

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.02.2019

CORAM:

THE HONOURABLE MR.JUSTICE S.MANIKUMAR
and
THE HONOURABLE MR.JUSTICE SUBRAMONIUM PRASAD

W.P.No.27516 of 2018

M.J.Shankar (Party-in-Person) .. Petitioner

Vs.

- 1.The Director,
Department of Geology & Mining,
Thiru.Vi.Ka.Industrial Estate,
Chennai - 600 032.
- 2.The Deputy Director,
Department of Geology & Mining,
Collectorate Office,
Krishnagiri - 635 115.
- 3.The District Collector,
Krishnagiri - 635 115.
- 4.The Additional Chief Secretary to Government,
Industries Department, Secretariat,
Chennai - 600 009. .. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, issuance of a Writ of Mandamus, directing the respondents 2 and 3 to be placed and displayed in the Office of the 1st respondent and a copy also to be furnished to the petitioner herein the GPS Survey Report conducts by one Mr.C.N.Maheswaran, I.A.S., District Collector in the year 2012 and any subsequent Survey Reports.

For Petitioner : M.J.Shankar
Party-in-Person

For Respondents: Mr.E.Manoharan
Additional Government Pleader.

O R D E R

(Order of this Court was made by S.MANIKUMAR, J.)
Claiming himself to be a public interest litigant,
M.J.Shankar, party-in-person, has sought for a Writ of
Mandamus, directing the respondents 2 and 3, to display in
the Office of the 1st respondent and also furnish a copy to

the petitioner herein, the GPS Survey Report conducted by one Mr.C.N.Maheswaran, I.A.S., District Collector in the year 2012 and any subsequent Survey Reports.

2. According to him, he has made an application on 18.07.2012, to the Public Information Officer, Office of the Deputy Director, Department of Geology and Mining, Chennai, seeking for three informations.

3. Public Information Officer, has given a reply dated 20.07.2012. Not satisfied with the same, he has filed first appeal on 18.08.2012. Ultimately, an appeal in Case No.53355/Enquiry/F/2012, was preferred to Tamil Nadu Information Commission, Chennai.

4. Adverting the grounds of appeal, Tamil Nadu Information Commission/Appellate Authority directed the District Collector, Krishnagiri, to conduct an enquiry into disputed quarry site as early as possible and on completion of the enquiry, reply to query No.3 would be furnished to the appellant. For brevity, order dated 22.04.2013, made in No.53355/Enquiry/F/2012, of the Tamil Nadu Information Commission, Chennai, is reproduced:-

TAMIL NADU INFORMATION COMMISSION
No.2, Thiyagaraya Road, Teynampet,
Chennai 600 018. Tel:24357580

Case No.53355/Enquiry/F/2012

Date of Enquiry : 22-4-2013

Present : Thiru S.F.Akbar, B.Sc. B.L.,
State Information Commissioner.

Petitioner : Thiru. MJ.Sankar
No.3/1, Thirumurthy Street,
T.Nagar, Chennai - 600 017.

Public Authority: The Public Information Officer/
O/o the Deputy Director,
Department of Geology and Mining,
Guindy, Chennai - 600 032.

The Public Information Officer/
O/o the Selection Grade Manager (Administration),
Department of Geology and Mining,
Guindy, Chennai - 600 032.

R.T.I. Petition	-	18.7.2012 - 3 queries
PIO reply	-	20.7.2012
First Appeal	-	18.8.2012
FAA reply	-	13.9.2012
Present appeal	-	17.11.2012

The appellant Thiru M.J.Sankar and the Public Information Officer, Thiru N.C.Mohandoss, Deputy Director and Thiru M.Joseph Devanand, Manager, Office of the Commissioner of Geology and Mining, Chennai are present for today's enquiry. The appeal dated 17.11.2012 filed by the appellant is taken up for enquiry today (22.04.2013).

