

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 24.02.2020

CORAM

THE HONOURABLE MR. JUSTICE M. SATHYANARAYANAN
AND

THE HONOURABLE MRS. JUSTICE R. HEMALATHA

WP.No.28431/2018 & WMP.Nos.33155/2018, 3682 & 3685/2020

N.Kasirajan

.. Petitioner

Versus

- 1.The Principal Secretary to Government Industries Department, [Mines & Minerals] Fort St George, Chennai 600 009.
- 2.The Principal Secretary to Government Revenue Department, Fort St George, Chennai 600 009.
- 3.The Director, Department of Geology and Mining Alandur Road, Guindy, Chennai 600 032.
- 4.The Commissioner Revenue Administration Chepauk, Chennai.
- 5.The Chief Engineer, General Water Resource Department [WRD], Public Works Department Chepauk, Chennai.
- 6.The Director, Directorate of Vigilance and Anti Corruption No.293, MKN Road, Alandur Chennai 600 016.
- 7.The Chief Engineer, Coimbatore Region, Water Resource Department [WRD] Public Works Department, Coimbatore Region Coimbatore.

- 8.The District Collector,
District Collector Office,
Erode District.
- 9.The Superintendent of Police
Panneerselvam Park Road
Perundurai Road, Erode.
- 10.The District Revenue Officer
District Collector Office, Erode District.
- 11.The Superintendent Engineer,
Water Resource Department [WRD]
Public Works Department,
Bhavani Basin Circle, Erode 600011.
- 12.The District Forest Officer
Erode Forest Division, Mullaiagam,
Raja Nagar, Veerappan Chathram
Erode 638 004.
- 13.The Revenue Divisional Officer
Gobichettipalayam, Erode District.
- 14.The Regional Transport Officer
Gobichettipalayam, Erode District.
- 15.The Deputy Superintendent of Police
Gobichettipalayam, Erode District.
- 16.The Executive Engineer
Water Resource Department [WRD]
Public Works Department,
Bhavani Sagar Dam Division,
Bhavani Sagar, Erode District.
- 17.The Deputy Director, सतततामेव नयाते
O/o.The Deputy Director [Dept.of Geology & Mining]
District Collector Office, Erode District.
- 18.The Tahsildar
Gobichettipalayam Taluk, Gobichettipalayam,
Erode District.
- 19.The Inspector of Police
Gobichettipalayam Police Station,
Erode District.

20.The Assistant Executive Engineer,
Water Resource Department [WRD]
Public Works Department, Irrigation Sub Division,
Gobichettipalayam, Erode District.

21.The Revenue Inspector,
Gobichettipalayam Taluk, Erode District.

22.The Village Administrative Officer
Kalinkiyam 'A' Village, Gobichettipalayam
Erode District.

23.N.P.Nagaraj .. Respondents

PRAYER:- Writ petition filed under Article 226 of the Constitution of India prays to issue a Writ of mandamus directing the respondents 1 to 22 to stop the illegal mining of stone, quarrying by the 23rd respondent SF.No.109/6, [Kallankuthu Government Poramboke land] situated at Kalinkiyam A Village, Gobichettipalayam Taluk, Erode District and consequently direct the respondents 1 to 17 herein to take appropriate action against the 23rd respondent for illegal mining of stone and to take departmental action against the respondents 18 to 22 for not taking proper action against the 23rd respondent by considering petitioner's representation dated 20.03.2018.

For Petitioner : Mr.D.Gopal

For RR 1 to 22 : Mr.R.Vijayakumar, AGP

For R23 : Mr.D.R.Arunkumar

ORDER

[Order of the Court was made by M.SATHYANARAYANAN,J.,]

(1)By consent, the writ petition is taken up for final disposal.

(2) This writ petition is styled as a public interest litigation filed by the Ex-Vice President of Vaniputhur Town Panchayat, Gobichettipalayam, Erode District stating among other things that the stone quarrying operation done by the private respondent, viz., the 23rd respondent, is against the provisions of the Tamil Nadu Mines and Mineral Concession Rules and that apart, the said quarry is located within the prohibited distance from the water body and under the garbeof licensed quarrying, the 23rd respondent is also indulging in illegal quarrying in the adjacent Government lands.

