



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 22.07.2019

CORAM

THE HON'BLE DR.JUSTICE ANITA SUMANTH

W.P.(MD)No.7700 of 2012
and M.P.(MD)No.1 of 2012

M.Ramesh

...Petitioner

-Vs-

1.The Government of India,
Rep.by its Secretary,
Ministry of Mines,
Sastri Bhavan, 3rd Floor 'D' Wing,
New Delhi-110 001.

2.The Govt. of Tamil Nadu
Rep.by its Secretary to Government,
Industries Department,
Fort St.George, Chennai-600 009.

3.The District Collector,
Tirunelveli District, Tirunelveli.

...Respondents

Prayer: Writ Petition is filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records of the first respondent relating to the Final Order No.179/2012 dated 12.04.2012 passed in Revision Application File No.27/3/12/RC.II(3/2/95-RC-II) confirming the order of the third respondent passed in proceedings Roc.M2/2567/94 dated 30.01.1995, quash the same and consequently direct the second and third respondents to refund the amount with interest to the petitioner as remitted by the petitioner's father pursuant to the interim order of the Government of India as communicated in the letter dated 16.02.1996 by the Government of India in the Revision Application File No.3/2/95-RC-II, within the time stipulated by this Court.

For Petitioner : Mr.V.Sanjeevi

For Respondents : Mr.C.Nandagopal for R1

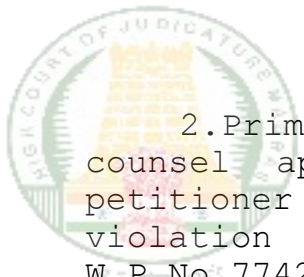
Central Government Standing Counsel

Mr.A.Thiyagarajan for R2 & R3

Government Advocate

ORDER

The petitioner challenges an order dated 12.04.2012 passed in terms of Section 30 of the Mines & Minerals (Regulation & Development) Act, 1957 and Rules 55 of the Mineral Concession Rules, 1960.



2.Primary arguments raised by Mr.B.Kumar, learned Senior counsel appearing for Mr.V.Sanjeevi, learned counsel for the petitioner is that the order is wholly non-speaking, which is in violation of the specific direction of this Court passed in W.P.No.7742 & 7743 of 1999, dated 16.11.2010.

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3.The petitioner had sought mining lease in respect of 22.21 acres of land in Tirunelveli District, for a period of 20 years. Government Orders were passed granting leases in terms of the applicable Rules and Regulations. I refrain from dealing with the specifics of the leases insofar as it is not relevant to the specific argument raised before me and my conclusion thereupon.

4.There was a routine inspection conducted by the Deputy Director of Geology and Mining on 19.01.1994 on the basis of certain allegations that were received from individuals regarding lease violations. Thereafter, it appears that a second inspection was also conducted on 23.06.2004 that culminated in report dated 30.06.1994. Based on the aforesaid inspection reports, show cause notices were issued to the petitioner, who challenged the same by way of a statutory appeal. The order passed in appeal was the subject matter of challenge in W.P.No.7742 & 7743 of 1999.

5.A learned single Judge of this Court, while deciding the writ petitions and setting aside the orders, framed eight issues for resolution by the authority who was to pass orders afresh and decide the revision petition filed by the petitioner.

6.After recording the issues at paragraph 6, as follows:-

"1.Can the first inspection report pursuant to the inspection made on 19.01.1994 be relied upon, since it was without notice to the 2nd respondent's father which renders the first report incurably defective in view of the several judgments of this Hon'ble Court i.e., (i) W.P.No.8207 of 1997 etc., dated 27.07.1999, (ii) W.P.No.32829 of 2002 dated 10.09.2003, (iii) 2006 (5) C.T.C.857 and (iv) 2009 (2) MLJ Page 577?

2.Is the second inspection made on 23.06.1994 also invalid, as it has relied upon and based its decision on the first inspection report?

