



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 18.06.2019

PRONOUNCED ON : 05.08.2019

CORAM:

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

and

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P.(MD)No.22827 of 2018

and

W.M.P(MD)No.20705 of 2018

Maruthaiah Pandyan

... Petitioner

Vs.

1.The District Collector,
Office of the District Collector,
Tirunelveli District.

2.The Revenue Divisional Officer,
Office of the Revenue Divisional Officer,
Sankarankovil,
Tirunelveli District.

3.V.Chandrasekaran

4.The Assistant Director,
Mines and Minerals Department,
Tirunelveli.

... Respondents

[R1 suo motu impleaded vide
Court order dated 05.03.2019]

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the respondents 1 and 2 to cancel the quarry licence granted in favour of the 3rd respondent to carry the quarry operations in S.No.34/1B, situated at Anayur Village, Perumpothur, Sankarankovil Taluk, Tirunelveli District by considering the petitioner's representation dated 03.10.2018, with the time stipulated by this Court.

For Petitioner	: Mr.K.Prabhu
For Respondents	: Mr.A.K.Baskarapandian
(No. R1,2 & 4)	Special Government Pleader

<https://hcservices.ecourts.gov.in/hcservices/> For Respondent No.3 : Mr.P.Subbaraj

**ORDER**

WEB COPY (Order of the Court was made by **B. PUGALENDHI, J.**)

This writ petition is styled as a Public Interest Litigation with a prayer seeking a writ of mandamus directing the respondents 1 and 2 to cancel the quarry licence granted in favour of the third respondent to carry the quarry operations in S.No.34/1 B, situated at Anyaur Village, Perumpothur, Sankarankovil Taluk, Tirunelveli District by considering the petitioner's representation dated 03.10.2018, within the time stipulated by this Court.

2.The case of the petitioner is that the first respondent vide his proceedings in RC No.M1/4509/2014 dated 18.03.2018, granted quarrying licence in favour of the third respondent and the same is in violation of the Tamil Nadu Mines and Minerals Development Rules.

3.The petitioner had cited the following violations in support of his contention:

i.The Manoor Drinking Water Scheme is passing adjacent to the survey fields, where quarrying licence is granted and therefore, there are possibilities for the water getting polluted.

ii.There are residential houses within 250 meters distance and the residents nearby the quarry are affected when heavy sound and blast and the nearby houses are getting cracks due to severe blasting operation.

Iii. There is a public road within 4 meters distance namely Anayur Vadikottai Village and there is every danger to human life who are passing through the said area.

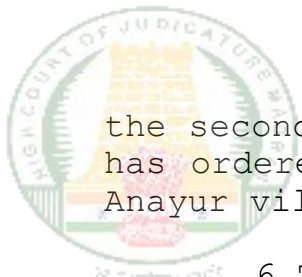
iv.Vadikottai water tank is situated within 100 meters distance and for the purpose of carrying out the quarry operation, the third respondent had closed the Vadikottai channel.

v.Agricultural operations in the nearby quarry are also severely affected due to quarry operations.

4.In response to this writ petition, the Deputy Director, Mining and Geology has filed the status report taking a stand that there is no inhabitation, within the distance of 300 meters around the applied area and the quarry is an existing one, which in existence from the year 2009 and the District Environment and Impact Assessment Authority also granted environmental clearance and the grant of environmental clearance is also published in Dinamalar and New Indian Express on 31.01.2018.

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

5.Due to certain agitations the Tahsildar, Sankarankovil /



the second respondent herein by proceedings in Na.Ka.No.a2/500/2018 has ordered to stop the four rough stone quarries functioning near Anayur village and also a Tar plant with effect from 31.08.2018.

6.The third respondent also filed a counter affidavit denying the allegations levelled by the petitioner and the first respondent has granted licence only after satisfying with all the requirements and granted licence and the quarry operation is also carried on with the conditions stipulated therein.

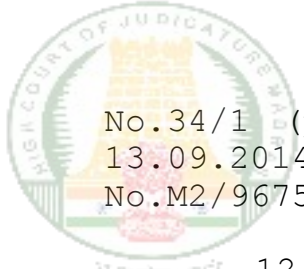
7.Pursuant to the orders of the Tahsildar, the third respondent had approached this Court in WP(MD)No.19188 of 2018 for a direction to the respondents therein to provide police protection to undertake his quarrying activities in accordance with the licence granted by the first respondent vide proceedings dated 18.03.2018 and this Court by taking into account the materials placed on record held that since the permission granted by the first respondent is in force, the subordinate authority, namely the Tahsildar cannot issue directions contrary to the licence granted by the District Collector and allowed the writ petition with a direction to the Deputy Superintendent of Police, Sankarankovil, Tirunelveli District and the Inspector of Police, Sankarankovil to grant necessary protection to the third respondent herein to carry out the quarry operation in accordance with the licence granted by the first respondent on 18.03.2018.

