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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT  
RESERVED ON : 08.07.2019  
PRONOUNCED ON : 27.08.2019

CORAM:

THE HONOURABLE **DR. JUSTICE ANITA SUMANTH**

W.P. (MD) No. 513 of 2013

and

M.P. (MD) No. 1 and 2 of 2013

N.Thavasi

... Petitioner

/Vs./

- 1.The District Collector,  
Dindigul District, Dindigul.
- 2.The Revenue Divisional Officer,  
Kodaikanal, Dindigul District.
- 3.The Assistant Director,  
Mines and Minerals Department,  
Dindigul.

... Respondents

PRAYER:- Writ Petition - filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorari, calling for the records relating to the order passed by the 3<sup>rd</sup> respondent in Na.Ka.No.865/2010/(Mines) dated 30.11.2010 and the order passed by the 2<sup>nd</sup> respondent in Na.Ka.No.3053/2010/A2 dated 25.01.2011 which was communicated on 11.12.2012 and consequently the order passed by the 1<sup>st</sup> respondent in Na.Ka.No.865/2010/(Mines) dated 17.07.2012 signed on 23.07.2012 and quash the same.

For Petitioner : Mr.C.Vakeeswaran

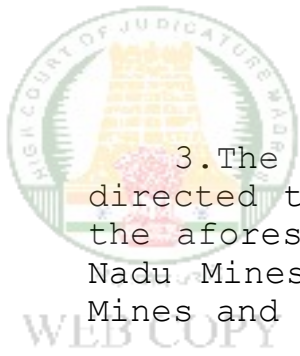
For Respondents : Mrs.J.Padmavathy Devi

Special Government Pleader

**ORDER**

Heard Mr.C.Vakeeswaran for the petitioner and Mrs.J.Padmavathy Devi for the respondents.

2. The petitioner is a contractor for the Highways Department. On the basis of a publication in the local newspaper alleging illegal quarrying of stones, the Assistant Director, Mines and Minerals Department, the third respondent herein [in short 'R-3'] passed an order dated 30.11.2010 directing the initiation of action against the petitioner for illicit cutting of stones in three areas in Vadakavunji Village, Kodaikanal Taluk, Dindigul District, admeasuring 1436 cubic metres [507 units of stones].  
Action is also proposed to be taken against two other contractors, one by name Nagaraj and the other, Pownraj, for the same alleged infraction.



3.The Revenue Divisional Officer (in short RDO/R2) was directed to forward a detailed report on the action taken against the aforesaid three contractors in terms of Rule 16A of the Tamil Nadu Mines and Minerals Act, 1959 (in short Act) and Tamil Nadu Mines and Mineral Concession Rules, 1959 (in short 'Rules').

4.According to the petitioner, the entire action was based solely upon the deposition recorded from the concerned Village Administrative Officer (VAO) and the newspaper reports and is hence wholly misconceived.

5.The deposition of the VAO, available on record, is to the effect that a field survey was conducted upon the lands in question based on media report, leading to the conclusion that the contractors in question (including the petitioner) had, infact, engaged in the alleged activity.

6.On the basis of the order passed by R-3, the RDO took the matter up for adjudication. The petitioner states that he had appeared on 17.01.2011 objecting to the proposal to levy penalty and seignorage. A written objection was filed wherein the petitioner pointed out that he was engaged only in the legal conduct of business, a false case has been foisted on him and no evidence whatsoever had been produced by the respondents to establish their case that he was engaged in illegal quarrying of stones.

7.Despite this, order dated 25.01.2011 was passed levying penalty under Section 36A of the Act, as seignorage. This order was challenged by the petitioner both on the grounds of violation of principles of natural justice as according to the petitioner, the order passed by R-2 was not communicated to him and was sought for and obtained only under Right to Information Act, as well as on merits before the District Collector, Dindigul (R-1) who confirmed the order of the lower authorities. Hence the present writ petition.

8.A counter has been filed by the District Collector. Learned Special Government Pleader appearing for the respondents draws attention to the newspaper reports emphasizing the illegal quarrying of rough stones being carried on in the locations in question. This has prompted inspection by R-2 and a secret enquiry by the VAO. The statement of the Village Administrative Officer, Vadakavunji Village, Kodaikanal Taluk, Dindigul District & Inspection Report of the the Assistant Director, Geology and Mining Department, Dindigul District both dated 26.11.2010 establish clearly that the contractors in that area, including the petitioner, had been engaging in illegal quarrying. It was based on the aforesaid material that consequent and immediate action has been taken against the petitioner.



9. She defends the procedure followed by the authorities in question stating that the field survey as well as the report of the VAO are the only methods by which the State would be in a position to ascertain and determine illegal cutting/quarrying of stones. As far as the principles of natural justice are concerned, R-2, has, admittedly, called upon the petitioner to file his objections which he has done on 09.01.2011. No further opportunity need be afforded by R-1, since all the facts necessary for establishing the illegal activity of the petitioner has been brought on record by the survey report, inspection reports and statement of VAO. Thus, she states, the order of the first respondent confirming the orders of the lower authorities is perfectly in order and calls for no interference.