3.If both the reports are to be eliminated, whether there is any other material on which the conclusion of illicit mining can be arrived at?

4.Additionally, if the second inspection report also without jurisdiction, as the persons who inspected were incompetent and not authorized to exercise the power under Section 24(1) of the Mines and Minerals (Development and Regulations) Act, 1957?

5.Is the show cause notice dated 23.11.1994 for the second case (W.P.No.7743 of 1999) ex-facie illegal, since the mineral found in the factory is illegally mined garnet

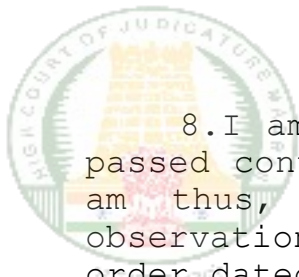


7. In any event, will not the declaration of available stock of garnet (abrasive) alone in the quantity of 7,972.260 Metric Tonnes would adequately cover the quantity of 28,379.260 Metric Tonnes of garnet sand found at the factory and consequently there is no excess of garnet available over and above the declared stock?

8. Apart from the above, the issue whether the show cause notices are liable to be set aside and all the proceedings are to be declared invalid on the ground that from the show cause notice itself, it is apparent that the District Collector has prejudged the issue and as such the proceedings are invalid and more so in view of the judgment of the Hon'ble Supreme Court of India reported in (2006) 12 SCC page 33 (Siemens Case)."

"20. Accordingly, the orders impugned in both the writ petitions are set aside and the respondent No.1 is directed to decide the revision petitions filed by the respondent No.2 afresh, is on merits and in accordance with law. The respondent No.1 is further directed to consider all the issues raised by the petitioners as well as the respondent No.2 including those raised before this Court. The respondent No.1 will have to pass order without being influenced by any of the observations made by this Honourable Court on the merits of the case as well as the earlier findings rendered by it. The respondent No.1 is also directed to dispose of both the revision petitions, within a period of six months, from the date of receipt of a copy of this order."

7. Pursuant thereto, the revision application filed by the petitioner was taken up for hearing by the Deputy Secretary to the Central Government, Ministry of Mines, New Delhi, and has been decided under order dated 12.02.2012 impugned before me. It is clear that the Officer has lost sight of the specific directions of the High Court while passing the impugned order. Though he extracts the portion of the order, setting out eight points for consideration, there is no discussion thereupon and the revision petition filed by the petitioner has been dismissed merely relying upon, and on the basis of the second inspection report, dated 30.06.1994. Incidentally, he also relies upon the inspection by the State Government Officers in 1992 and according to the petitioner, the conclusion of the inspection conducted during 1992, was never



8.I am of the considered view that the impugned order has been passed contrary to the specific directions issued by this Court and am thus, constrained to set aside the same reiterating the observations and the conclusions of the learned single Judge in order dated 16.11.2010. Insofar as this matter has been hanging fire since 1994 when the show cause notice was issued, I am inclined to fix a time frame within which proceedings shall be completed by the respondents. The impugned order is thus, set aside and the respondents are directed to pass orders specifically in the light of the issues framed by this Court dated 16.11.2010 as well as on the contentions raised by the petitioner in its revision petition. All materials sought to be relied upon by the respondents shall be furnished to the petitioner, prior to passing of the order afresh. This exercise shall be completed, as expeditiously as possible, in any event within a period of three months from date of receipt of a copy of this order.

9.Writ Petition is disposed of, in the above terms. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar

To

1.The Secretary to Government of India,
Ministry of Mines,
Sastri Bhavan, 3rd Floor 'D' Wing,
New Delhi-110 001.

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

3.The District Collector,
Tirunelveli District, Tirunelveli.

+1 CC to M/s.SPL GP (SR-76901[F] dated 23/07/2019)

+1 CC to M/s.V.SANJEEVI, Advocate (SR-76819[F] dated 23/07/2019)

W.P. (MD) No.7700 of 2012
22.07.2019

gns/TM

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