



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 29.08.2019

PRONOUNCED ON : 28.11.2019

WEB COPY

CORAM:

**THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN
and
THE HONOURABLE MR.JUSTICE B.PUGALENDHI**

W.P. (MD)No.19626 of 2018

in

W.M.P (MD)No.17408 of 2018

C.Shanmuga Sundaram,

... Petitioner

Vs.

- 1.The Chief Secretary,
Government of Tamil Nadu,
Fort St.George,
Chennai - 600 009.
- 2.The District Collector,
Trichy District, Trichy.
- 3.The Deputy Chief Engineer,
Water Resource Department,
Office of the Chief Engineer,
Water Resource Department,
Trichy Division,Trichy.
- 4.The Assistant Executive Engineer,
PWD, Water Resources Department,
Ariyar Basin, Manaparai,
Trichy District.
- 5.The Assistant Engineer,
PWD, Water Resources Department,
Manaparai, Trichy District.
- 6.The Tahsildar,
Manaparai Taluk, Trichy District.
- 7.P.Rajendran,
Working as Special Tashildar,
Social Security Scheme Taluk Office,
Talaundi, Trichy District.



8.A.Dhanalakshmi,
Working as Usoor Sherisdhar,
Office of the Assistant Commissioner of Exercise,
Collectorate, Trichy.

9.Chitra,
working as Tahsildar,
Manapparai Taluk,
Trichy District.

.... Respondents

[R7 to R9 are impleaded vide order
dated 03.12.2018 in WMP(MD)No.21538 of 2018]

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus forbearing the respondents from permitting the illegal quarrying of sand in the Maapondi River in Kannudayanpatti Village, Manapparai Taluk and to initiate appropriate action against the illegal quarrying as per G.O.Ms.No.135 Industries (MMA1) Departmental dated 13.11.2009 by considering the representation dated 29.11.2017 of the petitioner.

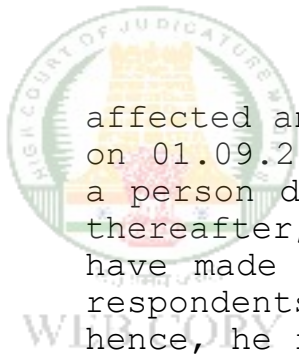
For Petitioner	: Mr.J.Anand Kumar,
For Respondent	: Mr.A.K.Baskarapandian,
Nos.1 -6	Special Government Pleader
For Respondent	: Mr.P.Ganapathy Subramanian,
Nos. 7 & 8	
For Respondent	:No appearance
No.9	

ORDER

(Orders of the Court was made by B.PUGALENDHI.J.)

This Public Interest Litigation is filed by the petitioner, who is a practicing Advocate of Manapparai, for a Writ of Mandamus, forbearing the respondents, from permitting the illegal quarrying of sand in Maapondi river in Kannudayanpatti Village, Manaparai Taluk and to initiate appropriate action against the illegal quarrying in view of G.O.(Ms)No.135, Industries (MMA.1) Department dated 13.11.2009 by considering the representation of the petitioner dated 29.11.2017.

2.According to the petitioner, there is a river called Maapondi in Kannudayanpatti Village in Manapparai. The river is the only source for the entire area, which caters the need of the people and according to him, illegal sand mining is going on in the river Maapondi and due to the same, water flow in the said river is



affected and surrounded by water. The petitioner further states that on 01.09.2017, when illegal quarry operation was on, around 1.00am, a person died, due to land slip and an FIR was also registered and thereafter, no action was taken. The petitioner and general public have made several phone calls, messages and representations to the respondents, but, there was no response from the respondent and hence, he filed this writ petition.

3.The learned Special Government Pleader appearing for the official respondents submitted that there were regular and periodical inspections conducted by the revenue officials to stop the illegal mining activities in the Mamoondi River and pursuant to the same several vehicles have been seized including Tipper, JCB, Bullock Carts and fine was imposed to the tune of Rs.16,06,220/-. On 11.09.2017 in the early morning, one Ravichandran of Kannudayanpatti village along with four others, indulged in sand theft and at that time one Karthick died due to the sand slide and on receipt of information, the officials rushed to the spot and a case in Crime No.594 of 2017 was also registered, on the file of the Manapparai Police Station. He further submits that Four Special Teams have been formed to cause regular inspection during night hours in the Mamoondi River and they do conduct awareness programmes among the villagers for protecting the natural resources and to prevent the illegal sand mining in the river.

4.Heard Mr.J.Anand Kumar, learned Counsel for the petitioner and Mr.A.K.Baskarapandian, learned Special Government Pleader appearing for the respondents 1 to 6 and Mr.P.Ganapathy Subramanian, learned Counsel appearing for respondents 7 and 8 and perused the materials placed before this Court.

