

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.01.2020

CORAM:

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P.No.25480 of 2012

and

M.P.No.2 of 2012

M/s.Olympus Granites Pvt.Ltd.,
Office at No.157 Kamaraj Salai
Madurai 625 020
Rep.by its Authorised Signatory.

..Petitioner

Vs.

1.The Additional Chief Secretary to
Government,
Industries (MMB.1) Department
Government of Tamil Nadu
Fort St.George, Chennai-600 009.

2.The Director of Geology & Mining
Thiru Vi Ka Industrial Estate
Guindy, Chennai 600 032.

3.The District Collector,
Madurai District,
Madurai.

..Respondents

Prayer: Writ petition filed under Article 226 of the
Constitution of India for a writ of Certiorari calling for the
records relating to the order of the first respondent issued in
G.O.(D).No.161 Industries (MMB-1) Department dated 6.9.2012 and
quash the same.

For Petitioner : Mr.Veera Kathiravan
Senior Counsel for
Mr.K.P.M.Shankar

For Respondents: Mr.K.Ravi Kumar
Additional Government Pleader

ORDER

This writ petition has been filed challenging the order
dated 06.09.2012 passed by the first respondent in G.O.(D).

No.161 Industries (MMB-1) Department cancelling the quarry lease granted to the petitioner under a lease agreement dated 13.08.2008.

2.It is the case of the petitioner that they have been granted quarry lease by the second respondent under a lease agreement dated 13.08.2008. The lease was granted for a period of 20 years from 13.08.2008. The lease was granted under Rule 19-A of the Tamil Nadu Minor Mineral Concession Rules 1959. By the impugned order dated 06.09.2012 passed by the first respondent, they have cancelled the lease granted to the petitioner under the lease agreement dated 13.08.2008 on the ground that the petitioner has violated the terms and conditions of the lease, which is as follows:

"i.The lessee company has not provided 10 mtrs. safety distance adjacent to the lease granted area to TAMIN.

ii.The lessee Company have been granted lease over an extent of 1.21.5 Hects. But they have carried out the quarrying operation in the small portion such as 0.12.0 hecets. only in the safety zone.

iii.The lessee has obtained the transport permit for the quantity of 2292.814 Cbm. granite block but the said quantity could not be quarried in the extent of 0.12.0 hecets. as per the above pit dimensions in S.F.No.297/5.

iv.The lessee Company had misused the dispatch slip originally issued for the transportation of granite block from the S.F.No.259/4B2 and they have illicitly removed and transported 1069.534 Cbm. quantity of granite blocks as per existing pit dimensions located in the safety Zone area.

v.The lessee Company has not carried out quarrying operation in lease granted area without leaving the Safety distance."

Aggrieved by the impugned order dated 06.09.2012 passed by the first respondent cancelling the lease, this writ petition has been filed.

3.Heard Mr.Veera Kathiravan, learned Senior Counsel appearing for the petitioner and Mr.K.Ravi Kumar, learned Additional Government Pleader appearing for the respondents.

4.Mr.Veera Kathiravan, learned Senior Counsel appearing for the petitioner would submit that the respondents have violated the principles of natural justice by not affording sufficient opportunity to the petitioner in the enquiry proceedings. According to him, the documents relied upon by the respondents in the impugned order were not furnished to the petitioner, despite a request made by the petitioner by the letter of the petitioner's counsel dated 02.08.2012. In the said letter, the petitioner had requested the following documents from the respondents in order to substantiate their case before the first Respondent in the enquiry proceedings.

"1.Letter issued by the District Collector, Madurai in Lr.Rc.No.560/2011 Mines dated 11.06.2012.

2.Letter of the Commissioner of Geology & Mining No.5402 MM-2/2012 dated 28.06.2012.

3.Inspection report of the Asst.Geologist I-II who conducted the inspection on 6.6.2011.

4.Report of the officials who accompanied the District Collector, Madurai on 1.5.2012 and their report and their findings on the said inspection.