10. The petitioner has challenged before me the orders of all three respondents dated 30.11.2010 [R-3], 25.01.2011 [R-2] and 17.07.2012 [R-1]. At the threshold, I am of the view that the orders of the 3<sup>rd</sup> and 2<sup>nd</sup> respondents stand telescoped respectively into the order passed by R-1 and as such only the challenge to order dated 17.07.2012 passed by R-1 is maintainable before me. The challenge to orders passed by R-3 and R-2 are rejected in limine.

11. I now advert to the order passed by R-1 dated 17.07.2012. The admitted facts are that the petitioner is a highways contractor. The newspaper cuttings noticing illegal quarrying are on record. As far as the procedure of secret enquiry followed by authorities to ascertain and determine infractions in quarrying is concerned, I may make useful reference to the decision of the Division Bench of this Court in the case of *P. Mariadoss vs. The District Collector, Kancheepuram, and others* (W.P. Nos. 1015, 1030, 1113, 1989 and 3806 of 2011, dated 26.03.2012). The Bench in the aforesaid decision states thus:

21. The petitioners contended that no notice was given to them prior to inspection. We fail to understand as to what purpose would be served if notice is issued prior to a surprise inspection, when there has been an allegation that illicit mining is being carried on. The authorities being empowered to enter into the quarry by virtue of the power under Section 24(1) of the Central Act, the petitioners cannot insist that they should be put on prior notice before conducting the surprise inspection as in these cases. Therefore, this is not a case of denial of reasonable opportunity to the petitioners, but it is seen that the petitioner has been given show cause notice and thereafter on his request, the copy of





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1. Near Pillar Estge S.No.12  
From Perumal Malai - 7<sup>th</sup> Kilo Meter
2. Near B.I. Shed - S.No.12  
From Perumal Malai - 9<sup>th</sup> Kilo meter
3. Near Vadakavungi Pirivu-S.N.12  
From Perumal Malai - 14<sup>th</sup> Kilo meter

Mr.Thavasi, S/o Nallusamy, hails from Pallangi, Mattupatti had burst the boulders and stones were cut and transported the cutting of stones in the above cited places. You have measured the area where the stones were cut. I inform you to take action against Mr.Thavasi, who cut the stones in Government poromboke land and transported without getting permission from the Government. Moreover, I inform that no stones were cut from anywhere except in the above said three places in Vadakavungi Village, I hereby declare and depose that if I know the illicit cutting of stones from anywhere in this place, I would inform the same

Sd/---  
Village Administrative Officer,  
Vadakavungi Village,  
Kokaikanal Taluk

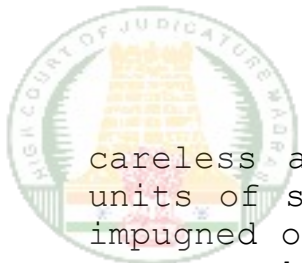
Sd/---  
Assistant Director,  
Mines and Minerals Department,  
Dindigul.'

16.On a perusal of the statement, I find no evidence collected whatsoever to support the bald allegation that the petitioner was engaged in illegal quarry. The report of the Field Inspector and the order of the third respondent dated 30.11.2010 quantify the cut and transported stones at 507 units. How such quantification has been arrived at is a mystery. Secondly, there is no mention of any of the quarried materials having been found in the premises of the petitioner, evidently since the authorities, including the VAO have not bothered to inspect his premises nor have carried out any other efforts to procure materials in support of their suspicion.

17.Thus, the entire proceedings form a disconnected narrative with no correlation or nexus being drawn between the act of quarrying, the quantum of material quarried and the petitioner before me

<https://hcservices.ecourts.gov.in/hcservices/>

18.It is unfortunate that the authorities have been so



careless and lax in a matter involving illegal quarrying of 507 units of stones. But in the absence of any material either in the impugned order or in the records produced before me I am unable to accept the stand of the respondents merely based on bald allegations of the Village Administrative Officer and Field Inspector. It is imperative in such cases that a proper investigation and recording of all material facts is carried out by the authorities and this is not seen to have been done in the present case.

19. In the light of the discussions above, the order of the District Collector dated 17.07.2012 is quashed and this writ petition is allowed.

20. The petitioner has deposited a sum of Rs.1,00,000/- pursuant to an interim order of this Court dated 11.01.2013. In the light of my final order as aforesaid, the amount will be returned to the petitioner upon his application to the first respondent in this regard.

Sd/-

Assistant Registrar (co)

// True Copy //

Sub Assistant Registrar (CS)

To

1. The District Collector,  
Dindigul District, Dindigul.

2. The Revenue Divisional Officer,  
Kodaikanal, Dindigul District.

3. The Assistant Director,  
Mines and Minerals Department,  
Dindigul.

+1 CC to M/s.C. VAKEESWARAN, Advocate ( SR-83636[F] dated 27/08/2019 )

+1 CC to M/s.SPL GP ( SR-83754[F] dated 28/08/2019 )

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order made in  
**W.P. (MD) No.513 of 2013**  
**27.08.2019**