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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.07.2019

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THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P.No.23020 of 2009

T.Bakthavatchalam

.. Petitioner

Vs.

1. The Commissioner and Secretary to Government,
Industries Department,
Fort St. George,
Chennai-600 009.

2. The Director of Geology and Mining,
Guindy,
Chennai-600 032.

3. The District Collector,
Villupuram District,
Villupuram.

.. Respondents

Petition filed under Article 226 of The Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, calling for the records in relation to GO (D) No.225 dated 07.07.2009 passed by the first respondent confirming the order in R.C.No.14662/MM2/2004 dated 01.06.2006 passed by the second respondent and order No.Res A/G&M/402/94 dated 19.11.2004 passed by the third respondent and quash the same and to direct third respondent to grant the petitioner rough stone quarry lease in S.No.97/19, (Part-6 in Thiruvakarai Village, Vanur Taluk, Villupuram District.

For Petitioner

.. Mr.Natesh Kumar

For Respondents

.. Mr.J.Ramesh
Additional Govt. Pleader

ORDER

The petitioner has approached this Court seeking for the following relief:

''To issue a Writ of Certiorarified Mandamus, calling for the records in relation to



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GO (D) No.225 dated 07.07.2009 passed by the first respondent confirming the order in R.C.No.14662/MM2/2004 dated 01.06.2006 passed by the second respondent and order No.Res A/G&M/402/94 dated 19.11.2004 passed by the third respondent and quash the same and to direct third respondent to grant the petitioner rough stone quarry lease in S.No.97/19, (Part-6 in Thiruvakarai Village, Vanur Taluk, Villupuram District.'').

2.The case of the petitioner is that the rough stone quarry in S.No.97/19 part 6 of Thiruvakarai Village, Vanur Taluk over an extent of 10.00 hectare was notified for public auction in the VRP (Villupuram Ramasamy Padayachi) District Gazette [Extraordinary] Villupuram No.3, dated 27.12.1993. The then Sub Collector, Dindivanam conducted the auction sale in respect of the said quarry on 20.01.1994 and the petitioner was declared as successful bidder and the petitioner paid the total bid amount of Rs.80,900/- on 31.01.1994. The third respondent laid down as condition for grant of lease that the successful bidder should remit the local cess and local cess surcharge on the bid amount along with bid amount. Challenging the said condition, the petitioner filed a writ petition in W.P.No.2150 of 1994 before this Court. This Court by order dated 08.07.1994, allowed the writ petition holding that the local cess and local cess surcharge should not be demanded and collected after 04.04.1991. Subsequently as against the confirmation for grant of lease in favour of the petitioner, some of the participants of auction, filed W.P.Nos.687 to 689 of 1994 and 825 to 827 of 1994. Though interim stay was granted in favour of the writ petitioners therein, finally, all the writ petitions were dismissed as infructuous on 22.09.1997 and 27.04.2000. Even after dismissal of the writ petitions, the petitioner was not granted the lease of the said rough stone quarry in S.No.97/19 part 6 of Thiruvakarai Village, Vanur Taluk. Thereafter, the petitioner made several representations to the third respondent and also sent a representation dated 11.05.1998 to the second respondent seeking for grant of lease for the above said quarry by executing the lease deed and the said representation was forwarded to the third respondent by the second respondent with a request to pass orders on the same. In the mean time, one Rangarajan, one of the successful bidders in respect of the said stone quarry, filed W.P.No.38730 of 2003 and this Court by order dated 07.02.2004 issued a direction to process the application filed by the petitioner therein for grant of lease of the said quarry and to execute the necessary lease deed for a period of five years subject to the condition on payment of 100% lease amount offered already.



3.As this Court directed the third respondent to grant lease in respect of the same quarry to a similarly placed successful auction bidder, the petitioner filed a petition in W.P.No.30572 of 2004 before this Court for a direction to the third respondent to execute lease deed in favour of the petitioner in respect of the said subject quarry. During the pendency of the writ petition, the third respondent by order dated 19.11.2004, rejected the petition stating that under G.O.Ms.No.166 dated 16.04.1994, Rule 8(1)(a) has been introduced and the provisions of Rule 8(2) of the Tamil Nadu Minor Mineral Concession Rules 1959 under which auction sale in respect of the subject quarry was conducted has been deleted. Subsequently the said W.P.No.30572 of 2004 dismissed on the ground that the appeal remedy has not been exhausted against the order dated 19.11.2004 of the third respondent and thereafter, the petitioner filed an appeal and the same was dismissed on 01.06.2006 on the ground that the said writ petition on the similar issue was pending before this Court.

4.Thereafter, the petitioner filed the second appeal before the first respondent/appellate authority and on 07.07.2009, the appellate authority rejected the second appeal on the ground that Rule 8(2) of Tamilnadu Minor Mineral Concession Rules, 1959 under which auction conducted was subsequently deleted and as on date, Rule 8(1)(a) [viz., introduction of Tender-cum-Auction Sale system in G.O.(Ms) No.166 Industries Department 16.04.1994] is in force. As against the rejection order of the appellate authority, the present writ petition has been filed.

5.Mr.Natesh Kumar, the learned counsel for the petitioner would submit that as against the rejection order, the similarly situated persons approached this Court by filing writ petitions in W.P.Nos.1186 and 4137 of 2005 and this Court by order dated 05.03.2007, disposed of the writ petitions with a direction to the petitioner to pay 150% over and above the amount what was offered to have the benefit of the relief sought for in the writ petition. However, till date the lease deed has not been executed in favour of the petitioner and that the petitioner is ready to pay 300% of the bid amount. In two identical situations, the similarly placed persons were granted the lease deed by enhancing 150% of the bid amount. Hence, he prays for appropriate orders in this writ petition.

6.The learned Additional Government Pleader appearing for the respondents would submit that in view of the G.O.No.166 dated 16.04.1994, the Rule 8(1)(a) has been introduced and the provisions of Rule 8(2) of the Tamil Nadu Minor Mineral



Concession Rules 1959, the provision in respect of stone quarry has been changed and now, a new scheme is introduced. Stone quarry has to be leased only under tender cum auction basis. Accordingly, he seeks for dismissal of the writ petition.

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7. On perusal of the records, it is seen that the petitioner was granted stone quarry licence in the year 1994 and that the petitioner instituted several writ petitions before this Court and ultimately, this Court dismissed the petition by giving liberty to the petitioner to challenge the order of the third respondent. However, in view of G.O.Ms.No.166, dated 16.04.1994, the scheme in respect of stone quarry is modified. Hence, the decision referred supra is not applicable to the facts of the present case on hand. After lapse of 10 years, I do not find any reason to interfere with the order of the respondents authority.

8. Accordingly, this writ petition is dismissed. However, the respondents are directed to return the amount of Rs.80,900/- without any interest and further, liberty is granted to the petitioner to participate in the Tender-cum-Auction in future. No costs.

Sd/-
Assistant Registrar (Insp.Cell)

//True Copy//

Sub Assistant Registrar

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To

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Industries Department,
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Chennai-600 009.
2. The Director of Geology and Mining,
Guindy,
Chennai-600 032.
3. The District Collector,
Villupuram District,
Villupuram.

+1 cc to Mr.R.Natesh Kumar, Advocate, S.R.No.60013
+1 cc to the Government Pleader, S.R.No.60239, 60242

W.P.No.23020 of 2009

GP(CO)
SSM(09/08/2019)