

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.07.2020

CORAM

THE HONOURABLE MRS. JUSTICE PUSHPA SATHYANARAYANA

W.P.Nos.10559 to 10562 of 2017
(heard through VC)

S.Sasidharan .. Petitioner in WP No.10559/2017
A.Prakasam .. Petitioner in WP No.10560/2017
R.Thanga Suresh .. Petitioner in WP No.10561/2017
K.Rajesh .. Petitioner in WP No.10562/2017

Vs

1. The District Collector,
Thiruvallur District,
Thiruvallur.
2. The Special Committee
represented by its Chairman,
(Geology & Mining),
Thiruvallur District,
Thiruvallur. Respondents in all these WPs

Prayer in W.P.No.10559/2017 : Writ Petition filed under Article 226 of the Constitution of India praying for a Writ of Certiorarified Mandamus calling for the records of the first respondent in his Proceedings Na.Ka.No.107/2015/Mines-1, dated 07.02.2017 and quash the same and direct the first respondent that the matter be considered a fresh as per the Provision of Rule 12(A) (2A) of the Tamil Nadu Minor Mineral Concessions Rules 1959 Savadu Quarry in S.No.1374/2 P.W.D. Tank in No.92, Voyalur-2 Village, Ponneri Taluk, Thiruvallur District.

Prayer in W.P.No.10560/2017 : Writ Petition filed under Article 226 of the Constitution of India praying for a Writ of Certiorarified Mandamus calling for the records of the first respondent in his Proceedings Na.Ka.No.136/2015/Mines-1, dated 07.02.2017 and quash the same and direct the first respondent that the matter to be considered a fresh as per the Provision of Rule 12(A) (2A) of the Tamil Nadu Minor Mineral Concessions

Rules 1959 Savadu Quarry in S.No.541 P.W.D. Tank in Voyalur Village, Ponneri Taluk, Thiruvallur District.

Prayer in W.P.No.10561/2017 : Writ Petition filed under Article 226 of the Constitution of India praying for a Writ of Certiorarified Mandamus calling for the records of the first respondent in his Proceedings Na.Ka.No.109/2015/Mines-1, dated 07.02.2017 and quash the same and direct the first respondent that the matter to be considered a fresh as per the Provision of Rule 12(A) (2A) of the Tamil Nadu Minor Mineral Concessions Rules 1959 Savadu Quarry in S.No.155/2 P.W.D. Tank in Thathamaji Village, Ponneri Taluk, Thiruvallur District.

Prayer in W.P.No.10562/2017 : Writ Petition filed under Article 226 of the Constitution of India praying for a Writ of Certiorarified Mandamus calling for the records of the first respondent in his Proceedings Na.Ka.No.108/2015/Mines-1, dated 07.02.2017 and quash the same and direct the first respondent that the matter be considered a fresh as per the Provision of Rule 12(A) (2A) of the Tamil Nadu Minor Mineral Concessions Rules 1959 Savadu Quarry in S.No.440 P.W.D. Tank in Kattur Village, Ponneri Taluk, Thiruvallur District.

For Petitioners in : Mr.K.R.Krishnan
all these WPs

For Respondents in : Mr.V.Shanmugasundar
all these WPs Special Government Pleader

C O M M O N O R D E R

Since the common issue involved in these writ petitions, they are taken up for hearing together via videoconferencing and disposed of by this common order.

2. The petitioners herein laid challenge to the orders of the first respondent rejecting their request for the grant of permission to quarry savadu under the erstwhile Rule 12 of the Tamil Nadu Minor Mineral Concession Rules, 1959 (hereinafter referred to as "the 1959 Rules") and sought for a consequential direction to the first respondent to consider their applications afresh.