8.Even thereafter on 27.09.2018, when the quarry operation was on, one Nari alias Murugan and 10 others along with 15 identifiable women trespassed into the third respondent's quarry, attacked the third respondent and also criminally intimidated him. On the complaint of one Inbaraj, a case was registered in Cr.No.186 of 2018 on 27.09.2018, for the offence punishable under Section 447, 147, 148, 294(b), 323, 324 and 506(ii) IPC.

9.Heard the learned Counsel for the petitioner and the learned Counsel appearing for the respective respondents.

10.The Vadikottai Village, where the quarry operation is carried out is identified as hill village as per GO No.49, Housing and Urban Development (UD II), Department, Chennai dated 24.03.2003 and hence, for any quarry activities prior clearance is required from the Hill Conservation Authority.

11.The land in survey No.34/01 is classified as patta dry land registered in the name of one Inbaraj, S/o.Gurusamy Naicker in patta No.1141 of Vadikottai Village. The third respondent entered into an agreement with the said Inbaraj for carrying out the quarry operation over an extent of 3.22.5 hectares of the land for a period of 15 years in the year 2006 applied for quarry licence. he was granted with the quarry licence for quarrying rough stone over an extent of 0.81.0 hectares of patta land in survey



No.34/1 (part) for a period of five years from 14.09.2009 to 13.09.2014, vide proceedings of the District Collector in RC No.M2/96758/2006, dated 31.08.2009.

12. Section 36 of the Tamil Nadu Mines and Minerals Concession Rules, 1959, stipulates certain prohibitions for grant of licence for rough stone quarry that there will not be any habitations within the radial distance of 300 meters, from the applied area and there should not be any permanent structures such as power lines, places of worship, railway lines, ancient monuments, or water bodies, within the radial distance of 50 meters from the boundaries of the applied area.

13. In the stipulations of Rule 36 of the Tamil Nadu Mines and Minerals Concession Rules, 1959, The Assistant Director, Geology and Mining Tirunelveli, recommended for grant of quarry licence in favour of the third respondent in Survey No.34/1 Vadikottai Village for a period of 15 years with effect from 14.09.2009. Based on the recommendation to the third respondent, the District Collector, vide proceedings dated 31.08.2009 granted licence for a period of five years from 14.09.2009 to 13.09.2014.

14. On 03.02.2014, the third respondent has applied for grant of quarry licence for quarrying roughstone, jelly over an extent of 2.00.0 hectares in survey No.34/1 of Vadikottai Village, before the District Collector along with the requisite challan, no due certificate and revenue records. The Deputy Director of Town and Country planning, Tirunelveli vide his report dated 12.05.2014, stated that there is no inhabitation sites within 300 meters radial distance, no hill area or house is located around the applied area and quarrying was carried out about 6 meters on the nearby site applied in Survey No.34/1 of Vadikottai Village.

15. The Revenue Divisional Officer, Tirunelveli also has submitted a report that the third respondent is having proper rights over the area applied for quarry lease and there are no inhabitations within the radial distance of 300 meters around the applied area. Further, there is no ancient or historical monuments or buildings of worship like temple, mosque are located within 50 metres distance from the applied area. A notice was also published in the village for raising objections by the public and no objection was received from the public for grant of quarry lease and accordingly, he recommended for grant of stone quarry lease in favour of the third respondent by his proceedings dated 12.05.2014.

16. The Chief Engineer, Agricultural Engineering, Chennai vide his report dated 13.05.2014 stated that the applied area is a flat terrain and slope of the area is less than 2% from South towards North and there is no chance of soil erosion to the adjoining agricultural lands and there is drainage facility available to the free flow of rain water and also recommended for grant of lease in the proposed area. The Principal Chief



Conservator of Forests, Chennai had also vide his letter dated 02.05.2016 stated that there is no objection from the Forestry and Wildlife point for quarry operation.