5.Report of the Team of Officials who inspected on 16.5.2012 and their individual report."

5.The learned Senior Counsel would point out that in the impugned order, the first respondent has considered the letter of the Commissioner of Geology & Mining No.5402 MM-2/2012 dated 28.06.2012 and only thereafter, the impugned order cancelling the lease in favour of the petitioner was passed. According to the learned Senior Counsel, despite requesting the respondents to furnish a copy of the letter of Commissioner of Geology & Mining dated 28.06.2012, the respondents failed to furnish a copy of the same to the petitioner and without furnishing the said copy, by violating the principles of natural justice, the first respondent has passed the impugned order.

6.Per contra, the learned Additional Government Pleader for the respondents would submit that since the petitioner has violated the terms and conditions of the quarry lease viz.,

"i.The lessee firm has not provided 10 mtrs. safety distance adjacent to the lease granted area to TAMIN.

ii.The lessee firm have been granted lease over an extent of 1.21.5 Hects. But they have carried out the quarrying operation in the small portion such as 0.12.0 hecets. only in the safety zone.

iii.The lessee has obtained the transport permit for the quantity of 2292.814 CBM. granite block but the said quantity could not be quarried in the extent of 0.12.0 hectares as per the above pit dimensions in S.F.No.297/5",

the first respondent has rightly cancelled the lease. He also pointed out that personal hearing was afforded to the petitioner and hence, there is no violation of principles of natural justice.

7.DISCUSSION:

In the impugned order, as rightly pointed out by the learned Senior Counsel for the petitioner, the first respondent has considered the letter of the Commissioner of Geology & Mines dated 28.06.2012. The first respondent has admittedly not furnished the copy of the letter of the commissioner of Geology & Mines dated 28.06.2012 to the petitioner. Without furnishing the said documents, the first Respondent, despite the request made by the petitioner, has gone ahead and passed the impugned order. This Court is of the considered view that the first respondent, while passing the impugned order, ought to have stated reasons as to why the documents sought for by the petitioner by his letter dated 02.08.2012 sent through their counsel could not be furnished. As no explanation has been given in the impugned order for not furnishing the documents to the petitioner, this Court is of the considered view that the first Respondent has violated the principles of natural justice.

8.For the foregoing reasons, on the ground of violation of principles of natural justice, the impugned order dated 06.09.2012 passed by the first Respondent under G.O.(D).No.161 Industries (MMB.1) Department is hereby quashed and the matter is remitted back to the first Respondent for fresh consideration and the first Respondent shall pass final orders with regard to the cancellation of the mining lease within a period of three months from the date of receipt of a copy of this order after giving sufficient opportunity to the petitioner to place all his submissions including permitting him to produce all relevant documents in support of his case and also grant him the right of

personal hearing. However, it is made clear that the petitioner shall not be permitted to carry on the quarry operations in the lands in S.F.No.259 of 4B2 in Keelavalavu Village, Melur Taluk, Madurai District measuring 1.21.5 Acres and the same is subject to the outcome of the final orders to be passed by the first Respondent as directed by this Court. The copy of the documents sought for by the petitioner by the letter of the learned counsel for the petitioner dated 2.8.2012 has to be furnished by the respondents if it is available with them prior to the date of personal hearing.

9. In the above terms, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

/True Copy/

Sub Assistant Registrar

To

1. The Additional Chief Secretary to Government,
Industries (MMB.1) Department
Government of Tamil Nadu
Fort St. George, Chennai-600 009.
2. The Director of Geology & Mining
Thiru Vi Ka Industrial Estate
Guindy, Chennai 600 032.
3. The District Collector,
Madurai District,
Madurai.

+1cc to M/s.K.P.M.Shankar, Advocate Sr.No.1556(12.03.2020)

+1cc to The Government Pleader Sr.No.2750

AKM/28.02.2020 /5P-6c/

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