



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.09.2018

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P.(MD) No. 19188 of 2018

and

W.M.P. (MD) No. 17025 of 2018

V. Chandrasekaran

... Petitioner

-Vs-

1. The District Collector,
Tirunelveli District, Tirunelveli.

2. The Deputy Superintendant of Police,
Sankarankovil, Tirunelveli District.

3. The Inspector of Police,
Sankarankovil Taluk Police Station,
Sankarankovil, Tirunelveli District.

... Respondents

PRAYER:- Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, directing the respondents to render adequate assistance / protection to the petitioner to carryout / undertake rough stone quarrying in the petitioner's patta land in S.F.No.34/1 (p), Vadikottai Village Sankarankovil Taluk, Tirunelveli District as per the approved mining plan and the proceedings of the first respondent dated 18.03.2018 in Rc.No.M1/4509/2014.

For Petitioner : Mr.M.Mahaboob Athiff

For Respondents : Mr.B.Bhagawathi,
Government Advocate.

ORDER

This Writ Petition has been filed for a direction to the respondents to provide Police protection in order to undertake the sand quarrying activity in accordance with the permission granted by the District Collector, Tirunelveli District, by his proceedings dated 18.03.2018.

2.The case of the petitioner is that they are engaged in the business of quarrying blue metals / rough stone jelly and also they have their own crusher unit. The petitioner applied for quarrying lease to the first respondent. The first respondent insisted that the permission will be granted only if the petitioner obtains clearance from the Principle Conservator of Forest and District Level Environmental Impact Assessment Authority. Subsequently, the petitioner applied to the concerned authorities and both the authorities have given No Objection



Certificate for grant of lease for the year 2016 and 2018 respectively.

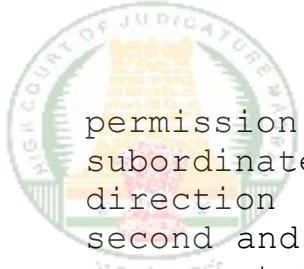
3. After obtaining No Objection Certificate, the petitioner applied to the first respondent for permission and the first respondent by his proceedings dated 18.03.2018 granted quarry lease to the petitioner to quarry rough stone / blue metal, jelly and gravel over an extent of 2.00.0 hectares of Patta land in S.No.34/1 (p), Vadikottai Village, Sankarankovil Taluk, Tirunelveli, for a period of five years from the date of execution of lease deed. After obtaining the permission, when the petitioner wanted to start the quarrying activities, certain persons stopped the quarrying work and threatened the petitioner. The petitioner gave representations to the second respondent seeking for Police protection. Since this complaint was not considered, the present Writ Petition has been filed before this Court.

4. The learned Government Advocate would submit that even though the Collector has given permission, there is resistance from the local people and the same may result in a law and order problem. Therefore, the third respondent is not in a position to provide police protection to the petitioner. The learned Government Advocate also produced the proceedings of the Tahsildar dated 30.08.2018, wherein the Tahsildar had directed the stoppage of all quarrying activities.

5. The learned counsel appearing for the petitioner would submit that when the District Collector has already granted permission after satisfying himself about the environmental impact, the Tahsildar who is the Subordinate authority cannot pass orders contrary to the permission granted by the District Collector. The learned counsel would further submit that till now, since the permission granted by the District Collector is in force, the petitioner cannot be stopped from quarrying activities. That apart, the learned counsel would also submit that the period has been stipulated and therefore, the petitioner has to carry on with the operation only during the period, for which the permission has been granted by the first respondent.

6. This Court has carefully considered the submissions made by the learned counsel on either side.

7. It is an admitted case that the first respondent has granted quarry lease to the petitioner for a particular extent of land for a period of five years from the date of execution of the lease deed. The first respondent before passing the said order had taken into consideration the report of the District Level Environmental impact Assessment Authority and also No Objection Certificate given by the Principal Conservator of Forest. Therefore, the first respondent was aware of the environmental impact that this quarrying activity will cause. Till the



permission granted by the first respondent is in force, the subordinate authority viz., Tahsildar cannot give a contrary direction to the Police not to permit quarrying activities. The second and third respondents will have to necessarily consider the representation made by the petitioner and grant necessary police protection in order to enable the petitioner to carry on with his work, in accordance with the permission granted by the first respondent. In this case, the respondent Police apprehends that there will be a law and order problem. That will not be a ground for the respondent Police to stop the petitioner from going ahead with the work in accordance with the permission granted by the first respondent.

8. In the facts and circumstances of the case, there shall be a direction to the second and third respondents to grant necessary protection to the petitioner to carry out the quarrying activity in accordance with the permission granted by the first respondent on 18.03.2018. If in case, the respondent Police is facing any difficulty, they have to make a representation to the District Collector and explain the situation. Till, any further proceedings are initiated by the District Collector, the petitioner cannot be stopped from going ahead with the quarrying work by virtue of the permission given to him.

9. The Writ Petition is disposed of with the above directions. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-III)

/True Copy/

Sub Assistant Registrar (CS-IV)

To

1. The District Collector,
Tirunelveli District, Tirunelveli.
2. The Deputy Superintendant of Police,
Sankarankovil, Tirunelveli District.
3. The Inspector of Police,
Sankarankovil Taluk Police Station,
Sankarankovil, Tirunelveli District.

+1cc to Spl. Government Pleader Sr.No.84317

TSG

VB/RP/SAR4/20.09.2018/3P/5C