17. Based on the recommendations of the Revenue Divisional Officer, Tirunelveli, the Deputy Director, Town and Country Planning, Tirunelveli, the Chief Engineer, Agricultural Engineering, Chennai, the Principal Chief Conservator of Forests, Chennai and the Assistant Director of Geology and Mining, Tirunelveli, the first respondent forwarded the application of the third respondent to the Commissioner, Town and Country Planning Chennai with a request to place the proposal for obtaining clearance from the Member Secretary, Hill Area Conservation Authority (HACA) in the year 2016 and the same was placed before the HACA at its 56th meeting held on 21.10.2006 as Agenda Item No.04 and in that meeting it was decided to recommend the proposal of quarry lease for roughstone, jelly in Tirunelveli District, Sankarankovil Taluk, Vadikottai Village Survey No.34/1 to an extent of 2.00.0 hectares of patta land subject to the conditions imposed by Agricultural Engineering Department, Forest Department and Geology and Mining Department.

18. After clearance was obtained from the Hill Survey Authority, the third respondent was communicated with precise area in the year 2007 and based on the precise area communicated, the third respondent has also submitted the mining plan and the same was approved by the Deputy Director of Geology and Mining, Tirunelveli.

19. The District Environment Impact Assessment Authority in letter No.DEIAA-TNV/TN/29889/2017, dated 29.01.2018 issued clearance in respect of the precise area communicated and the copy of the environmental clearance issued by the District Environment Impact Assessment Authority was also published in the local dailies on 31.01.2018. Based on the above recommendations of the concerned authorities, the District Collector granted licence to the third respondent for quarrying roughstone, jelly and gravel over an extent of 2.00.0 hectares of patta land in Survey No.34/1(part) of Vadikottai Village, Sankarankovil Taluk, Tirunelveli District for a period of 5 years under Rule 19(1) and 20 of the Tamil Nadu Mines and Minerals Concession Rules, 1959 subject to certain conditions, in RC No.M1/4509/2014 dated 18.03.2018. Subsequent to that on 14.05.2018 one M. Arumugasamy, Nattamai of Anayur Village submitted an application to the Superintending Engineer, Manoor Combined Drinking Water Scheme stating that in view of the quarry operation, the environment of the village is affected and he also indulged in agitations. Therefore, the Tahsildar, Sankarankovil by proceedings dated 30.08.2018 in Na.Ka.No.A2/500/2018 ordered to stop the quarry operation and this Court vide order dated 12.09.2018 in WP(MD) NO.19188 of 2018, granted permission for quarry operations holding that when the licence granted by the District Collector is in



force, the Tahsildar, being a subordinate to the District Collector, cannot grant order contrary to the same.

20. The main grievance of the petitioner is that there are houses within 250 metres from the quarry site. Rule 36 the Tamil Nadu Mines and Minerals Concession Rules, 1959, prescribes that no lease can be granted within a distance of 300 meters from the habitations.

21. Based on the recommendations of the Revenue Divisional Officer, Tirunelveli, the Deputy Director, Town and Country Planning, Tirunelveli, the Chief Engineer, Agricultural Engineering, Chennai, the Principal Chief Conservator of Forests, Chennai and the Assistant Director of Geology and Mining, Tirunelveli and Member Secretary, Hill Area Conservation Authority, the first respondent had granted licence and the above authorities have specifically stated in their reports that there is no inhabitation within a distance of 300 metres and the District Collector, only after satisfying with the above reports has granted the licence in favour of the third respondent.

22. The other objections raised by the petitioner that water pipe line passing nearby the quarry site and thereby the water would be contaminated. However, the petitioner has not substantiated as to how the water passing through a pipe line would get contaminated, in view of the quarry operation. Moreover, the quarry is in existence from the year 2009 and there is no valid grounds raised by the petitioner in support of his case and therefore, the writ petition deserves to be dismissed.

23. In the result, the writ petition is dismissed. No costs. Consequently, connected miscellaneous petition has been closed.

Sd/-

Assistant Registrar(CS-III)

// True Copy //

Sub Assistant Registrar(CS)

dsk

To

1. The District Collector,
Office of the District Collector,
Tirunelveli District.

2. The Revenue Divisional Officer,
Office of the Revenue Divisional Officer,
Sankarankovil,
Tirunelveli District.



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

WEB COPY

+1CC TO MR.K.PRABHU, Advocate Sr. No.79866

+1CC TO MR.P.SUBBARAJ, Advocate Sr. No. 79760

W.P. (MD) No.22827 of 2018

and

W.M.P (MD) No.20705 of 2018

05.08.2019

AVS (CO)

TR (09.08.2019) 7P 6C