

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.01.2019

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

WP.No.2796 of 2018
and
WMP.No.3450 of 2018

S. Venkatachalam

...Petitioner

Vs

1. The District Collector
Coimbatore District
Coimbatore.
2. The Assistant Director of
Geology and Mining
Office of District Collector
Coimbatore.

...Respondents

Prayer: This Writ Petition is filed under the Article 226 of Constitution of India to issue a Writ of Mandamus, directing the respondents to issue bulk permit and despatch slips on payment of necessary charges till the lease period in force with respect to petitioner's stone quarry comprised in S.F. No. 66/2 (Part) and 66/3 over an extent of 1.84.0 hec. in Thirumalayampalayam Village, Madukarai Taluk, Coimbatore District and pass such further orders.

For Petitioner : Mr. M. Muthappan

For Respondent : Mr. M. Karthikeyan,
Addl. Government Pleader

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O R D E R

The prayer in the Writ Petition is to direct the respondents to issue bulk permit and despatch slips on payment of necessary charges till the lease period in force with respect to petitioner's stone quarry comprised in S.F. No. 66/2 (Part) and 66/3 over an extent of 1.84.0 hec. in Thirumalayampalayam Village, Madukarai Taluk, Coimbatore District.

2. The learned counsel for the petitioner would submit that the petitioner was granted quarry lease for a period of five years vide proceedings of the 1st respondent dated 07.03.2017. While the petitioner was quarrying the said area, the respondents asked the petitioner to stop the quarrying operation on the basis of the complaint received from the adjacent college, which is located 300 meters away from the quarry area. As per the direction of the 2nd respondent, the petitioner stopped the quarry operations and made representations repeatedly to the respondents, requesting to issue necessary transport permit. Since no response is received from the respondents, the present writ petition is filed seeking the aforesaid prayer.

3. During the previous hearing, this Court directed the 1st respondent/ District Collector to file counter affidavit, explaining the reason for the delay in obtaining a report from the Department of Geology and Mining, Pollution Control Board and Mines Safety.

4. As directed by this Court, the 1st respondent has filed the counter affidavit, wherein it has been stated that on 23.08.2017, the Professors and Lecturers of M/s.Nehru College of Arts, Science and Engineering and Nehru College of Management have preferred a complaint stating that due to blasting of rocks with high power explosives, cracks have been developed in the building and windows and further, the students and general public of that area are affected and therefore requested to cancel the quarry permission, granted to the petitioner. Based on the objection received from the College, the quarrying operation has been stopped from 28.08.2017 and the District Collector vide his letter dated 13.12.2017, directed the Assistant Director, Geology and Mining and Tahsildar Madukkarai, to inspect the area and submit a report. They inspected the area on 29.01.2018 and stated that there is no approved habitations situated within 300 meters radial distance from the quarry area.

5. In the meantime, the present writ petition was filed and based on the orders of this Court, a joint inspection was conducted by the District Environmental Engineer, Tamil Nadu Pollution Control Board, Coimbatore South and the Assistant Director of Geology and Mining, Coimbatore and the Revenue Divisional Officer, Coimbatore South on 25.01.2019 and submitted a report. The relevant portion of the report is extracted below :

- i. In the subject area, quarrying permission had been granted on 26.09.1994 and still it continues;
- ii. M/s.Nehru Institute of Technology had been established by

M/s.Nehru Charitable Trust during the year 2008 and Recognition had been given by AICTE in 06/05/TN/EOT/2008/17 Permanent No.1-3892 556 dated 02.09.2008. The Local Planning Authority, Coimbatore permission had been obtained in Rc.No. 3169/2015 dated 29.09.2016, Town and Country planning Recognition had been obtained in Rc.No.15449/2015 dated 12.02.2016 and Town Panchayat, Thirumalayampalayam permission had been obtained in Rc.No.135/2017 dated 05.01.2018.

- iii. The distance between the college buildings of M/s.Nehru Institute of Technology (situated in S.F. No.338) and to the boundary of the quarry is 323.4 meters. The distance between the compound wall of the college to the quarry site is 241.4 meters. The Nehru Institute of Technology had obtained permission for the above buildings situated in S.F. No.338. The distance between the temporary shed with asbestos sheet of Nehru Institute of Technology (Sports Wing) (Situated in S.F. No.66/1) and to the boundary of the quarry is 94.6 meters. The Nehru Institute of Technology had not obtained permission for the temporary shed situated in S.F. No.66/1.
- iv. They had stated that the stone crusher and M-Sand unit are established in S.F. No. 66/2 and consent from Tamil Nadu Pollution Control Board had not been obtained. During the time of inspection there is no quarry operations in the quarry area.
- v. a) The quarry operations are carried out in the quarry from the year 1994 i.e. before the establishment of the Nehru College Educational Institution.
b) The distance between the approved buildings and quarry area is 323.4 meters.
c) As per rule 36(1)(c) of Tamil Nadu Minor Mineral Concession Rules 1959 the minimum distance between the quarry and the habitation site is only 300 meters."

On the basis of the above report submitted by the Committee, the decision taken by the District Collector, Coimbatore, as given in the report, reads as follows:-

- i) It is proposed to allow the petitioner to operate the quarry with modern explosives like Non electric detonators to minimize the vibration during blasting.
- ii) It is proposed to direct the Nehru Institute of Technology to obtain necessary permission from the competent authority for utilization of Nehru Institute of Technology (Sports Wing) since it is situated 94.6 meters from the rough stone quarry boundary which is in existence (1994) before the establishment of the building.
- iii) It is proposed to direct the owner of the crusher and m-sand unit situated on S.F. No.66/2 to stop the crushing/m-sand unit until getting consent for operation

from the Tamil Nadu Pollution Control Board.

6. In the light of the aforesaid report and the decision of the 1st respondent viz., District Collector, Coimbatore, recorded in the report, the respondents are directed to pass appropriate orders, in accordance with law, after affording an opportunity to the parties concerned, within a period of eight weeks from the date of receipt of a copy of this order.

7. The Writ Petition is disposed of, with the above direction. No costs. Consequently, the connected Miscellaneous Petition is closed.

avr

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The District Collector
Coimbatore District
Coimbatore.
2. The Assistant Director of
Geology and Mining
Office of District Collector
Coimbatore.

+1cc to Mr.M.Muthappan, Advocate, S.R.No.8048

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