5.This Court by order dated 11.09.2018, directed the Tahsildar, Manapparai Taluk, Trichy District to inspect the Maapondi river, Kannudayanpatti village, along with respondent Nos.4 and 5, namely, 4.The Assistant Executive Engineer, PWD, Water Resources Department, Ariyar Basin, Manaparai, Trichy District, and the Assistant Engineer, PWD, Water Resources Department, Manaparai, Trichy District and to report.

6.Accordingly, the Revenue Divisional Officer, Srirangam, Tiruchirappalli District filed a status report that he along with respondents 4 to 6 and the Assistant Director, Geology and Mining Department, Trichy conducted spot inspection on 19.10.2018 in Mamoondi river at Manapparai Taluk, Trichy District and they have maintained continuous vigil on the illicit mining activities taking place in that area.

7. He further submits that a Taluk Level Task Force headed by Tahsildar was constituted in Tiruchirappalli on 18.12.2009 at the District Level Task Force is periodically reviewing the performance of Taluk Level Task Force. A continuous vigil, intensive



monitoring and regular inspections, particularly, in night hours are also being made by the team of officials, in Mamoondi river to prevent the illicit sand quarrying and actions are being taken against the persons, who indulge in such activities. He also furnished the details about the vehicles seized for illicit transporting and the penalty imposed on those vehicles.

8. Though there are provisions under the Mines and Minerals (Development and Regulations) Act, 1957 and the Tamil Nadu Minor Mineral Concession Rules, 1959 to take action as against the illegal mining and illegal transportation of minerals, the menace of illegal mining is not curtailed. It is in fact, this Court in similar circumstances, has taken cognizance of rampant illegal quarry activities and issued directions to the Government to constitute an expert committee, consisting of Geologists, Environmentalists and Scientists to study the impact of sand quarry in the State. The High Level committee constituted pursuant to the direction of this Court, had conducted survey on all the rivers and river beds and submitted a report that there have been indiscriminate, haphazard and irregular sand mining carried out in almost all the rivers and riverbeds, on account of which, the environment was affected.

9. Therefore, with an object to eliminate, indiscriminate and unscientific sand mining and for uninterrupted availability of sand at an affordable price to common public, the Government introduced Rule 38(A) by amending the Tamil Nadu Minor Mineral Concession Rules, 1959, in the year 2003. By Rule 38(A), the private quarry operations have been prohibited and the Public Works Department was entrusted with the sand quarry operation. But even then, the scenario is not changed.

10. In order to prevent the illegal mining activities the State has Constituted District Level Task Forces and Taluk Level Task Forces, pursuant to the direction of this Court at Principal Seat in W.P.No.9860 of 2008, dated 05.11.2009 and the reconstitution of District Level Task Forces and the Constitution of Taluk Level Task Forces were made vide G.O.Ms.No.135 Industries(MMA1) Department, dated 13.11.2009 with an object to prevent the illegal mining and transportation of minerals.

11. The District Level Task Forces are formed with the following officials.

1. District Collector - Chairman
2. Superintendent of Police
3. District Forest Officer
4. District Revenue Officer
5. Regional Transport Officer
6. Revenue Divisional Officer
7. Deputy Superintendent of Police
8. Assistant Director (Panchayat)



9. Assistant Director (Town Panchayat)

10. Commissioner of Municipalities

11. District Level Official from Tamil Nadu Pollution Control Board.

12. Deputy Director (Mines)/ Assistant Director (Mines) - Member Secretary / Convenor

13. The Executive Engineer (PWD-WRO)

12. The Taluk Level Task Forces are formed with the following officials.

1. Tahsildar - Convenor

2. Inspector

3. Forest Officer (Forest Range Officer)

4. A Representative of Department of Geology and Mining in the concerned District

5. A Representative of Regional Transport Officer

6. Village Administrative Officers

7. Sub Inspector of Police

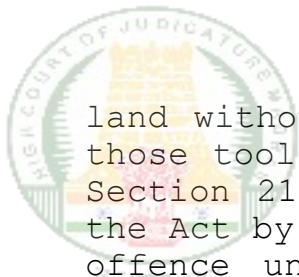
8. AE (PWD-WRO)

13. These Taluk Level Task Forces are expected to make frequent surprise checks in the mining fields on the level of transporting minerals, by forming flying squads and to submit its report to the District Level Task Forces, who shall monitor the functions of the Taluk Level Task Forces. There is a mandate for the District Level Task Forces to meet once in a month and the Taluk Level Task Forces to meet once in fifteen days. Whether these Task Forces are convening meeting as mandated is a million dollar question.