- (3)The writ petition was entertained on 12.12.2019 and notices were ordered.
- (4)The 18th respondent, viz., the Tahsildar, Gobichettipalayam Taluk has filed a counter affidavit dated 29.03.2019 and apart from denying the averments, took a stand that the 23rd respondent has been given permission to remove rough stones and gravel in his patta lands comprised in SF.Nos.109/2B and 109/4B vide proceedings of the 8th respondent dated 04.02.2016 and adjacent to the said land, there is a "kallankuthu" Government poramboke land in SF.No.109/6. It is further averred that on the basis of the complaint received, the Taluk Level Force Committee has also caused inspection of the quarrying operation being done by the 23rd respondent and also advised him to erect fence between his land and the Government poramboke land in SF.No.109/6 and further found that the 23rd respondent is quarrying and removing the rough stones and gravel from his patta land only within the parameters and not in respect of the unauthorized location as alleged by the petitioner.
- (5)The Collector, Erode District has also filed a counter affidavit dated 04.07.2019 and apart from reiterating the stand taken by the Tahsildar, Gobichettipalayam, had also pointed out that the Petition dated 24.03.2018 submitted by the petitioner to the 17th respondent to cancel the permission granted to the 23rd respondent was examined and the Taluk Level Force Committee also inspected the land of the 23rd respondent as well as the Government poramboke land and found that the 23rd respondent had been doing quarrying work with due permission upto 03.02.2021 and the condition stipulated for quarrying operation have been effectively followed by him.
- (6)At this juncture, the learned counsel for the petitioner came forward to file a miscellaneous Petition in WMP.No.3682/2020 praying for amendment of the prayer to quash the quarrying license granted to the 23rd respondent. The learned counsel for the petitioner would submit that in the light of the stand taken by the Tahsildar, Gobichettipalayam and the Collector of Erode District, the petitioner is constrained to file the petition for amendment to amend the prayer.
- (7)It appears that the petitioner who is the Ex Vice President of Vaniputhur Town Panchayat, under the guise of Public Interest Litigation, intend to collect materials and having collected materials in the form of counter affidavit of the Tahsildar, Gobichettipalayam and the Collector of Erode District, sought to amend the prayer. It is the stand of the said respondents that the quarrying operations are being done

by the 23rd respondent are strictly in accordance with the licensed condition and within the parameters. It is also the submission of the learned counsel for the 23rd respondent that even if surprise inspection is caused either by the Tamil Nadu Pollution Control Board or by the Revenue officials, it would reveal that the 23rd respondent is strictly complying with the terms and conditions of the quarrying license.

(8) This Court has considered the rival submissions and also perused the materials placed before it.

(9) Neither the Tahsildar, Gobichettipalayam nor the Collector, Erode District had any axe to grind against the petitioner and it is their categorical stand that on receipt of the complaint from the petitioner, a thorough inspection was carried out and it was also found that the 23rd respondent is carrying on the quarrying operation strictly in compliance of the terms and conditions of the license. The petitioner, under the garb of this Public Interest Litigation, wants to keep the issue alive and after collecting materials through this writ petition styled as a Public Interest Litigation, wants to go for the amendment of the prayer and in the considered opinion of the Court, he cannot do so. However, the concerned respondents/officials which may include the jurisdictional Tamil Nadu Pollution Control Board, are directed to carry out regular and surprise inspection to find out whether the 23rd respondent is carrying on quarrying operation strictly within the parameters and file a status report.

(10) In the result, the writ petition is dismissed. If the petitioner is advised so and if it is available to him under law, he is at liberty to avail remedies in the manner known to law before the competent and appropriate Forum. No costs. Consequently, the connected miscellaneous petitions are closed. Call on 02.04.2020. Status Report, by then.

Sd/-

Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

AP

To

1. The Principal Secretary to Government
Industries Department, [Mines & Minerals]
Fort St George, Chennai 600 009.

- 2.The Principal Secretary to Government
Revenue Department, Fort St George,
Chennai 600 009.
- 3.The Director,
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- 4.The Commissioner
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- 22.The Village Administrative Officer
Kalinkiyam 'A' Village, Gobichettipalayam
Erode District.

Copy to: The Section Officer,
VR Section, High Court, Madras-104.

+1cc to Mr.D.R.Arunkumar, Advocate SR.16034
+1cc to Mr.D.Gopal, Advocate SR.16172

WP.No.28431/2018

VSN-II (CO)
CB(04/03/2020)