



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.08.2020

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD)No.5083 of 2020 and

WMP (MD) Nos.4426,4429,7420 of 2020

A.Mithun Chakravarthi

Petitioner

Vs.

1. The District Collector,
Theni District,
Theni.

2. The Sub Collector,
Periyakulam,
Theni District.

3. The Assistant Director,
Geology and Mines Department,
Collectorate Building,
Theni District.

Respondents

PRAYER: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order of the 2nd respondent in Na.Ka.No.1206/2020/A5 dated 26.02.2020 and consequential impugned order in Na.Ka.No.87/Mines/2020 dated 06.03.2020 passed by the 1st respondent therein and quash the same and consequently directing the respondents to permit the petitioner to continue the Quarrying operations as per the proceedings of first respondent in Na.Ka No.293 Mines/2015 dated 18.11.2016 and to issue necessary transport permit for enjoying the lease hold rights as per the said order till 17.11.2021.

(Prayer is amended vide Court Order dated 06.08.2020 in WMP (MD) No.7419/2020)

For Petitioner : Mr.Veera Kathiravan,
Senior Counsel for
Mr.T.Ayangaraprabhu.

For Respondents : Mr.M.Rajarajan,
Government Advocate.



O R D E R

Heard the learned Senior Counsel appearing for the Writ Petitioner and the learned Government Advocate appearing for the respondents.

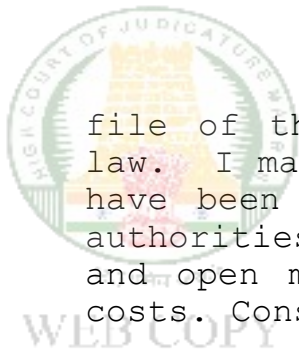
2. The petitioner is a quarry operator. He is owning the land mentioned in SF No.791/1B in Thimmarasanayakanur bit I Village, Andipatti, Theni District. He was granted lease vide proceedings dated 18.11.2016. The petitioner would allege that he is also a member of the Co-operative Milk Society and there was a bitter electoral fight regarding Co-operative election between him and a powerful political person of the locality. The learned Standing Counsel would allege that this electoral fight is the cause for initiation of the impugned proceedings. But I cannot take note of these issues. As rightly pointed out by the learned Government Counsel, no one has been impleaded in person in this Writ proceedings. Therefore, at the outset referring to the allegation made by the petitioner herein, I cannot give any finding. What is under challenge in this Writ Petition are the orders passed by the first respondent as well as the second respondent.

3. The second respondent vide order dated 26.02.2020 had levied penalty to the tune of Rs.29,92,800/- on the petitioner for having allegedly made unauthorised removal of the minerals. A mere look at the order dated 26.02.2020 would indicate that the order levying penalty was not preceded by any show cause notice. It is further seen that the District Collector had directed the Sub Collector to levy penalty. Thus the Sub Collector had acted under dictation/instruction of the District Collector. It is well settled that no authority can act under dictation. Therefore, it amounts to violation of principles of natural justice. Since the order of the Sub Collector is in clear violation of the principles of natural justice, it stands quashed.

4. The order dated 06.03.2020 passed by the District Collector, Theni District, is also quashed. It is true that the said order was preceded by the show cause notice dated 15.02.2020 and that it did not elicit any response or explanation from the writ petitioner. But then, even if the writ petitioner had given an explanation, that would have been an empty formality. The first respondent appears to have been made up her mind already. When the first respondent had already issued an order to the second respondent directing levy of penalty, the petitioner obviously cannot expect the first respondent to independently consider his representation.

5. Therefore, the order dated 06.03.2020 is also quashed.

This writ petition stands allowed. The matter is remitted to the



file of the respondents to pass orders afresh in accordance with law. I make it clear that the orders impugned in the writ petition have been quashed only on a technical ground. I would expect the authorities to consider the entire materials on record with a free and open mind and take an independent decision in the matter. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (AD-II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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 Sub Collector,
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Theni District.
3. The Assistant Director,
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Collectorate Building,
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