The appellant asked for three information under Section-6(1) of the RTI Act. As regards the 2nd item requisite information have been furnished to the appellant. As to the 1st item, the appellant complaining of threat to his life, would appear to have preferred a complaint dated 16.3.2012 and 27.3.2012 to the Commissioner of Geology and Mining against the Deputy Director of Geology and Mining, Krishnagiri. A perusal of the file reveals that this complaint has been forwarded by the Commissioner of Geology and Mining to the District Collector, Krishnagiri for a discreet enquiry and a detailed report. This is the stage of the said complaint preferred by the appellant. As to the 3rd item, there are three sub items, the first two items are covered by the first item, i.e., the complaint dated 16.3.2012 and 27.3.2012, which is under discreet enquiry of the Collector of Krishnagiri District. The sub item-3 relates to maintaining quarterly, half yearly and yearly returns of granite quarries. The Public Information Officer submits that this aspect also has been asked to be considered by the District Collector in the discreet enquiry. He also states that though the provisions of law require filing of returns with the authorities, i.e., District Collector concerned, he does not know whether returns are being filed at all. In other words, he is not in a position to tell this Commission as to whether the requirements of the provisions of law are being followed and whether or not the procedure was followed would be known only after the District Collector completes his enquiry. This reply of the Public Information Officer is recorded. The enquiry shall be completed as early as possible and on completion of the enquiry the reply to query no.3 shall be furnished to the appellant.

STATE INFORMATION COMMISSION
Orders approved this day 26th April, 2013
Under orders of the Commission.

ASSISTANT REGISTRAR

Case No.53355/Enquiry/F/2012

To

Thiru MJ. Sankar

No.3/1, Thirumurthy Street,

1.Nagar, Chennai - 600 017.

5. Thereafter, on 03.09.2018, the petitioner has addressed a letter to Mr.A.Prabhakaran, I.A.S., Krishnagiri District and Mr.K.Vivekandan, I.A.S., Director, Department of Geology and Mining, Chennai, to take action against some of the granite quarry operators, who had allegedly violated, the provisions of the statute dealing with granite. According to the petitioner, they have looted Granite Wealth tuning to several lakhs CBM from Granite Quarry situated at Krishnagiri District.

6. In the abovesaid letter petitioner has stated that granite quarry operators deserve GPS Device Survey/Measurements. On similar lines, petitioner has written letters dated 24.12.2018 and 13.07.2018 respectively.

7. In response to the complaint dated 13.07.2018, Director, Department of Geology and Mining, Chennai, has sent a reply in R.C.No.5419/M.M.5/2018, dated 09.08.2018, stating that in respect of illegal granite quarry in Nagojanahalli Village Survey No.774, Krishnagiri District, a committee has been formed and instructions have been issued to submit their report, and that on the basis of report of the committee, further action on the complaint dated 13.07.2018, would be taken.

8. Petitioner has filed newspaper item, reported in Hindu, dated 07.09.2012, stating that the illegal mining quarry and the district administration requested the State Government to depute technical officials to assess the actual loss to the exchequer. Three teams were formed, to assess the illegal granite mining in taluks. One team headed by Mr.L.Selvam, Assistant Director and Mr.S.Sridharan, Assistant Geologist, would assess Krishnagiri Taluk and it was further reported in the said newspaper, that the special team would submit its inspection report to the Government. Based on the report, impartial action would be initiated against the violators.

9. Thereafter, petitioner has sent a representation dated 26.08.2014, to the Public Information Officer, Deputy Director of Geology and Mining Department, Krishnagiri District, seeking for some details. Answering the same, the said authority has sent a reply dated 01.10.2014.

10. Though Mr.M.J.Shankar, party-in-person, has contended that he has made an appeal against the information dated 01.10.2014, no supporting documents have been enclosed in the affidavit.

11. Petitioner has once again made a representation dated 13.07.2018, to the District Collector, Krishnagiri, and Director, Department of Geology and Mining, Chennai, to conduct a probe through GPS Device Measurement

Survey/Scrutinize into the illegal mining carried out in Granite Survey Nos.774 and 243.

