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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 14.02.2018

CORAM:
THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN
and
THE HONOURABLE MRS.JUSTICE R.HEMALATHA

W.P (MD) No.9053 of 2017
and
W.M.P. (MD) No.6913 of 2017

P.Govindaraj .. Petitioner

Vs.

- 1.The District Collector,
Collectorate,
Ramanathapuram.
- 2.The Assistant Director,
Department of Geology and Mines,
Ramnad District.
- 3.The Tahsildar,
Rameswaram Taluk,
Ramnad District.
- 4.S.Muruganandham .. Respondents

(R.4 is impleaded vide
Court order dated 07.06.2017
in W.M.P. (MD) No.8003/2007)

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the respondents herein to cancel all the permissions given to sand quarry operations and a further direction restraining the respondents herein not to permit any sand quarry operation in and around the villages namely Kudiyiruppu Village, Ariyangundu and Sandhiyanagar Villages of Thangachipadam Panchayat Union, Ramnad District.

For Petitioner : Mrs.Lakshmi Gopinathan
for M/s Polax Legal Solutions

For Respondents : Mr.A.K.Baskara Pandian
Special Government Pleader
for R.1 to R.3
: Mr.M.Jerin Mathew
for R.4



ORDER

[Order of the Court was made by M.SATHYANARAYANAN, J.]

By consent, the Writ Petition is taken up for disposal.

2. Mr.A.K.Baskara Pandian, learned Special Government Pleader appears for the respondents 1 to 3 and Mr.M.Jerin Mathew, learned Counsel appears for the fourth respondent.

3. The petitioner claims that he was the elected President of Kudiyiruppu Village and came forward to file the present writ petition, which is styled as Public Interest Litigation alleging that in the villages viz., Kudiyiruppu, Ariangundu, Sandhiyanaga and Nochiwadi of Thangachimadam union, more than 100 families with the habitation of more than 5000 people are residing and they are eking their livelihood by fishing and agriculture. It is also the claim of the petitioner that the island of Rameshwaram falls within the Rameswaram Coastal Regulatory Zone.

4. The petitioner would further aver that there is a river called "Panchakalyani" and during rainy season, the rain water used to get mixed with sea water and it forms water body and nearby the said water body, the sand dunes are only located and it is also prevented the sea water gushing into the villages. It is a specific case of the petitioner that the sand quarrying licence has been granted to remove the sand from the dunes and since these concerned dunes fall within the Coastal Regulation Zone as per the Environmental Notification of the Government, the local body has also passed a resolution requesting the Authority not to accord licence for sand quarrying and despite that, no action has been taken so far and in fact the official respondents granted licence to quarry sand and hence, the petitioner came forward to file the present writ petition.

5. The matter was listed for hearing on 17.05.2017 and on that date, the learned Special Government Pleader accepts notice for the official respondents and the matter was directed to be listed during the course of next week for filing counter affidavit. The writ petition was listed on 24.05.2017 and on that date, it was directed to be listed on 05.06.2017 for filing counter affidavit and on that date, once again time was sought and therefore, time was granted till 07.06.2017 finally for filing counter affidavit.

6. The matter was listed on 02.01.2018 and on that date, the learned Counsel appearing for the fourth respondent made a submission that he has been granted permission to quarry sand by the Collector of Ramanathapuram, vide proceedings dated 15.03.2017 and the said period expires on 14.02.2018 and taking note of the fact, the learned Counsel appearing for the petitioner sought for time to amend the prayer and that the Special Government Pleader sought



further time to file counter affidavit and the matter was directed to be listed on 17.01.2018 finally and indicated that the second respondent shall personally present before this Court with records to assist the Court.

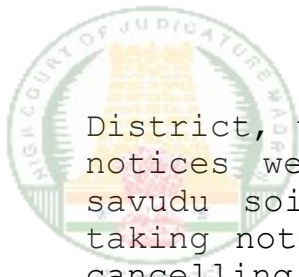
7. On 12.02.2018, the learned Special Government Pleader appearing for the official respondents once again sought further time and therefore, it was directed to be listed on 13.02.2018. This Court, on that date, recorded the findings that the sand quarrying licence granted in favour of the fourth respondent was suspended on 15.06.2017 and a show cause notice was issued as to why the licence granted to him should not be cancelled and he did not respond and ultimately, the order of the District Collector of Ramanathapuram came to be passed, cancelling the quarry licence, on 12.02.2018.

8. This Court, on going through the materials, has recorded the finding that "It *prima facie* appears that on account of the pendency of the writ petition and to show that the action has been taken, the Collector of Ramanathapuram District had passed the order, dated 12.02.2018, cancelling the licence and the delay of nearly eight months, from the date of show cause notice, has not been properly explained and therefore, directed to list the matter on 14.02.2018 under the caption "for orders"." Accordingly, the matter is listed today.

