



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.10.2020

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THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

W.P(MD).No.3075 of 2020
and WMP(MD) Nos. 2621 & 2622 of 2020

J. Senthilkumar

.. Petitioner

Vs.

1.The District Collector,
Collectorate Office Compound,
Theni.

2. The Revenue Divisional Officer,
Uthamapalayam, Theni District.

3. The Assistant Director of Geology and Mining,
Regional Flying Squad,
Collectorate Office Compound,
Madurai.

4. The Assistant Director of Geology and Mining,
Collectorate Office Compound,
Theni.

.. Respondents

PRAYER: Writ Petition is filed under Article 226 of Constitution of India for issuance of *Writ of Certiorarified Mandamus*, calling for the records pertaining to the impugned proceedings issued by the second respondent vide his proceedings in Na.Ka.No. 4535/2019/A4 dt. 06.02.2020 and quash the same and consequently direct the first and fourth respondent to issue the transport permits to the petitioner to transport the quarried rough stone on the basis of lease deed executed on 25.01.2019.

For Petitioner : Mr.Veera Kathiravan,
Senior Counsel

For Respondents : Mr.C. Ramesh
Special Government Pleader

ORDER

The instant Writ Petition has been filed challenging the impugned proceedings passed by the second respondent, dated 06.02.2020 vide his proceedings in Na.Ka.No. 4535/2019/A4 and also



sought for a consequential direction to the first and fourth respondent to issue the transport permit to the petitioner to transport the quarried rough stone on the basis of lease deed executed on 25.01.2019.

2. The Writ petition has been filed to challenging the impugned proceedings, mainly on the ground that the second respondent, while passing the impugned proceedings has violated the principles of natural justice by not giving sufficient opportunity to the petitioner to place all his submissions and the second respondent has illegally levied penalty under the provisions of Rule 36(A) the Tamil Nadu Minor Mineral Concessions Rules, 1959 .

3. Heard Mr.Veera Kathiravan, the learned Senior Counsel appearing for the petitioner and Mr.C. Ramesh, learned Special Government Pleader appearing for the respondents.

4. Mr.Veera Kathiravan, the learned senior counsel appearing for the petitioner drew attention of this Court that the show cause notice dated 24.01.2020 issued by the second respondent and the representations sent by the petitioner, dated 05.02.2020 to the second respondent calling upon them to produce the inspection report based on which the second respondent has levied penalty under the provisions of Tamil Nadu Minor Mineral Concessions Rules, 1959 .

5. According to the learned senior counsel for the petitioner, the show cause notice, dated 24.01.2020 was received only on 29.01.2020, whereas the enquiry for the penalty proceedings was conducted by the second respondent on 28.01.2020 itself. He also drew attention of this Court to the postal cover sent by the second respondent including the show cause notice, dated 24.01.2020 which would reveal that the petitioner had received show cause notice only on 29.01.2020, as seen from the delivery receipt.

6. This Court has also duly considered and has also examined the representations dated 30.01.2020 and 05.02.2020 and in the representation dated 05.02.2020, the petitioner has called upon by the second respondent to produce a copy of the inspection report, dated 28.12.2019 based on which penalty proceedings have been initiated against the petitioner. However, as seen from the impugned proceedings dated 06.02.2020 levying penalty of Rs.2,28,11,088/- (Rupees Two Crores Twenty Eight Lakhs Eleven Thousand and Eighty Eight only), the report dated 28.12.2019 issued by the Assistant Director of Mines and Minerals, which was sought for by the petitioner, was not furnished to the petitioner and the date of receipt of the show cause notice by the petitioner was also not mentioned as according to the petitioner it was received only on 29.01.2020 after the date of enquiry i.e., on 28.01.2020.



appearing for the respondents would submit that an efficacious statutory appellate remedy is available to the petitioner under Section 36 (A) of the Tamil Nadu Minor Mineral Concessions Rules, 1959. According to him, instead of exercising the same, the petitioner has directly approached this Court under Article 226 of Constitution of India. A counter affidavit has also been filed on the same lines, as submitted by the learned Special Government Pleader appearing for the respondents.

8. It is settled positive of law that whenever, principles of natural justice has been violated, the aggrieved party can directly file a Writ Petition under Article 226 of Constitution of India. In the case on hand, since principles of natural justice has been violated, the Writ Petition is maintainable. Therefore, the contention of the learned Special Government Pleader is rejected by this Court.

9. The only grounds raised by the petitioner in this Writ Petition is that the show cause notice dated 24.01.2020 was received by the petitioner only after the enquiry date and he has not furnished with a copy of the inspection report 28.12.2019. Therefore, there is no merit in the submissions made by the learned senior counsel appearing for the petitioner that principles of natural justice has been violated by the second respondent, while passing the impugned order dated 06.02.2020 levying penalty under the Tamil Nadu Minor Mineral Concessions Rules, 1959. No personal hearing was also granted to the petitioner before passing of the impugned order.

10. As seen from the impugned proceedings, within a short period of time, the impugned proceeding has been passed by the second respondent without affording sufficient opportunity to the petitioner to place all his contentions and objections with regard to the penalty proceedings initiated by the second respondent.

11. For the forgoing reasons, the impugned proceedings dated 06.02.2020 of the second respondent is hereby quashed and the matter is remanded back to the second respondent for fresh consideration and the second respondent shall pass final orders on merits and in accordance with law, within a period of 12 weeks from the date of receipt of a copy of this order, after giving sufficient opportunity to the petitioner including granting him the right of persons hearing. Insofar as the consequential relief sought for by the petitioner, namely, direct the first and fourth respondent to issue transport permit to the petitioner to transport the quarried rough stone on the basis of lease deed executed on 25.10.2019 is concerned, the same cannot be granted by this Court at this stage. It is for the second respondent is to consider the same on merits in accordance with law.

<https://hcservices.ecourts.gov.in/hcservices/> the above directions, the instant Writ Petition is



disposed of. No Costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (P&A)

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/ /2020

Sub Assistant Registrar(CS)

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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,
Collectorate Office Compound,
Theni.
 2. The Revenue Divisional Officer,
Uthamapalayam, Theni District.
 3. The Assistant Director of Geology and Mining,
Regional Flying Squad,
Collectorate Office Compound,
Madurai.
 4. The Assistant Director of Geology and Mining,
Collectorate Office Compound,
Theni.
- +1 CC to M/s.VEERA ASSOCIATES, Advocate (SR-20120[F] dated 15/10/2020)

W.P(MD) .No.3075 of 2020
14.10.2020

SJ(CO)

KK(05.11.2020) 4P 6C