12. Material on record discloses that, vide proceedings in R.C.5419/MM5/2018, dated 26.09.2018, the Director of Geology and Mining, Chennai, has sent a letter to the District Collector, Krishnagiri District, requesting to take action against the illegal granite mining and to submit the action taken report of Taluk Level Task Force Committee with photographs along with preventive measures. For brevity, the same is extracted hereunder:-

"DEPARTMENT OF GEOLOGY AND MINING

From To
Thiru K.Vivekanandan, I.A.S., The District
Collector,
Director of Geology and Mining, Krishnagiri
District.
Guindy, Chennai - 600 032.

Rc.No.5419/MM5/2018, dated 26.09.2018

Sir,

Sub : Mines and Minerals - Minor Minerals -
Granite Quarries - Krishnagiri District - Complaint
Petitions received regarding illicit mining -
Petitions forwarded for taking action in the District
Level Task Force Committee - Action taken report -
called for - Regarding.

Ref : 1. The Director of Geology and Mining
Department vide R.c.No.5419/MM5/2018, Dated:
09.08.2018.

2. Complaint petition received from
Thiru.M.J.Sankar, RTI Activist & Whistle Blower of
T.Nagar, and Chennai, dated: 20.09.2018 received by
this office on 20.09.2018.

I invite your kind attention to the references cited.

2) In the reference 2th cited, Thiru.M.J.Sankar, RTI Activist and Whistle Blower of T.Nagar, and Chennai in his petition has stated that, the illicit quarrying and transporting of Granite has been carried out by some lessees in Krishnagiri District which is listed in the petition. Finally, the petitioner has requested to take action against the Granite offenders.

In this regard, in order to avoid the loss of revenue to the Government exchequer, the District Collector is requested to take stringent action and send an action taken report of Taluk Level Task Force Committee with photographs along with preventive measures taken in this regard to avoid recurrence of such illicit mining in the said area in future and for submitting the same to the Government. The copy of the petition is enclosed for your reference and further necessary action.

Encl: Copy of the complaint petition.

Sd/-K.Vivekanandan,
Director of Geology and Mining"

13. Party-in-person has produced materials indicating the discreet enquiry action taken in respect of the alleged illegal granite mining in Nagojanahalli Village, in Survey No.774, Krishnagiri District, and also the direction issued by the Director, Department of Geology and Mining, Chennai, to the District Collector, Krishnagiri, on the complaint petition regarding illegal granite mining in Krishnagiri District. Based on the news paper report that a GPS Survey report has already been obtained from the authorities mentioned in the newspapers, and in particular, from Mr.Maheshwaran, I.A.S., the then District Collector, Krishnagiri District, petitioner has sought for a mandamus, directing the Deputy Director, Department of Geology and Mining, Chennai and the District Collector, Krishnagiri, second and third respondents herein, to display the GPS Survey Report in the office of Director, Department of Geology and Mining, Chennai, first respondent herein, and to furnish him a copy of GPS Survey report, conducted by Mr.C.N.Maheshwaran, I.A.S., the then District Collector, Krishnagiri District, in the year 2012.

14. Heard Mr.M.J.Shankar, party-in-person and perused the materials available on record.

15. Firstly, writ petition based on the newspaper report, is not maintainable. Reference can be made to few decisions,

"(i) A Hon'ble Division Bench of this Court in A.S.M.Kumar v. State of Tamil Nadu reported in 2008 (5) MLJ 399, to which, one of us, is a party, has considered the following judgments,

"8.The question of admissibility of the newspaper reports came up for consideration in Samant N.Balkrishna and another Vs.George Fernandez and other reported in 1969 (3) SCC 238 at paragraph 26, the Apex Court observed that

"A newspaper item without any further proof of what had actually happened through witnesses is of no value. It is at best a second hand evidence. It is well known that reporters collect information and pass it on to the editor who edits the news item and then publish it. In this process truth might get perverted or garbled. Such news items cannot be said to prove themselves although they may be taken into account with other evidence if the other evidence is forcible."