9. The learned Counsel appearing for the petitioner would submit that though the sand quarrying licence granted to the fourth respondent came to be suspended on 15.06.2017, the fact remains that it cannot be cancelled and it can be cancelled just two days prior to the expiry of licence on 12.02.2018 and no plausible explanation has been given by the official respondents as to the delay in passing of the said order.

10. Mr.A.K.Baskara Pandian, learned Special Government Pleader appearing for the official respondents would submit that the post of Assistant Director, Department of Geology and Mines, Ramnad District (second respondent herein) has fallen vacant for six months and so far, no officer has been posted and that it caused the said delay.

11. The status report as well as the additional status report filed by the second respondent would disclose among other things that the fourth respondent was granted licence to quarry 'savudu soil' upto 1 meter depth and however, during inspection, it was found that within short period of a month's time, the fourth respondent had quarried to the depth of 1.80 meters in violation of the permission conditions and he had quarried 1089 Cub.Meters (385 units), i.e., 85 units over and above the permitted limit of 300 units and he had obtained transport permit for 300 units of savudu soil and taking note of the same, the licence granted to the fourth respondent was suspended by the Collector of Ramanathapuram



District, vide proceedings dated 15.06.2017 and repeated show cause notices were issued to him as to why the licence to quarry the savudu soil has not been cancelled and he did not response and taking note of the same, the order came to be passed on 12.02.2018 cancelling the said quarry licence.

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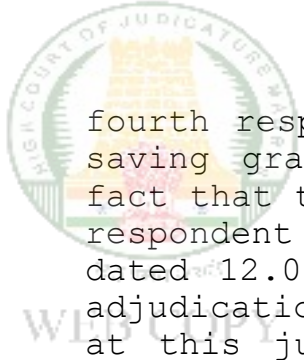
12. The first respondent viz., the Collector of Ramanathapuram District, despite opportunities given, did not file his counter affidavit. It is also not clear from the status report as well as the additional status report filed by the second respondent that as to how 85 units of illegal quarried sand came to be transported or utilised. No doubt, while cancelling the licence granted in favour of the fourth respondent, the first respondent in the proceedings dated 12.02.2018, has recorded the fact that the Revenue Divisional Officer of Ramanathapuram, vide proceedings dated 29.01.2018, has imposed the penalty of Rs.57,130/- (Rupees Fifty Seven Thousand One Hundred and Thirty only).

13. It also appears from the materials placed that no doubt, very many opportunities have been accorded to the fourth respondent to show as to why the sand quarrying licence granted to him cannot be cancelled and only just two days prior to the expiry of licence, the licence granted to him came to be cancelled on 12.02.2018, vide proceedings of the Collector of Ramanathapuram District. The delay in passing temporary suspension of permission/licence, dated 15.06.2017 and the delay in passing the final order dated 12.02.2018 by the first respondent, has not been explained properly at all. The only explanation offered by the learned Special Government Pleader appearing for the respondents, on instructions, is due to the vacancy caused in the office of the Assistant Director, Geology and Mining Department, Ramanathapuram District at Ramanathapuram. The learned Special Government Pleader, in support of his submissions, has also placed files and a perusal of the same, this Court is of the view that the delay in taking action from the temporary suspension of licence till the cancellation of licence has hardly been explained.

14. It is also to be pointed out at this juncture that it is also a specific stand of the writ petitioner who has filed this writ petition as Public Interest Litigation that the sand dunes, which are act as natural barrier were allowed to be quarried.

15. In the considered opinion of this Court that the official respondents had not shown any interest to protect the ecology and shown much more indulgence in favour of the fourth respondent, who was a violator and therefore, delayed/inaction on their part, deserves condemnation and it is also highly deprecated.

16. The learned Special Government Pleader appearing for the official respondents at this juncture would submit that after temporary suspension of sand quarrying licence on 15.06.2017, the



fourth respondent did not quarry the same. It appears to be a face saving grace. However, this Court, taking into consideration the fact that the sand quarrying licence granted in favour of the fourth respondent was cancelled by the first respondent vide proceedings dated 12.02.2018 is of the view that nothing remains for further adjudication in this writ petition. However, it is to be observed at this juncture that no permission to quarry licence, shall be granted regarding the sand dunes especially in the area in question falls within the Coastal Regulatory Zone, unless and until a proper environmental clearance is accorded by the concerned authorities.

17. In the result, the writ petition is closed, subject to the above observations. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CO)

/True copy/

Sub Assistant Registrar

To

1. The Chief Secretary to the Government,
Government of Tamil Nadu,
Fort St.George, Chennai - 600 009.
2. The Secretary to Government,
Industries Department,
Fort St.George, Chennai - 600 009.
- 3.The District Collector,
Collectorate,
Ramanathapuram.
- 4.The Assistant Director,
Department of Geology and Mines,
Ramnad District.
- 5.The Tahsildar,
Rameswaram Taluk,
Ramnad District.

+1cc to M/S.POLAX LEGAL SOLUTION, Advocate, SR. 48466

+1cc to M/S.Special Government Pleader, SR. 49311

W.P (MD) No.9053 of 2017
14.02.2018

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