeks from the date of receipt of a copy of this order and communicate the decision taken to the petitioner forthwith.

10. With these directions, the Writ Petition stands disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/

Assistant Registrar (CS-III)

/True copy/

Sub Assistant Registrar (CS-IV)

To

1. The Commissioner of Geology and Mining,
Thiru.Vi.Ka.Industrial Estate,
Guindy, Chennai - 600 032.
2. The District Collector,
Kanyakumari District at Nagercoil,
Kanyakumari District.
3. The Chairman,
The District Level Environmental Impact Assessment Authority,
District Collectorate at Nagercoil,
Kanyakumari District.
4. The Member Secretary,
District Level Environmental Impact
Assessment Authority,
District Collectorate at Nagercoil,
Kanyakumari District.



5.The Assistant Director,
Department of Geology and Mining,
Office of the District Collectorate,
Kanyakumari District.

+1cc to M/S.ISAAC CHAMBERS, Advocate, SR.No. 90125
+1cc to M/s.Special Government Pleader,SR.No. 90195

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KK/RP/SAR-4/26.10.2018/5P-8C