9. As regards nature and admissibility of a newspaper report, the Supreme Court in Lakmi Raj Shetty and another Vs. State of Tamil Nadu reported in 1988 (3) SCC 319, opined that

"...We cannot take judicial notice of the facts stated in a news item being in the nature of hearsay secondary evidence, unless proved by evidence aliunde. A report in a newspaper is only hearsay evidence. A newspaper is not one of the documents referred to in Section 78(2) of the Evidence Act, 1872 by which an allegation of fact can be proved. The presumption of genuineness attached under Section 81 of the Evidence Act to a newspaper report cannot be treated as proved of the facts reported therein."

10. In Quamarul Islam Vs. S.K. Kanta reported in 1994 (1) SCC 452, the question as to whether mere production of the copy of the newspaper be treated as proof of the report of the speech (news item) contained therein came up for consideration. The Apex Court at Paragraph 48 of the judgment held that,

"48. Newspaper reports by themselves are not evidence of the contents thereof. Those reports are only hearsay evidence. These have to be proved and the manner of proving a newspaper report is well settled. Since, in this case, neither the reporter who heard the speech and sent the report was examined nor even his reports produced, the production of the newspaper by the Editor and publisher, PW4 by itself cannot amount to proving the contents of the newspaper reports. Newspaper, is at the best secondary evidence of its contents and is not admissible in evidence without proper proof of the contents under the Indian Evidence Act. The learned trial Judge could not treat the newspaper reports as duly 'proved' only by the production of the copies of the newspaper. The election petitioner also examined Abrar Razi, PW5, who was the polling agent of the election petitioner and a resident of the locality in support of the correctness of the reports including advertisements and messages as published in the said newspaper. We have carefully perused his testimony and find that his evidence also falls short of proving the contents of the reports of the alleged speeches or the messages and the advertisements, which appeared in different issues of the newspaper. Since, the maker of the report which formed basis of the publications, did not appear in the court to depose about the facts as perceived by him, the facts contained in the published reports were clearly inadmissible. No evidence was led by the election petitioner to prove the contents of the messages and the advertisements as the original manuscript of the advertisements or the messages was not produced at the trial. No witness came forward to prove the receipt of the manuscript of any of the advertisements or the

messages or the publication of the same in accordance with the manuscript. There is no satisfactory and reliable evidence on the record to even establish that the same were actually issued by IUML or MYL, ignoring for the time being, whether or not the appellant had any connection with IUML or MYL or that the same were published by him or with his consent by any other person or published by his election agent or by any other person with the consent of his election agent."

11. The Supreme Court dealing with a "pro bono publico" litigation in B.P. Singhal Vs. State of Tamil Nadu and others reported in 2004 (13) SCC 673, wherein the petitioner sought for a transfer of an investigation from Tamil Nadu State Police to the Central Bureau of Investigation, opined that:

"the petition is lacking in material particulars. All the averments made in the petition are based, by and large, on news reports and not on personal knowledge. The petition does not state that the petitioner has taken any care to verify himself the correctness of the averments made."

12. In yet another decision in Dr. B. Singh Vs. Union of India (UOI) and others reported in 2004 (3) SCC 363 dealing with a public interest litigation, challenging the propriety of the third respondent therein for being considered for appointment as a Judge, the Supreme Court while expressing its anguish found that:

"the petitioner has nowhere stated that he has personal knowledge of the allegations made against R3. He does not even aver that he made any effort to find out whether the allegations have any basis. He only refers to the representation of Ram Sarup and some other paper cuttings of news items. It is too much to attribute authenticity or creditability to any information or fact merely because, it found publication in a newspaper or journal or magazine or any other form of communication, as though it is gospel truth. It needs no reiteration that newspaper reports per se do not constitute legally acceptable evidence."

