



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.10.2019

CORAM:

**THE HONOURABLE Mr.JUSTICE T.S.SIVAGNANAM**

**AND**

**THE HONOURABLE Mrs.JUSTICE R.THARANI**

**W.P. (MD) .No.21057 of 2019**

Natarajan

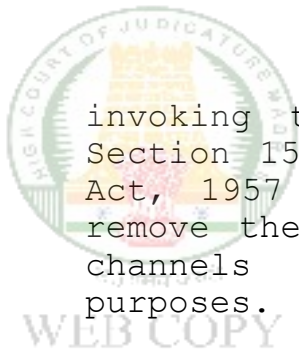
... Petitioner

Vs.

- 1.Additional Chief Secretary,  
Rural Development and Panchayat Raj Department,  
Government of Tamil Nadu,  
Fort St.George,  
Chennai - 9.
- 2.Principal Secretary,  
Industries Department (Minor Minerals Concession),  
Government of Tamil Nadu,  
Fort St.George,  
Chennai - 9.
- 3.Principal Secretary,  
Public Works Department,  
Government of Tamil Nadu,  
Fort St.George,  
Chennai - 9.
- 4.The Principal Secretary,  
Agriculture Department,  
Government of Tamil Nadu,  
Fort St.George,  
Chennai - 9.
- 5.The Commissioner,  
Geology and Mining Department,  
Government of Tamil Nadu,  
Fort St.George,  
Chennai - 9.

... Respondents

**PRAYER:** This petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, considering the representation dated 27.06.2019, directing the Secretary, Industries Department, the 2<sup>nd</sup> respondent herein, to relax the conditions by amending the Tamil Nadu Minor Mineral Concession Rules, 1959 by



invoking the powers conferred by Sub-Section (1) and (1-A) of Section 15 of the Mines and Minerals (Development and Regulation) Act, 1957 and thereby facilitate the farmers to excavate and to remove the clay, silt, sand and gravel from the beds of tanks, channels and reservoirs for agricultural and other domestic purposes.

For Petitioner : Mr.A.John Vincent

For Respondents : Mr.A.K.Baskarapandian  
Spl.Govt.Pleader

**O R D E R**

(Order of this Court was made by **T.S.SIVAGNANAM, J**)

We have heard Mr.A.John Vincent, learned Counsel appearing for the petitioner, Mr.A.K.Baskarapandian, learned Special Government Pleader, accepts notice for the respondents .

2. By consent of both side, this Writ Petition is taken up for final disposal.

3. The petitioner, by way of this Public Interest Litigation, seeks for a direction to consider his representation and relax the conditions imposed in the Tamil Nadu Minor Mineral Concession Rules, 1959 and amend the provision of the Rules, by invoking the powers conferred under Section 15(1) and (1-A) of the Mines and Minerals (Development and Regulations) Act, 1957.

4. The petitioner would state that unless Rules are relaxed, a *bona fide* agriculturist would not be in a position to excavate and remove clay, silt, sand, gravel etc., for agricultural domestic purposes. The petitioner, in the affidavit filed in support of the writ petition, has pointed out that the bigfalls in the Kudimaramathu scheme and how the bonafide users user is being denied a right to take soil for bonafide agricultural purposes and very often people in power are able to obtain such permissions. Even though such permissions are granted for minimum quantity, in most cases, there is violation of the conditions and excavation and removal is done more than what has been permitted.

5. Therefore, it is submitted that the idea of the Government to entrust the Kudimaramathu works to private parties for right to sell the sand would be detrimental to the interest of farmers and would be against the public policy. The prayer as pounced cannot be acceded, as we cannot direct amendment of Rule, by exercising our power under Articles 226 of the Constitution of India. It may be true that there are instances of excessive quarrying, illegal quarrying etc., but as and when the matters are brought to this



Court, this Court has been provoked to and interim orders were granted to protect the natural resources.

6. Similarly, cases are also brought before this Court by organisation stating that the appropriate organisation has not been granted permission to do the Kudimaramathu works and it has been garnered and by chosen filed. Even in such cases, we have interfered and ensure that a transparent process is adopted.

7. Above all, what is requiring is monitoring and it is not sufficient. If the right is granted to a few people in the village and very often the villagers have to approach the contractors for hiring earth moving equipment and other facilities and there is every possibilities of exploitation, when 3<sup>rd</sup> party comes in under the guise of helping the societies to carryout the Kudimaramathu. Therefore, the monitoring mechanism is required to be strengthen and it is not sufficient for the authorities to grant permission by signing orders from their office desk.

8. As pointed out earlier, we cannot direct the Government to amend the Rules or frame the Rules and it is the legislation exercise. However, the petitioner can very well approach the Government, by suggesting the ways and means to improve the scheme or to bring a new scheme. However, on the prayer sought for, we cannot issue any direction, but we permit the petitioner to pursue his representation before the respondents 1 to 3 and the respondents 1 to 3 to take note of what has been stated in the representation and take a conscious decision.

9. With the above observation, the writ petition stands dismissed. No costs.

Sd/-

Assistant Registrar(CS-III)

// True Copy //

Sub Assistant Registrar(CS)

MPK

**To**

1.Additional Chief Secretary,  
Rural Development and Panchayat Raj Department,  
Government of Tamil Nadu,  
Fort St.George,  
Chennai - 9.



2.Principal Secretary,  
Industries Department (Minor Minerals Concession),  
Government of Tamil Nadu,  
Fort St.George,  
Chennai - 9.

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3.Principal Secretary,  
Public Works Department,  
Government of Tamil Nadu,  
Fort St.George,  
Chennai - 9.

4.The Principal Secretary,  
Agriculture Department,  
Government of Tamil Nadu,  
Fort St.George,  
Chennai - 9.

5.The Commissioner,  
Geology and Mining Department,  
Government of Tamil Nadu,  
Fort St.George,  
Chennai - 9.

+1CC TO MR.A.JOHN VINCENT, Advocate Sr. No.90694  
+1CC TO THE SPECIAL GOVERNMENT PLEADER SR.No. 91211

**W.P. (MD) .No.21057 of 2019**  
**01.10.2019**

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