



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.11.2020

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THE HONOURABLE MR.JUSTICE **ABDUL QUDDHOSE**

W.P. (MD)Nos.9133 and 9137 of 2020

and

W.M.P. (MD)Nos.8351 and 8355 of 2020

W.P. (MD)No.9133 of 2020:-

T.Vijay : Petitioner

Vs.

The District Collector,
Thoothukudi District,
Thoothukudi. : Respondent

PRAYER:- Petition filed under Article 226 of the Constitution of India seeking a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order made by the respondent in R.C.No.GM1/306/2010, dated 10.07.2020 and quash the same as illegal and consequently, to direct the respondent to permit the petitioner to conduct stone quarrying operation in S.F.No.802, Padmanabhamandalam Village, Srivaikundam Taluk, Thoothukudi District for a period of two years and ten months (non-operative period) for which the petitioner was not permitted to quarry during the lease period accorded vide the proceedings of the respondent in R.C.No.G.M.1/306/2010, dated 09.08.2010 within the time that maybe stipulated by this Court.

For Petitioner	: Mr.Ajmal Khan Senior Counsel for M/s.Ajmal Associates
For Respondent	: Mr.M.Rajarajan Additional Government Pleader

W.P. (MD)No.9137 of 2020:-

S.Sudharsan : Petitioner

Vs.



The District Collector,
Thoothukudi District,
Thoothukudi.

: Respondent

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PRAYER:- Petition filed under Article 226 of the Constitution of India seeking a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order made by the respondent in R.C.No.GM1/305/2010, dated 10.07.2020 and quash the same as illegal and consequently, to direct the respondent to permit the petitioner to conduct stone quarrying operation in S.F.No.801, Padmanabhamandalam Village, Srivaikundam Taluk, Thoothukudi District for a period of two years and ten months (non-operative period) for which the petitioner was not permitted to quarry during the lease period accorded vide the proceedings of the respondent in R.C.No.G.M.1/305/2010, dated 09.08.2010 within the time that maybe stipulated by this Court.

For Petitioner : Mr.Ajmal Khan
Senior Counsel
for M/s.Ajmal Associates

For Respondent : Mr.M.Rajarajan
Additional Government Pleader

COMMON ORDER

(These petitions were heard through Video Conferencing)

These Writ Petitions have been filed challenging the impugned order, dated 10.07.2020 passed by the respondent rejecting the application of the respective petitioners seeking permission to conduct stone quarrying operation in S.F.Nos.801 and 802, Padmanabhamandalam Village, Srivaikundam Taluk, Thoothukudi District for a period of two years and ten months (non-operative period).

2.Heard Mr.Ajmal Khan, learned Senior Counsel for the petitioner and Mr.M.Rajarajan, learned Additional Government Pleader for the respondent.

3.It is the contention of the respective petitioners that they were granted licence to conduct stone quarry operation in S.F.Nos.801 and 802, Padmanabhamandalam Village, Srivaikundam Taluk, Thoothukudi District, under the proceedings of the respondent, dated 09.08.2010 for a period of ten years. According to them, on



18.04.2017, a suspension order was issued by the respondent suspending the stone quarrying operation by the respective petitioners on the ground that clearance is required from the Standing Committee of the National Board for Wild Life and only then, the respective petitioners will be allowed to continue with the quarrying and transportation of minerals.

4.The suspension order, dated 18.04.2017 issued by the respondent was revoked under the proceedings of the respondent, dated 29.01.2020 on the ground that the quarry lease area of the respective petitioners falls outside the eco sensitive zone notified by the Ministry of Environment and Forest. Since the respective petitioners were unable to quarry rough stones over the respective areas for the period from 18.04.2017 to 02.02.2020 due to the suspension order, they have filed these Writ Petitions seeking for permission to conduct stone quarry operation in S.F.Nos.801 and 802, Padmanabhamandalam Village, Srivaikundam Taluk, Thoothukudi District, for the non-operative period, ie., from 18.04.2017 to 02.02.2020.