13. In matters relating to public interest litigation, the Supreme Court has time and again cautioned that the Court has to be satisfied about (a) the credentials of the applicant; (b) the prima facie correctness or nature of information given by him; c) the information being not vague and indefinite. The information should show gravity and seriousness involved. Court has to strike balance between two conflicting interests; i) nobody should be allowed to indulge in wild and reckless allegations besmirching the character of others; and

(ii) avoidance of public mischief and to avoid mischievous petitions seeking to assail, for oblique motives, justifiable executive actions. In such case, however, the Court cannot afford to be liberal. It has to be extremely careful to see that under the guise of redressing a public grievance, it does not encroach upon the sphere reserved by the Constitution to the Executive and the Legislature. The Court has to act ruthlessly while dealing with imposters and busy bodies or meddlesome interlopers impersonating as public spirited holy men. They masquerade as crusaders of justice. They pretend to act in the name of Pro Bono Publico, though they have no interest of the public or even of their own to protect. Reference can be made to the recent decision of the Apex Court in *Holicow Pictures Pvt., Ltd., Vs. Prem Chandra Mishra and others* reported in 2008 (1) CTC 711 (Para 20)."

(ii) After considering the decisions of the Hon'ble Apex Court, at Paragraph 16, the Hon'ble Division Bench has observed as follows:

"It is now well settled that a news item published in the newspaper are only hearsay and no judicial notice can be taken unless supported by further authentic evidence. Though the parameters of public interest litigation have been indicated by the Supreme Court in large number of cases, yet unmindful of the real intentions and objectives, the petitioner, without verifying the authenticity or otherwise of the news items, has chosen to resort to the extra ordinary jurisdiction. The Public Interest Litigation intended to ameliorate the grievance of the poor, the ignorant, the oppressed and the needy whose fundamental rights are infringed and violated, should not be misused. Before maintaining a cause before the Court one should prove that there is concrete and credible basis, notwithstanding the credentials claimed of the person moving the courts."

16. Secondly, there is no law which obligates the officials to display any report in the official notice board, unlike in cases, where the statute directs, a notification to be displayed. For example, Land Acquisition Proceedings and Tender notification. Notifications are to be issued, in cases where beneficial schemes are floated and measures taken to be displayed in the notice boards. Beneficiaries should be made known of socio-economic beneficial schemes, so as to enable them to apply. Right to avail legal remedy health, medical, assistance, sanitation, health hazards, social welfare, beneficial schemes and so on and so forth, are to be notified.

17. But inspection/enquiry reports in respect of any activity which may ultimately result in action being taken against a person, are not required to be publicly notified and there is obligation on the part of the officer, who conducted the enquiry or the higher authority to notify/ to display, in the notice board. Law does not mandate, a report to be notified, in the display board.

18. On the second prayer Mr.M.J.Shankar, party-in-person, submitted that he has not made any application to the concerned authorities under the Right to Information Act, 2005.

19. Section 6 of the Right to Information Act, 2005, is extracted hereunder:-

"6. Request for obtaining information - (1) A person, who desires to obtain any information under this Act, shall make a request in writing or through electronic means in English or Hindi or in the official language of the area in which the application is being made, accompanying such fee as may be prescribed, to-

(a) the Central Public Information Officer or State Public Information Officer, as the case may be, of the concerned public authority;

(b) the Central Assistant Public Information Officer or State Assistant Public Information Officer, as the case may be, specifying the particulars of the information sought by him or her: Provided that where such request cannot be made in writing, the Central Public Information Officer or State Public Information Officer, as the case may be, shall render all reasonable assistance to the person making the request orally to reduce the same in writing.

(2) An applicant making request for information shall not be required to give any reason for requesting the information or any other personal details except those that may be necessary for contacting him. (3) Where an application is made to a public authority requesting for an information,

(i) which is held by another public authority; or

(ii) the subject matter of which is more closely connected with the functions of another public authority,

the public authority, to which such application is made, shall transfer the application or such part of it as may be appropriate to that other public authority and inform the applicant

immediately about such transfer:

Provided that the transfer of an application pursuant to this sub-section shall be made as soon as practicable but in no case later than five days from the date of receipt of the application."

