



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.09.2020

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD)No.12029 of 2020

and

WMP (MD) Nos.10375 & 10376 of 2020

M/s.AAR Jay Vee Chemical Products
Company,
Rep.by its Partner,
Mr.J.Senkuttuvan

:Petitioner

Vs.

1.The Secretary to Government,
Industries Department,
Government of Tamil Nadu,
Secretariat, Fort St.George,
Chennai - 600 009.

2.The Commissioner of Geology & Mining,
Guindy,
Chennai - 600 032.

3.The District Collector,
Virudhunagar District,
Virudhunagar.

4.The Assistant Director of Geology & Mining,
Geology & Mining Department,
Virudhunagar,
Virudhunagar District.

:Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records of the 3rd respondent pertaining to his proceedings issued vide Na.Ka.No.KV 1/341/2019 dated 20.08.2019 and Na.Ka.No.KV1/341/2019 dated 30.06.2020 and quash the same.

For Petitioner : Mr.G.Arul Murugan

For Respondents : Ms.S.Srimathy
Special Government Pleader



O R D E R

Heard the learned counsel for the Writ Petitioner and the learned Additional Government Pleader appearing for the respondents. By consent of both parties, this writ petition is taken up for final disposal at the admission stage itself.

2. The Writ Petitioner was granted licence to quarry limestone for a period of 20 years, with effect from 22.08.2008. The petitioner has been issued with the impugned communication dated 20.08.2019 & 30.06.2020, whereby, he is directed to pay a sum of Rs.36,54,988/- as 100% compensation by way of penalty. This order is put to challenge in this Writ Petition on very many grounds.

3. The learned counsel for the Writ Petitioner reiterated all the contentions set out in the affidavit filed in support of the Writ Petition.

4. I am of the view that the issue can be decided on a very short ground. The petitioner had been directed to pay the aforesaid amount on the ground that he had been carrying out quarry operation without getting Environmental Clearance. It is true that the requirement to obtain the Environmental Clearance became necessary following the judgment of the Honourable Supreme Court in **(2012) 4 SCC 629 (Deepak Kumar and others Vs. State of Haryana and others)**. It was implemented in the state of Tamil Nadu also with effect from 15.01.2016. But then, the impugned communication goes beyond the said cut off date. Of course, the petitioner would challenge the authority of the respondents to levy the aforesaid penalty even with effect from the said date.

5. According to the petitioner's counsel, the petitioner would have time to obtain the Environmental Clearance upto 10.01.2017. This issue is now pending consideration in other writ petitions. It is not for me to go into the said aspect as of now. It is obvious that the respondents could not have levied the aforesaid demand on the petitioner herein at least for a period from 22.02.2009 till 14.01.2016, even going by the case of the respondents. Since a composite order has been passed, I have to necessarily interfere with the same.

6. In this view of the matter, the order impugned in the Writ Petition is quashed. The matter is remanded to the file of the respondents to pass orders afresh. As far as the period commencing from 15.01.2016, the defence of the petitioner is left open. Merely because I have remitted the matter, so as to enable the respondents to pass a fresh order, it does not mean that I have foreclosed the defence of the petitioner. The petitioner's contentions are left open.



7. On these terms, the Writ Petition is allowed. There shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

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Sd/-

Assistant Registrar (Writs)

// 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 Secretary to Government,
Industries Department,
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2.The Commissioner of Geology & Mining,
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3.The District Collector,
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4.The Assistant Director of Geology & Mining,
Geology & Mining Department,
Virudhunagar, Virudhunagar District.

+1 CC to M/s.ARULMURUGAN, Advocate (SR-18637[F] dated 01/10/2020)

+1 CC to M/s.GP (SR-18788[F] dated 01/10/2020)

W.P. (MD)No.12029 of 2020

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CO (NA)

AP (28.10.2020) 3P 7C