5.A counter affidavit has been filed by the respondent stating that under Rule 8(8)(ii) of the Tamil Nadu Minor Mineral Concession Rules, 1959, there is no power to grant extension of the lease and it has been clearly mentioned in the respective lease deed executed in favour of the respective petitioners that the subject premises shall be held by the lessee only for a period of ten years from 09.08.2010 to 08.08.2020.

6.Mr.Ajmal Khan, learned Senior Counsel for the respective petitioners would submit that the respective petitioners are not seeking for extension, as alleged by the respondent in their counter affidavit. He drew the attention of this Court to the suspension order, dated 18.04.2017 passed by the respondent and pointed out that the respondent had suspended the mining operation of the respective petitioners only on the ground that the clearance from the Standing Committee of the National Board for Wild Life was not obtained by the respective petitioners. He also drew the attention of this Court to the revocation order, dated 29.01.2020 issued by the respondent revoking the earlier order of suspension, dated 18.04.2017 and pointed out that under the revocation order, the respondent has revoked the suspension order, dated 18.04.2017 on the ground that as per the notification of the Ministry of Environment and Forest (SO.4075 (E), dated 08.11.2019), the lands of respective petitioners fall outside the Eco-Sensitive Zone and hence, the subject quarry does not attract the submission of clearance from the Standing Committee of National Board of Wild Life.



7.The learned Senior Counsel also drew the attention of this Court to the following authorities:

(a) A Division Bench judgment of Madras High Court, dated 17.03.2011, passed in W.A.Nos.1018 and 1019 of 2010 in the case of the District Collector, Namakammal vs K.Anbarasi and another;

(b) A Division Bench judgment of Madras High Court, dated 24.07.2011 passed in W.A.No.918 of 2014, in the case of the District Collector, Krishnagiri and another vs K.A.Gunasekaran; and

(c) A judgment rendered by the learned Single Judge of this Court, dated 11.03.2019, passed in W.P.No.34852 of 2018, in the case of P.Subramani vs the District Collector, Krishnagiri and another, reported in CDJ 2019 MHC 1255.

8.Relying upon the aforesaid decisions, the learned Senior Counsel would submit that in identical set of facts, wherein, the period of mining operation was suspended on account of the objection raised by the District Forest Officer, which was subsequently withdrawn, the lessees were permitted to continue operation even after the expiry of the lease for the non-operative period due to the suspension of the mining operation.

9.This Court has perused and examined Rule 8(8)(ii) of the Tamil Nadu Minor Mineral Concession Rules, 1959, which reads as follows:

"8. Leasing of lands for quarrying minor minerals other than the minerals covered under rules 8-A and 8-C of these rules:-

.....

(8) 4 [The period of lease for quarrying stone in respect of the virgin areas, which have not been subjected to quarrying so far, shall be ten years. The period of lease for quarrying stone in respect of other areas shall be five years. The period of lease for quarrying sand and other minor minerals, other than the minerals covered under rules 8-A and 8-C of the said Rules, shall not exceed three years and shall not be less than one year and shall be subject to the following conditions, namely:-

(i) 3 [The date of commencement of the period of lease granted under this rule shall be the date on which the lease deed is executed;]

(ii) The lease shall expire on the date specified in the lease deed and in no case extension of the period of lease shall be made]."



10.The aforesaid Rule talks about only the maximum period for which quarrying licence can be granted. It does not deal with a situation, where, the mining operations were suspended for no fault of the lessee. In the case on hand, the respective petitioners are not seeking for extension of mining lease, but, they are only seeking for permission to do mining operation over their respective lands for the non-operative period due to the suspension of mining operation by the respondent on the ground that the lands, in which respective petitioners quarrying rough stone, fall within Eco-Sensitive Zone and hit by the notification, dated 20.08.2014, issued by the Ministry of Environment and Forest, Government of India.

11.Admittedly, the respective petitioners were unable to do stone quarrying operation over their respective lands for a period of two years and ten months due to the suspension order. The suspension order was revoked by the respondent on 29.01.2020 on the ground that the lands belonging to the respective petitioners, for which mining lease was granted, fall outside the Eco-Sensitive zone notified by the Ministry of Environment and Forest, by its notification in S.O.4075(E), dated 08.11.2019. As seen from the revocation order, dated 29.01.2020 issued by the respondent, it is clear that for no fault of the respective petitioners, the mining lease was suspended by the respondent under its order, dated 18.04.2017.