20. When the statute provides for a right to petitioner, to seek for some information, subject to the exception contained in Section 8(1)(j) of the Right to Information Act, 2005, and that if the information sought for is not furnished within 30 days, it is deemed as refusal, and the applicant can file an appeal under Section 19 of the said Act, before the appellate authority. Petitioner has an effective and alternative remedy to secure information under the Right to Information Act, 2005.

21. Even in the case of denial to furnish the information, Right to Information Act, 2005, provides for remedy. Mandamus as such, cannot be sought for. Information sought for under the Right to Information Act, 2005, is subject the provision of the said Act.

22. On the facts and circumstances of the case and since the party-in-person has claimed himself as an RTI activist, Whistle Blower-cum-Income Tax Registered Code Informant, we deem it fit to extract few cases as to when mandamus can be sought for,

"(i). In State of Kerala v. A.Lakshmi Kutty reported in 1986 (4) SCC 632, the Hon'ble Supreme Court held that a Writ of Mandamus is not a writ of course or a writ of right but is, as a rule, discretionary. There must be a judicially enforceable right for the enforcement of which a mandamus will lie. The legal right to enforce the performance of a duty must be in the applicant himself. In general, therefore, the Court will only enforce the performance of statutory duties by public bodies on application of a person who can show that he has himself a legal right to insist on such performance. The existence of a right is the foundation of the jurisdiction of a Court to issue a writ of Mandamus.

(ii) In Raisa Begum v. State of U.P., reported in 1995 All.L.J. 534, the Allahabad High Court has held that certain conditions have to be satisfied before a writ of mandamus is issued. The petitioner for a writ of mandamus must show that he has a legal right to compel the respondent to do or abstain from doing something. There must be in the petitioner a right to compel the performance of some duty cast on the respondents. The duty sought to be enforced must have three qualities. It must be a duty of public nature created by the provisions of the Constitution or of a statute or some rule of common law.

(iii) Writ of mandamus cannot be issued merely because, a person is praying for. One must establish the right first and then he must seek for the prayer to enforce the said right. If there is failure of duty by the authorities or inaction, one can approach the Court for a mandamus. The said position is well settled in a series of decisions.

(a) In the decision reported in (1996) 9 SCC 309 (State of U.P. and Ors. v. Harish Chandra and Ors.) in paragraph 10, the Apex Court held as follows:

10. ...Under the Constitution a mandamus can be issued by the court when the applicant establishes that he has a legal right to the performance of legal duty by the party against whom the mandamus is sought and the said right was subsisting on the date of the petition....

(b) In the decision reported in (2004) 2 SCC 150 (Union of India v. S.B. Vohra) the Supreme Court considered the said issue and held that 'for issuing a writ of mandamus in favour of a person, the person claiming, must establish his legal right in himself. Then only a writ of mandamus could be issued against a person, who has a legal duty to perform, but has failed and/or neglected to do so.

(c) In the decision reported in (2008) 2 SCC 280 (Oriental Bank of Commerce v. Sunder Lal Jain) in paragraphs 11 and 12 the Supreme Court held thus, 11. The principles on which a writ of mandamus can be issued have been stated as under in The Law of Extraordinary Legal Remedies by F.G. Ferris and F.G. Ferris, Jr.:

Note 187.-Mandamus, at common law, is a highly prerogative writ, usually issuing out of the highest court of general jurisdiction, in the name of the sovereignty, directed to any natural person, corporation or inferior court within the jurisdiction, requiring them to do some particular thing therein specified, and which appertains to their office or duty. Generally speaking, it may be said that mandamus is a summary writ, issuing from the proper court, commanding the official or board to which it is addressed to perform some specific legal duty to which the party applying for the writ is entitled of legal right to have performed.

