

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.08.2019

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.26915 of 2010

M/s. Eastern Minerals and Trading  
Agency represented by its  
General manager,  
No.10/17, G.S.T. Road,  
St. Thomas Mount,  
Chennai.

...Petitioner

Vs.

1.The State of Tamil Nadu,  
represented by the Principal  
Secretary to Government,  
Industries Department,  
Fort St. George,  
Chennai-600 009.

2.The District Collector,  
Dharmapuri District,  
Dharmapuri.

.... Respondents

Prayer: The writ petition filed under Article 226 of the Constitution of India, to issue a writ of Certiorari to call for the records of the 1st respondent in his proceedings in G.O.(2D) No.23 Industries (MMB2) Department, dated 25.06.2010 and quash the same and direct the 1st respondent to refund the tender amount of Rs.19,08,591/- including Security Deposit along with interest @ 24% p.a. in respect of Black Granite Quarry in Government Poramboke lands in S.No.786 of Ramakondahalli Village, Pennagaram Taluk, Dharmapuri District.

For Petitioner : Mr.K.R.Krishnan

For Respondents : Mr.J.Ramesh, AGP

O R D E R

The petitioner has filed this writ petition seeking for the following relief:

'To issue a writ of Certiorari to call for the records of the 1st respondent in his proceedings in G.O.(2D) No.23 Industries (MMB2) Department, dated 25.06.2010 and quash the same and direct the 1st respondent to refund the tender amount of Rs.19,08,591/- including Security Deposit along with interest @ 24% p.a. in respect of Black Granite Quarry in Government Poramboke lands in S.No.786 of Ramakondahalli Village, Pennagaram Taluk, Dharmapuri District.'

2.The case of the petitioner is that the petitioner participated in the tender for quarrying Black Granite in S.No.786 of Ramakondahalli Village, Pennagaram, Dharmapuri District, measuring to an extent of 5.02.0 hectares. The petitioner has paid the tender amount of Rs.17,35,190/- and security deposit of Rs.1,73,591/- in all amounting to Rs.19,08,591/-. Since the amount quoted by the petitioner Company was the highest, the tender was confirmed in favour of the petitioner. As per the policy of the State Government existing at the relevant time, the State Government has issued a letter of commitment dated 30.05.1990 and directed the petitioner's Company to set up a granite cutting and polishing unit in the State of Tamil Nadu within 2 years for executing the Lease Deed in favour of the petitioner.

3.After spending huge amount, the petitioner purchased land at Mambalam Village, Chenglepet Taluk in S.No.129/1B and had put up the industry. After inspecting the factory, the first respondent issued orders in G.O.Ms.No.422 (Industries E2) Department dated 20.10.1993 granting quarrying lease and directed the District Collector to execute the Lease Deed in favour of the petitioner's Company on 25.11.1993. The lease is for a period of 10 years commencing from 25.11.1993 to 24.11.2003. The petitioner Company was put to difficulty ever since they start and they have to pay double stamp duty and excess payment was repaid only in 1995 with much difficulty and the petitioner Company was not in a position to commence quarrying operations because of the ban imposed by the State Government, which suspended quarrying operations by imposing promulgation of Section 144 Cr.P.C. from the year 1991 because of late Veerappan. Even though the condition was partially relaxed, the petitioner was not in a position to carry on quarrying operations since he was not allowed to do so by the 1st respondent because of promulgation of 144 Cr.P.C. proceedings issued prohibiting quarrying operations because of sandalwood smuggler Veerappan. Thereafter, the petitioner gave a letter dated 30.11.1994 seeking for permission to carry on quarrying operations to the first respondent. However, the first respondent by an order dated 20.03.1995 has directed the

District Collector to allow the petitioner's Company to commence quarrying operations partially by imposing various conditions. One of the conditions is that it is impossible to obtain passes from the Collector and the Superintendent of Police daily for engaging casual labourers and further condition that there is also ban for using explosives. On the above said reasons, the petitioner Company have not been permitted to quarry upto 07.03.1997. Since more than seven years have been passed, the petitioner has written a letter to the District Collector, Dharmapuri, seeking to refund the tender amount with interest as it is impossible to commence quarrying operations because of 144 CrI.P.C. proceedings. and other conditions imposed by the Authority. Thereafter, the petitioner made several representations dated 07.03.1997, 15.09.1999, 04.10.1999 and 13.03.2000 and had also sent a lawyer notice dated 10.04.2002 and 26.04.2004. Thereafter, the respondents rejected the representation of the petitioner only on the sole ground that there is no provision in the Tamil Nadu Minor Mineral Concession Rules, 1959, to refund of the deposit amount with interest, against which, the present writ petition.

4.The learned Additional Government Pleader for the respondents would fairly concede that the matter may be remanded back to the authorities for fresh consideration.

5.On perusal of the impugned order in G.O.(2D) No.23, dated 25.06.2010, wherein particularly in paragraph-7 of the order stated that the similarly placed persons like TAMIN, M.R.Granites have successfully quarried the granite in the nearby area. The petitioner is trying to take advantage of the various correspondence between the District Collector and the Government to their favour. However, the petitioner alone is responsible for non-commencement of the quarrying operation for which the respondents cannot be compensated either by refund of the amount spent towards obtaining the quarry lease or to provide any alternative black granite quarry. It is seen that the respondents have rejected both the request made by the petitioner for alternative site or for refund of the deposit amount with interest only on the sole ground that there is no provision available in the Tamil Nadu Minor Mineral Concession Rules, 1959. After spending huge amount, the petitioner Company is not in a position to commence the quarrying the operations nearly more than 7 years and it is also admitted by the respondents.

6.Considering the facts and circumstances of the case, this Court is inclined to set aside the order and remanded the matter back to the respondents for fresh consideration and in turn, the

respondents are directed to consider the representation of the petitioner as expeditiously as possible.

7. With the above observation, this writ petition is disposed of. No costs.

s/d-  
Assistant Registrar (CS-III)

True Copy

Sub-Assistant Registrar

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To

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

2. The District Collector,  
Dharmapuri District,  
Dharmapuri.

+1 CC to Mr. K. R. Krishnan, Advocate sr 67063.

W.P.No.26915 of 2010

AD (CO)  
SP (21/08/2019)

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