



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.09.2020

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.2739 of 2020 and

W.M.P.(MD)No.2326 of 2020

A.Mithun Chakravarthi

... Petitioner

Vs.

1. The District Collector,
Theni District, Theni.

2. The Assistant Director,
Geology and Mining Department,
Collectorate Building,
Theni District.

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the second respondent to issue bulk permit and dispatch slip to the petitioner till completion of the quarry lease period of 5 years upto 17.11.2021 as per quarry license given by the first respondent in Na.Ka.No.293/Mines/2015 dated 18.11.2016 and quarry lease agreement executed between the first respondent and the petitioner dated 18.11.2016 within a stipulated period.

For Petitioner : Mr.Veerakathiravan, Senior Counsel
for Mr.T.Ayngaraprabhu

For Respondents : Mr.M.Rajarajan,
Additional Government Pleader.

O R D E R

Heard the learned senior counsel appearing for the petitioner and the learned Additional Government Pleader appearing for the respondents.

2. The writ petitioner was granted quarry lease vide order dated 18.11.2016. The license period is valid for five years. The petitioner's license was cancelled on 06.03.2020. Penalty was also levied on the petitioner for excess quarrying. The petitioner filed writ petitions before this Court and both the orders were



set aside by this Court on the ground of violation of principles of natural justice. The matters were remitted to the file of the authorities for fresh consideration.

3. In the meanwhile, the writ petitioner had already filed W.P. (MD) No. 2739 of 2020. The prayer made in the writ petition is for directing the respondents to issue bulk permit and dispatch slip to him. The prayer made in the writ petition is strongly opposed by the respondents. The respondents have also filed a detailed counter affidavit. The learned Additional Government Pleader appearing for the respondents reiterated all the contentions set out in the counter affidavit.

4. The core argument of the learned Additional Government Pleader is that since the proceedings regarding cancellation and levy of penalty for excess quarrying are pending against the petitioner, this Court would not be justified in allowing this writ petition.

5. I am not in a position to agree with this objection raised by the learned Additional Government Pleader. It is for the simple reason if I accept this argument, it would be virtual suspension of the petitioner's license. When the order of cancellation was set aside by this Court and when the matter is pending enquiry, the petitioner has to be treated as a license holder. The petitioner as a license holder is entitled to enjoy the fruits of the license.

6. I wanted to know as to why the respondents are opposing the petitioner's prayer. It is submitted by the respondents that the petitioner was permitted to quarry only 24750 cu.meters of rough stone and that the petitioner had done excess quarrying. The learned senior counsel rebutted this assertion made by the respondents by referring to the proceedings dated 05.12.2018 bearing Na.Ka.No.356/Mineral/2018 issued by the District Collector, Theni. It is seen therefrom that the earlier ceiling limit was revised and enhanced to 194970 cu.meters. The petitioner has been permitted to quarry rough stone to the extent of 194970 cu.meters and 79274 cu.meters of gravel.

7. Thus the respondents appear to be under a factually erroneous impression. In any event, I do not want to go into this point. Since the petitioner is very much having the the license, the respondents have to necessarily issue bulk permit and dispatch slip to the petitioner herein. This shall be done forthwith and without any delay.



8. This writ petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

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Sd/-

Assistant Registrar(CO)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

pmu

Note:In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To:

1. The District Collector,
Theni District, Theni.
2. The Assistant Director,
Geology and Mining Department,
Collectorate Building,
Theni District.

+1 CC to M/s.GP (SR-17889[F] dated 23/09/2020)

W.P. (MD) No.2739 of 2020
21.09.2020

SCR(CO)
TR(28.09.2020) 3P 4C