Note 192.-Mandamus is, subject to the exercise of a sound judicial discretion, the appropriate remedy to enforce a plain, positive, specific and ministerial duty presently existing and imposed by law upon officers and others who refuse or neglect to perform such duty, when there is no other

adequate and specific legal remedy and without which there would be a failure of justice. The chief function of the writ is to compel the performance of public duties prescribed by statute, and to keep subordinate and inferior bodies and tribunals exercising public functions within their jurisdictions. It is not necessary, however, that the duty be imposed by statute; mandamus lies as well for the enforcement of a common law duty.

Note 196.-Mandamus is not a writ of right. Its issuance unquestionably lies in the sound judicial discretion of the court, subject always to the well-settled principles which have been established by the courts. An action in mandamus is not governed by the principles of ordinary litigation where the matters alleged on one side and not denied on the other are taken as true, and judgment pronounced thereon as of course. While mandamus is classed as a legal remedy, its issuance is largely controlled by equitable principles. Before granting the writ the court may, and should, look to the larger public interest which may be concerned-an interest which private litigants are apt to overlook when striving for private ends. The court should act in view of all the existing facts, and with due regard to the consequences which will result. It is in every case a discretion dependent upon all the surrounding facts and circumstances.

(iv). When a Writ of Mandamus can be issued, has been summarised in Corpus Juris Secundum, as follows:

"Mandamus may issue to compel the person or official in whom a discretionary duty is lodged to proceed to exercise such discretion, but unless there is peremptory statutory direction that the duty shall be performed mandamus will not lie to control or review the exercise of the discretion of any board, tribunal or officer, when the act complained of is either judicial or quasi-judicial unless it clearly appears that there has been an abuse of discretion on the part of such Court, board, tribunal or officer, and in accordance with this rule mandamus may not be invoked to compel the matter of discretion to be exercised in any particular way. This principle applies with full force and effect, however, clearly it may be made to appear what the decision ought to be, or even though its conclusion be disputable or, however, erroneous the conclusion reached may be, and although there may be no other method of review or correction provided by law. The discretion must be exercised according to the established rule where the action

complained has been arbitrary or capricious, or based on personal, selfish or fraudulent motives, or on false information, or on total lack of authority to act, or where it amounts to an evasion of positive duty, or there has been a refusal to consider pertinent evidence, hear the parties where so required, or to entertain any proper question concerning the exercise of the discretion, or where the exercise of the discretion is in a manner entirely futile and known by the officer to be so and there are other methods which it adopted, would be effective." (emphasis supplied)

23. In line with the judgments of the Hon'ble Supreme Court, High Court, Madras has issued notification in SRO C-2/2010 dated 26.07.2010, which is extracted hereunder:-

"No. SRO C-2/2010.

By virtue of Article 225 of the Constitution of India and of all other powers hereunto enabling, the High Court makes the following Rules to regulate Public Interest Litigations (PIL) filed under Article 226 of the Constitution of India:

Every Public Interest Litigation must be filed in accordance with the following rules:

1. Every PIL must indicate that the petitioner has no personal interest in the case. If he has any personal interest, he must disclose the same. In the event of the High Court finding the claim as frivolous or vexatious, the PIL shall be dismissed with exemplary cost.

2. If the PIL is filed on behalf of a class of persons, the details of the persons for whose benefit the PIL is filed, must be indicated. If it is a society or association of persons, the writ petitioner must enclose a resolution from such society or association of persons, authorising the petitioner to file the writ petition and if the body is duly registered with competent authority, a copy of the bye-laws of the said body authorising the petitioner to file the writ petition, shall be enclosed.

3. If the petitioner has filed any PIL earlier, the details of the petition, and the final order, if any, passed in that petition, the relief granted and costs, if any, awarded, shall be indicated. No Public Interest Litigation Petition will be entertained in respect of civil disputes between individuals or in service matters. The petitioner shall give an undertaking that he will pay the costs, if any, if it is found to be intended for personal gain or oblique motive.

4. The petitioner must disclose whether he has filed the petition out of his own funds or from

other sources. If it is the latter, the particulars should be given.

5. The petitioner must state in the affidavit that to his knowledge, no PIL arising on the same issue, has been filed anywhere.