3. The petitioners submitted applications under Rule 12 of the 1959 Rules, on 27.02.2015 and 06.03.2015 seeking permission to remove certain lorry loads of Savadu from P.W.D. Tanks located in their respective villages, which were forwarded by the first respondent to the Revenue Division Officer (RDO) for inspection and filing reports, who in turn, sent the same to the jurisdictional Tahsildhars. The Tahsildhars recommended the

cases of the petitioners, which were endorsed by the RDO. The first respondent, thereafter, claimed to have referred those applications to the Executive Engineer, Chepauk, Chennai, seeking detailed study. The said authority has also offered technical opinion with certain terms. Since in the meanwhile, Rule 12 of the 1959 Rules was amended, the applications of the petitioners have to be placed before the Special Committee constituted under the amended provision. But there is no action taken by the first respondent. Hence, the petitioner filed writ petitions before this Court, which were disposed of on 26.10.2016 with a direction to the first respondent to place the papers before the second respondent herein/Special Committee, if everything is in order, within a stipulated time. Pursuant to the same, the first respondent passed the impugned orders dated 07.02.2017 rejecting their request. Hence, they are before this Court in the second round.

4. The first respondent filed counter-affidavits dated 26.07.2017 stating that in obedience to the orders of this Court, the petitioners were given opportunities of personal hearing on 07.02.2017, however, the Special Committee recommended for the rejection of the petitioners' applications. Accordingly, the impugned orders were passed by the first respondent and thus, he sought for dismissal of these writ petitions.

5. Heard the learned counsel for the petitioner and the learned Government Advocate appearing on behalf of the respondents and perused the materials placed before this Court.

6. The facts are not in dispute. For the sake of convenience, the case of the petitioner in W.P.No.10559 of 2017 is taken up for consideration in the first place. The petitioner herein submitted his application on 27.02.2015, which was forwarded by the first respondent to the authorities concerned on the same day. The Executive Engineer, WRD, PWD, gave recommendations in Letter No.DB/JDO 2/F.No.203/2015, dated 13.03.2015 subject to certain terms and conditions. Though the Revenue Inspector submitted a report on 18.03.2015, the jurisdictional Tahsildar conducted field inspection only on 21.10.2015 and recommended the case of the petitioner to the first respondent through the RDO on 08.03.2016. The RDO conducted the field inspection on 20.11.2015 and recommended the case of the petitioner on 23.03.2016. Even thereafter, the first respondent did not take any action, which necessitated the petitioner to prefer a representation on 06.10.2016 to the first respondent with a request to pass orders on his application dated 27.02.2015. Since the same also evoked no response, the petitioner filed W.P.No.37623 of 2016 before this Court seeking Mandamus directing the first respondent herein/second respondent

therein to place his application before the second respondent herein/first respondent therein, namely, the Special Committee under Rules 12-A(b) of the 1959 Rules. The said writ petition was disposed of on 26.10.2016 directing the first respondent herein to consider the representation of the petitioner, verify all the details and if it is legally permissible and if there is no other impediment, place the papers before the Special Committee within eight weeks from the date of receipt of the said order.

6.1. Similar is the claim of the petitioners in the other three writ petitions, though the dates of inspection and submission of the reports may differ.

7. According to the first respondent, pursuant to the said orders, the papers were placed before the Special Committee and based on the recommendations of the Special Committee, the impugned orders came to be passed on 07.02.2017, which, in the considered view of this Court are cryptic in nature.

8. In the impugned orders dated 07.02.2017, the first respondent placed reliance on the recommendations of the Special Committee, which is also, surprisingly, dated 07.02.2017 to reject the prayer of the petitioners on the following reasons : (i) the recommendations of the PWD and the revenue officials in favour of the petitioners were made only after the issuance of G.O.Ms.No.233, Industries (MMC -2) Department, dated 23.09.2015 amending Rule 12 of the 1959 Rules ; and (ii) non-submission of the Environmental Clearance (EC) from the State Level Environment Impact Assessment Authority (SEIAA).

9. From the narration of above facts, it is clear that the revenue officials submitted their recommendations after the amendment was made in Rule 12 of the 1959 Rules, however, the report recommending the case of the petitioners were made by PWD on 13.03.2015 itself. In other words, the revenue officials made recommendations while the amendment to Rule 12 came into force with effect from 23.09.2015, for which, the petitioners cannot be found fault with.

10. Further, there is no reply forthcoming from the first respondent on the pleas of the petitioners that the question of non-submission of the EC will not come into play at this stage and the same is not a sine qua non for processing their applications and also the submission that as of now, the EC has to be granted by the District Committee of Local level, for which, the first respondent is the Chairman.