12.The respective petitioners were originally granted mining lease for a period of ten years from 09.08.2010 to 08.08.2020. Admittedly, they were unable to do mining operation in their respective lands between 18.04.2017 to 02.02.2020. Rule 8(8)(ii) of the Tamil Nadu Minor Mineral Concession Rules, 1959, does not prohibit the respective petitioners from seeking permission from the respondent to conduct stone quarrying operation over their respective lands for the non-operative period, when their lands were suspended mistakenly on the ground that their lands fall within Eco-Sensitive zone. Therefore, the contention of the respondent that in view of Rule 8(8)(ii) of the Tamil Nadu Minor Mineral Concession Rules, 1959, the respective petitioners cannot seek permission to conduct mining operation during the non-operative period, has to be necessarily rejected.

13.The very same issue was considered in the authorities relied upon by the learned Senior Counsel for the petitioner. A Division Bench of this Court in the case of the ***District Collector, Namakkal vs K.Anbarasi and another***, passed in ***W.A.Nos.1018 and 1019 of 2010***, by its order, dated 17.03.2011, held that the respondent has got power to permit the lessees to continue with the quarrying



operation, even after the expiry of the lease, in cases, where the lease was suspended and/or lessees were stopped from doing quarrying operations.

14. Another Division Bench of Madras High Court by its judgment, dated 24.07.2014, passed in W.A.No.918 of 2014 in the case of ***District Collector, Krishnagiri and another vs K.A.Gunasekaran***, has held the same view.

15. A learned Single Judge of this Court, by its judgment, dated 11.03.2019, passed in ***W.P.No.34852 of 2018***, in the case of ***P.Subramani vs The District Collector, Krishnagiri and others***, reported in ***CDJ 2019 MHC 1255***, held that Rule 8(8)(ii) of the Tamil Nadu Minor Mineral Concession Rules, 1959, will not get attracted for the non-operative period of the mining lease.

16. After giving due consideration to the submissions made by the learned Senior Counsel for the petitioner as well as to the authorities and orders referred to above, this Court is of the considered view that the respondent has got power to grant permission to the respective petitioners to conduct stone quarrying operation over their respective lands for a period of two years and ten months, which is the non-operative period on account of suspension of the mining lease granted in favour of the respective petitioners for no fault on them. It is also clear from the aforementioned authorities that Rule 8(8)(ii) of the Tamil Nadu Minor Mineral Concession Rules, 1959, does not bar the respondent from granting permission to the respective petitioners for conducting mining operation over their respective lands for the non-operative period on account of suspension of the lease for no fault on the part of the respective petitioners.

17. This Court has also perused and examined the impugned order, dated 10.07.2020 passed by the respondent rejecting the request made by the respective petitioners to conduct stone quarrying operation in their respective lands for the non-operative period. The respondent under the impugned order has erroneously come to the conclusion that Rule 8(8)(ii) of the Tamil Nadu Minor Mineral Concession Rules, 1959, gets attracted for the petitioners' case and hence he does not have power to grant extension during the non-operative period. This Court, therefore, holds that the impugned order is arbitrary, illegal and not passed in accordance with law.

18. For the foregoing reasons, the impugned order, dated 10.07.2020 passed by the respondent is hereby quashed and the respondent is directed to pass an order permitting the respective petitioners to conduct stone quarrying operation over their



respective lands at S.F.Nos.801 and 802, Padmanabhamandalam Village, Srivaikundam Taluk, Thoothukudi District, for a period of two years and ten months, within a period of two weeks from the date of receipt of a copy of this order.

19. With the aforesaid directions, these Writ Petitions are disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CO)

// True Copy //

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Sub Assistant Registrar(CS)

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To

The District Collector,
Thoothukudi District,
Thoothukudi.

+1 CC to M/s.GP (SR-21797[F] dated 10/11/2020)

Order made in

W.P. (MD)Nos.9133 and 9137 of 2020

09.11.2020

KMV(CO)

TR(23.11.2020) 7P 3C