6. The affidavit filed by the petitioner must contain the averments that he has filed the writ petition based on his information and his personal knowledge. If he has filed the writ petition based on an information received from any other source, he must clearly indicate the source. If it is a newspaper report, the affidavit shall clearly state as to whether the deponent has verified the facts by personally visiting the place or talking to any responsible person or Reporter or Editor of the newspaper concerned.

7. If the petitioner has given any representation to any authority, a copy of the same shall be filed in the typed set of papers along with reply, if any, received from the authority. He shall file the proof of service of representation before the Court.

The above rules will not be applicable to the Public Interest Litigations taken on file by the High Court"

24. In the light of the above discussion and decisions, petitioner has not made out a case. Hence, writ petition is dismissed. No Costs.

Sd/--
Assistant Registrar(CS vi)

//True Copy//

Sub Assistant Registrar

सत्यमेव जयते

dm
To

1.The Director,
Department of Geology & Mining,
Thiru.Vi.Ka.Industrial Estate,
Chennai - 600 032.

2.The Deputy Director,
Department of Geology & Mining,
Collectorate Office,
Krishnagiri - 635 115.

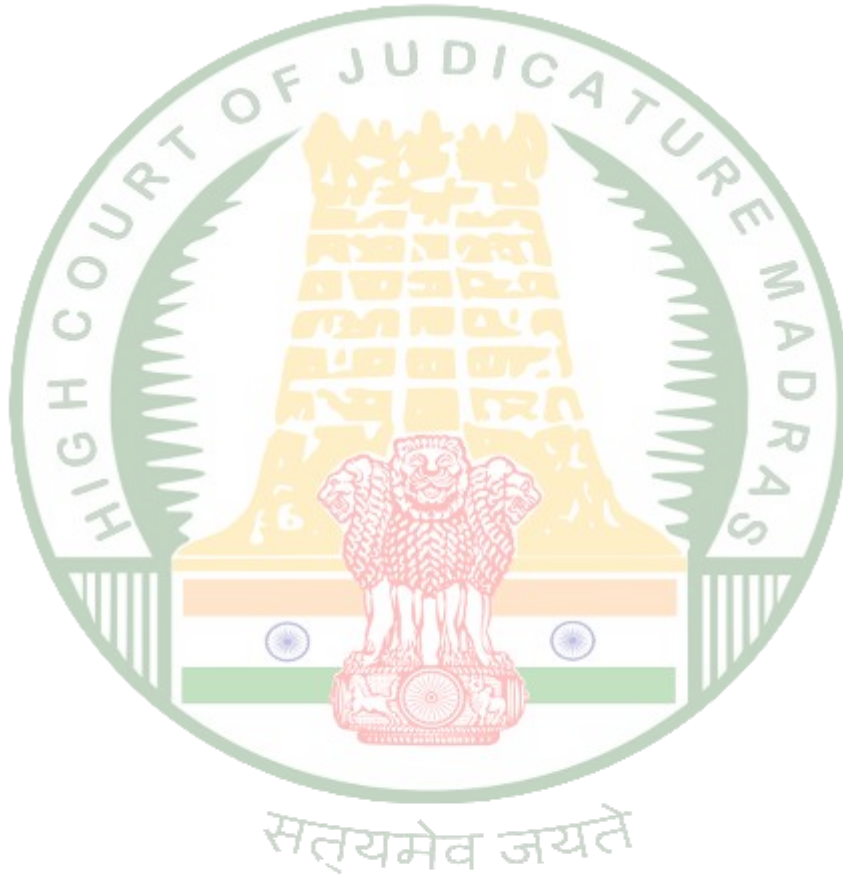
3.The District Collector,
Krishnagiri - 635 115.

4.The Additional Chief Secretary to Government,
Industries Department, Secretariat,
Chennai - 600 009.

+2ccs to Mr.M.J.Shankar, Advocate SR.No. 10726
+1 CC TO GOVERNMENT PLEADER SR.NO. 11329

W.P.No.27516 of 2018

A.SK(20/03/2019)



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