11. Curiously, it is also relevant to state that the first respondent claims that all the petitioners were heard on

07.02.2014 by the Special Committee and on the very same day, the recommendations of the Special Committee were made and thereafter, the impugned orders were passed by the first respondent, being the Chairman of the Special Committee. As stated above, the impugned orders are bereft of any reasons assigned by the Special Committee for arriving at a conclusion rejecting the prayer of the petitioners, except the aforesaid two reasons, which are seriously objected to by the petitioners. When there is no delay on the part of the petitioners, the first respondent and the Special Committee ought not to have rejected their request on the ground that the recommendations of the revenue officials were made subsequent to the amendment in Rule 12.

12. For the foregoing reasons, this Court of the view that the impugned orders are liable to be set aside. Accordingly, the impugned orders passed by the first respondent in all these writ petitions dated 07.02.2017 are set aside.

13. At this juncture, the learned Government Advocate appearing on behalf of the respondents submitted that the applications of the petitioners would be placed before the Special Committee for fresh consideration. The said submission is recorded.

14. Consequently, the first respondent, being the Chairman of the Special Committee, shall place the papers before the Special Committee once again for a fresh consideration in accordance with Rule 12 of the 1959 Rules within a period of four weeks from the date of receipt of a copy of this order and the Special Committee shall consider the applications of the petitioners on merits and in accordance with law, more particularly, as mandated by Rule 12 of the 1959 Rules. After receipt of the recommendations of the Special Committee, the first respondent shall pass a reasoned order in terms of Rule 12 of the 1959 Rules as expeditiously as possible.

15. With the above observations and directions, these writ petitions are ordered accordingly.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

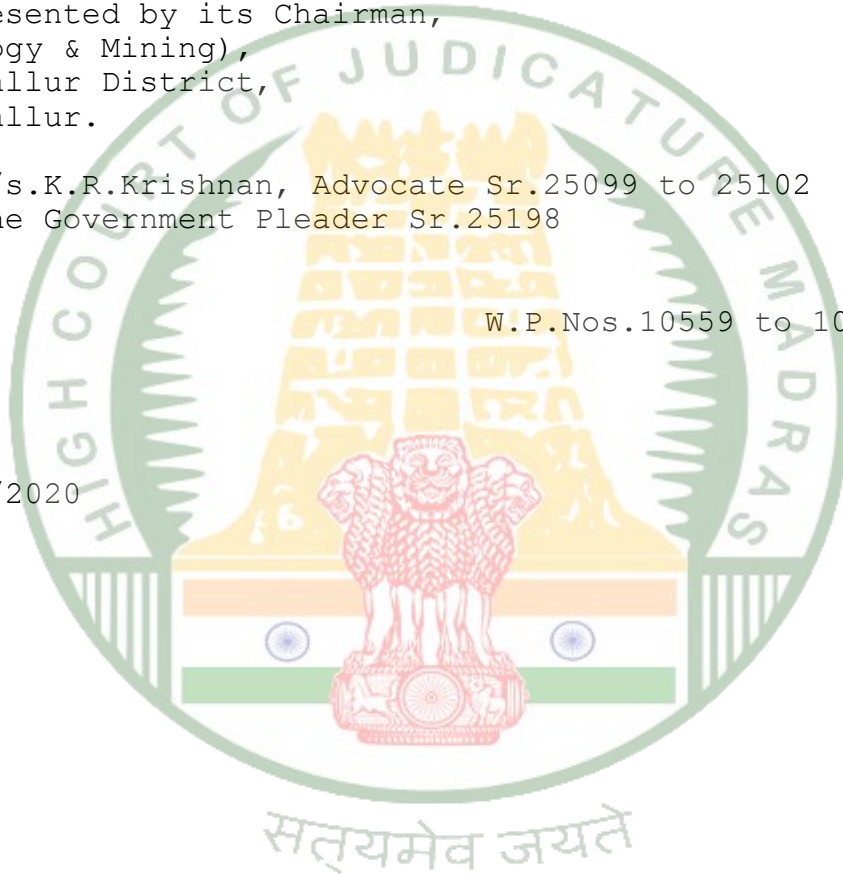
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+4cc to M/s.K.R.Krishnan, Advocate Sr.25099 to 25102
+1cc to the Government Pleader Sr.25198

W.P.Nos.10559 to 10562 of 2017

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srg 03/08/2020



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