

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.07.2019

CORAM

THE HON'BLE Mr. JUSTICE M.DHANDAPANI

W.P.No.21940 & 22028 of 2019
W.M.P.Nos.21157 & 21159, 21281 & 21282 of 2019

Armstrong Fernando

...Petitioner in both W.Ps

vs
The District Collector
Perambalur District,
Perambalur. ...Respondent in both W.Ps

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records pertaining to the respondent's impugned notification bearing Na.Ka.No.208/G&M/2014, dated 02.07.2019 and 15/07/2019 by which application were called for from Swarna Jayanthi Gram Swarozgar Yojana Scheme Groups (herein after called SGSY groups) registered either under the Tamil Nadu Co-operative Societies Act, 1983(Tamil Nadu Act 30 of 1983) or under the Tamil Nadu Societies Registration Act, 1975, (Tamil Nadu Act 27 of 1975) and the Societies formed by released bonded laborers, for granting quarrying lease in respect of government stone quarries, quash the same.

For Petitioner : Mr.K.Ramakrishna Reddy in both WPs.
For Respondent : Mrs.A.Rajalakshmi,
Additional Government Pleader
Sole respondent in both WPs.

सत्यमेव जयते
O R D E R

These writ petitions have been filed for issuance of a writ of Certiorari, to call for the records pertaining to the respondent's impugned notification bearing Na.Ka.No.208/G&M/2014, dated 02.07.2019 and 15/07/2019, by which, applications were called for from Swarna Jayanthi Gram Swarozgar Yojana Scheme Groups (herein after called SGSY groups) registered either under the Tamil Nadu Co-operative Societies Act, 1983(Tamil Nadu Act 30 of 1983) or under the Tamil Nadu Societies Registration Act, 1975, (Tamil Nadu Act 27 of 1975) and the Societies formed by released bonded laborers, for granting quarrying lease in respect of government stone quarries, and to quash the same.

2. The case of the petitioner is that he was carrying on quarrying and marketing of rough stones (blue metal). In the course of the said business, the petitioner has participated in the tender conducted by the respondent for the year 2006 and became the successful bidder. The said lease expired during 2016. Though the petitioner had participated in the subsequent year tenders, he could not succeed.

3. The respondent, by District Gazette Notification, bearing Na.Ka.No.208/2014/(G&M), dated 21.02.2019, notified for leasing of government stone quarries, situated in Perambalur District, under Rule 8 of the Tamil Nadu Minor Mineral Concession Rules, 1959 and invited tender applications.

4. According to the petitioner, the notification dated 21.02.2019 was issued contrary to the above mentioned Rule 8(1) (a) and 8(10-A) (a) i.e., notification was issued in the month of February 2019, instead of April 2019. Therefore, the petitioner has filed a writ petition in W.P.No.6575 of 2019, against the said notification, dated 21.02.2019. This Court, by its order dated 21.03.2019, allowed the writ petition on the ground that the first respondent/the Government is going to initiate action for publishing Notification in terms of Rule 8(10-A) (a) of Tamil Nadu Minor Mineral Concession Rules, 1959, inviting applications for direct grant of leases for rough stone quarries to the SGSY groups and the societies formed by the released bounded laborers, after withdrawal of model code of conduct issued in pursuance of declaration of Lok Sabha General Election 2019. In spite of this Court setting aside the said notification dated 21.02.2019, the respondent board once again issued the present notification dated 02.07.2019 and 15/07/2019, thereby violating the mandatory requirement of publishing the notification in the month of April. Challenging the said notifications, the present writ petitions are filed.

5. The learned counsel for the petitioner would submit that the respondent board does not have any jurisdiction or authority to issue the impugned notification in the month of July 2019, contrary to the provision of Rule 8(10-A) (a), which mandates to publish such notification only in the month of April of the concerned year and also further submitted that the said Rule 8 (10-A) (a) mandates that, the notification inviting applications from SGSY Groups registered under the Tamil Nadu Co-operative Societies Act, 1983 etc. shall be issued only in the month of April.

6. The learned counsel for the respondent would submit that parliament election was conducted during May 2019. Therefore, the District Collector invited applications for leasing of

government stone quarries from the SGSY groups vide notification dated 21.02.2019. The said notification was challenged by the petitioner in W.P.No.6575 of 2019. The same was allowed by this Court and the District Collector was stopped from inviting applications from SGSY Groups. After election process was completed, immediately thereafter, the District Collector has taken steps to invite applications from SGSY Groups for the purpose of granting lease.

7. A perusal of the records would show that on earlier occasion, the petitioner filed a writ petition before this Court, challenging the earlier notification issued by the District Collector, by invoking Rule 8(1)(a) inviting tender applications for grant of lease of areas for quarrying minor minerals other. However, as the parliament election was conducted, the auction was not processed by the respondent board.

8. The relevant Rule 8(10-A)(a), makes it clear that the District Collector shall be publish in the month of April every year, call for application for direct grant of leases of stone quarries to the SGSY Groups registered either under the Tamil Nadu Co-operative Societies Act, 1983(Tamil Nadu Act 30 of 1983) or under the Tamil Nadu Societies Registration Act, 1975, (Tamil Nadu Act 27 of 1975) and the Societies formed by released bonded laborers, for granting quarrying lease in respect of government stone quarries and that rule was introduced in the year 1999 substituted by G.O.Ms.No.635, Industries, dated 3rd August 1999. However, the auction notification was not published in the April month because of the parliament election and model code of conduct was in force . But also, the respondent board has also published another notification dated 02.07.2019, for leasing of government stone quarries.

9. The main contention of the writ petitioner is that the respondent, instead of calling for notification during the month of April, issued notification only during the month of July. Therefore, the petitioner seeks to quash the said notification.

10. The learned counsel for the respondents fairly submitted that because of the General Elections scheduled only during May 2019, as per Model Code of Conduct was inforce, the respondents would not notify during the month of April. Once the elections were over and the Model Code of Conduct was removed, the respondent has issued notification during the month of July 2019. Therefore, there was no malafide on the part of the respondent in issuing the notification in the month of July 2019.

11. This Court is in complete agreement with the stand taken by the respondent. It is to be remembered that the Indian Parliamentary Elections were held during May 2019. The Model Code of Conduct came into existence from the month of April. When the Model Code of Conduct was in existence, it is to be pointed out that no governmental activities shall be undertaken and no new procedure would be announced by the Government. During the said period, certain amount of discipline has been maintained by all the political parties. Therefore, the respondent has restrained from issuing notification, which is usually done in the month of April. The respondent has waited for the General Election to get over and he has only issued the notification during the month of July 2019. In this context, there is absolutely no malafide on the part of the respondents. So, when the notification is issued, if the petitioner is a genuine participant, he could participate.

12. Therefore, this Court does not find any merit in the contentions taken by the petitioner. Accordingly, the writ petition stands dismissed. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

+2cc to the Government Pleader in SR.NO..64678 and 64677

+2cc to Mr.K.Ramakrishna Reddy, Advocate in
SR.NO..64039 and 64040

सत्यमेव जयते

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W.M.P.Nos.21157 & 21159, 21281 & 21282 of 2019

RGN (CO)
RV (09/10/2020)