

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.12.2019

CORAM :

The Hon'ble Mr.A.P.SAHI, THE CHIEF JUSTICE

AND

The Hon'ble Mr.JUSTICE SUBRAMONIUM PRASAD

W.P.Nos.31948, 31952 and 31958 of 2018
and WMP Nos.37181, 37182, 37186 and 37195 of 2018

B. Venkatesh ... Petitioner in all the writ petitions

-vs-

1. The State of Tamil Nadu
rep by its Principal Secretary to Government,
Industries Department,
Fort St. George,
Chennai - 600 009.
2. The Commissioner of Geology & Mining,
Thiru.Vi.Ka.Industrial Estate,
Guindy,
Chennai - 600 032.
3. The District Collector,
Salem ... Respondents

W.P.No.31948 of 2018: Writ Petition filed under Article 226 of the Constitution of India praying this Court to issue a Writ of Declaration, declaring Rules 8,9,10 and 11 of the Tamil Nadu District Mineral Foundation Rules, 2017 introduced by the first respondent by G.O.Ms.No.57 Industries (MMD-I) department dated 19.05.2017 published in Tamil Nadu Government Gazette Extraordinary being No.143 dated 19.05.2017 and G.O.Ms.No.90, Industries (MMD-I) Dept, dated 27.07.2017, published in Tamil Nadu Government Gazette Extraordinary being No.248 dated 27.07.2017, as illegal, Ultra Vires, Null and Void.

W.P.No.31952 of 2018: Writ Petition filed under Article 226 of the Constitution of India praying this Court to issue a Writ of Certiorari to call for the records of the third respondent in Na.Ka.No.465/2017-V.K.4 and quash the impugned demand notice dated 20.12.2017 issued therein.

W.P.No.31958 of 2018: Writ Petition filed under Article 226 of the Constitution of India praying this Court to issue a Writ of Certiorari to call for the records of the third respondent in Na.Ka.No.465/2017-V.K.17 and quash the impugned demand notice dated 20.12.2017 issued therein.

For petitioner : Sri.B. Raveendran
For respondents : Sri.R. Udayakumar
AGP

COMMON ORDER
(made by SUBRAMONIUM PRASAD,J.,)

In these writ petitions, challenge is to the vires of Rules 8,9,10 and 11 of the Tamil Nadu District Mineral Foundation Rules, 2017.

2. This Court, by Order dated 16.09.2019 in W.P.Nos.1256 of 2018 etc., batch (Namakkal District Stone Crusher Owners Association rep by its Secretary Mr.P. Mani and Secretary to Government, State of Tamil Nadu, Industries Department and others) allowed a similar challenge by holding as under:-

" 50. The learned Advocate General appearing for the State of Tamil Nadu has fairly accepted that in view of the proposition in law laid down by the Hon'ble Supreme Court in Federation of Indian Mineral Industries and others vs Union of India and Another reported in (2017) 16 SCC 186, the State Government does not have the power to collect contribution to District Mineral Foundation, from an anterior date to the establishment of fund, by the rules framed on 19.05.2017.

51. In view of the above, all the writ petitions are disposed of in the light of the judgment of the Hon'ble Supreme Court in Federation of Indian Mineral Industries and others vs Union of India and Another reported in (2017) 16 SCC 186. It goes without saying that the above judgment of the Hon'ble

Supreme Court has the effect of striking down Rules 8 to 11 of the Tamil Nadu District Mineral Foundation Rules, 2017. In all the cases, amount demanded has been paid. The petitioners are entitled to refund of the excess amount paid. Hence, the respondents are directed to refund the excess amount to the petitioners, within a period of two months, from the date of receipt of a copy of this order. No costs. Consequently, all the connected writ miscellaneous petitions are closed.

A perusal of the above judgment shows that the State Government does not have the power to collect contribution to District Mineral Foundation, from a date anterior to the establishment of fund, by the Rules framed on 19.05.2017 and that the amount collected from the petitioners are to be refunded within a period of two months. The ratio enunciated in the aforesaid writ petitions squarely applies to the cases under consideration. Therefore the matters are decided accordingly.

3. The Writ Petitions are disposed of as stated above. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Principal Secretary to Government,
State of Tamil Nadu,
Industries Department,
Fort St. George,
Chennai - 600 009.
2. The Commissioner of Geology & Mining,
Thiru.Vi.Ka.Industrial Estate,
Guindy,
Chennai - 600 032.

3. The District Collector,
Salem.

+lcc to Mr.B.Raveendran, Advocate, S.R.No. 102692
+lcc to the Government Pleader, S.R.No. 102938

W.P.Nos.31948, 31952 and 31958
of 2018

CA (CO)
GN (22/01/2020)



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