14. The Village Administrative Officers are members of Taluk Level Task Forces. Every Village Administrative Officer is expected to reside in their respective village and they are also provided with Village Assistant. There cannot be any illegal mining without the knowledge of a Village Administrative Officer. Certain responsibilities have been fixed upon the Village Administrative Officer, Tahsildar, Officer in charge of the area that they shall be held responsible for not taking proper action against the offender as against the illegal mining and the District Collectors are directed to take departmental action against those erring officials. Though this Government Order was issued as early as on 13.11.2009, no action was taken against any of the Village Administrative Officers or Tahsildars based on G.O.Ms.No.135, Industries (MMA1) Department, dated 13.11.2009.

15. The illegal mining of river sand is alarming in Tamil Nadu, particularly in river Cauvery. This Court has also repeatedly pointed out that no effective monitoring mechanism is put in place and in most of the cases, the alleged violators are left scot-free.

16. Section 21(4) of the Mines and Minerals (Development and Regulation) Act, stipulates that any tool, equipment, vehicle or any other things used for raising, transporting any mineral from any



land without any lawful authority shall be liable to be seized and those tool, equipment, vehicle or any other things seized under Sub Section 21(4) are liable to be confiscated under Section 21(4A) of the Act by an order of the Court competent to take cognizance of the offence under Sub Section (1) of Section 21 of the Act. Though Section 21(4A) of the Act mandates confiscation of the vehicles, tool used for illegal mining, apparently no vehicle nor any tool was confiscated by the authorities so far. Similarly, in G.O.Ms.No.135, Industries (MMA1) Department, dated 13.11.2009, while re-constituting the District Level Task Forces and Taluk Level Task Forces certain responsibilities have been fixed upon the Village Administrative Officer, Tahsildar, Officer in charge of the area that they shall be held responsible for not taking proper action against the offender as against the illegal mining and the District Collectors are directed to take departmental action against those erring officials. Though this Government Order was issued as early as on 13.11.2009, no action was taken against any of the Village Administrative Officer or Tahsildars based on G.O.Ms.No.135, Industries(MMA1) Department, dated 13.11.2009.

17.In this case admittedly, a person died on account of sand slide in illegal quarry and a case was also registered in Crime No.594 of 2017, on the file of the Manapparai Police Station. Whether the person died in Crime No.594 of 2017, is an innocent person or the person involved in illegal quarry activity is a subject matter of investigation in Crime No.594 of 2017, but, it exposes the illegal quarry activity took place in river Mamoon di.

18.Considering the facts and circumstances of the case, this Court issue the following directions:

(i)The petitioner shall furnish a copy of the representation dated 29.11.2017 along with a copy of FIR in Crime No.594 of 2017 on the file of the Manapparai Police Station to the 2nd respondent and on receipt of that representation the 2nd respondent, namely, the District Collector, Trichy District shall conduct an enquiry with regard to the illegal quarry operation, taken place in river Mamoon di at Kannudyayanpatti Village, Manapparai Taluk and to take appropriate action as against the erring officials as contemplated under G.O.Ms.No.135 Industries (MMA.1) Department dated 13.11.2009.

(ii) The 1st respondent shall issue necessary instructions to all the District Collectors in the State to comply with the provisions under Section 21(4) and Section 21(4A) of the Mines and Minerals (Development and Regulations) Act, and to follow the same scrupulously without fail.

(iii) The first respondent shall evolve a mechanism to strengthen the Task Forces with responsibilities and to ensure the illegal mining activities are prevented.



19.In the result, the writ petition is allowed and consequently, connected miscellaneous petition is closed.
No costs.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar (CS)

To

- 1.The Chief Secretary,
Government of Tamil Nadu,
Fort St.George,
Chennai - 600 009.
- 2.The District Collector,
Trichy District, Trichy.
- 3.The Deputy Chief Engineer,
Water Resource Department,
Office of the Chief Engineer,
Water Resource Department,
Trichy Division,Trichy.
- 4.The Assistant Executive Engineer,
PWD, Water Resources Department,
Ariyar Basin, Manaparai,
Trichy District.
- 5.The Assistant Engineer,
PWD, Water Resources Department,
Manaparai, Trichy District.
- 6.The Tahsildar,
Manaparai Taluk, Trichy District.

+1 CC to M/s.J.ANANDKUMAR, Advocate (SR-102551[F] 29/11/2019)
+1 CC to M/s.Special Govt.Pleader (SR-102838[F] dated 29/11/2019)

W.P. (MD)No.19626 of 2018

28.11.2019

dsk

SDS (18.12.2019) 7P 9C