



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.08.2021

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.Nos. 11715, 11716, 11717, 11718, 11719, 11748,
11749, 12063, 12671 and 12672 of 2015

and

MP Nos.1 to 1, 2 to 2 & 3 to 3 of 2015

S.Ramya Gitanjali	...Petitioner in WP.No.11715 of 2015
P.Palanivel	...Petitioner in WP.No.11716 of 2015
S.K.Sabapathy	...Petitioner in WP.No.11717 of 2015
E.Sudarsanam	...Petitioner in WP.No.11718 of 2015
J.Umapathy	...Petitioner in WP.No.11719 of 2015
Baladitya Saba	...Petitioner in WP.No.11748 of 2015
G.R.Thirumala	...Petitioner in WP.No.11749 of 2015
S.M.Sugumar	...Petitioner in WP.No.12063 of 2015
M.Sudhakar	...Petitioner in WP.Nos.12671& 12672 of 2015

Versus

1. The District Collector,
Vellore District.
2. The Revenue Divisional Officer,
Ranipet.
3. The Deputy Director,
Department of Geology & Mining,
Vellore.
4. Dr.Priyadharshini,
P.A.G. to Collector,
Krishnagiri.

..Respondents in all WPs

Common Prayer : Petitions filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records in proceedings bearing No.Na.Ka.A6/598/13 dated 15.04.2015 of the second respondent and quash the order passed therein and direct the respondent to conduct enquiry as per G.O.M.S.No.27 dated 17.02.2015.



For Petitioners : Mr. M. Suresh Kumar
in all Wps

For R1 to R3 : Mr. Stalin Abhimanyu
Government Counsel
in all WPs

WEB COPY

COMMON ORDER

The petitioners in these writ petitions have challenged the proceedings bearing No.Na.Ka.A6/598/13 dated 15.04.2015 of the second respondent, by which penalty was imposed on the petitioners for having allegedly indulged in excess mining than the extent to which lease was granted in their favour.

2. The learned counsel for the petitioners would contend that the order dated 15.04.2015 passed by the second respondent is illegal and arbitrary. It is his contention that without conducting any survey in the presence of the petitioners, the order dated 15.04.2015 has been passed imposing penalty. According to the learned counsel, even the survey report has not been furnished to the petitioners and therefore, the order dated 15.04.2015 is vitiated. It is also contended that the petitioners have never indulged in excess quarrying as alleged and therefore, the question of payment of penalty will not arise. Further, the petitioners have not been served with a copy of the inspection report, which formed the basis for issuing the order dated 15.04.2015 of the second respondent. The learned counsel for the petitioners therefore would contend that the impugned orders are legally not sustainable and they are liable to be set aside.

3. The learned Government Counsel appearing for the respondent would contend that a show cause notice was issued to the petitioners before passing the order dated 15.04.2015. The petitioners also submitted their reply to the show cause notice and thereafter, the orders dated 15.04.2015 was passed by the second respondent imposing penalty. Further, the Revenue Tahsildar, Walajah Taluk, Vellore District, on the direction of the District Collector, conducted a survey of the lands of the petitioners on various dates. On the basis of the inspection report, show cause notices were issued to the petitioners on various dates and the explanations offered by the petitioners were also considered before passing the order dated 15.04.2015. The order dated 15.04.2015 has clearly spelt out as to the extent of land illegally mined, the quantum generated thereof and the loss occasioned to the exchequer. In any event, as against the order dated 15.04.2015 of the second respondent, there is an alternative remedy of appeal provided before the



Appellate Authority. The petitioners, without approaching the appellate authority, have filed the aforesaid writ petitions under Article 226 of The Constitution of India. In such circumstances, the learned Government Counsel would pray for dismissal of the writ petitions as they are not maintainable.

4. Heard the learned counsel for the petitioners and the learned Government Counsel appearing for the respondents. At the outset, it is seen from the orders, which are impugned in these writ petitions, that there is gross violation of the mining lease granted to the petitioners and they have indulged in mining of excess lands. Before passing the order dated 15.04.2015, show cause notice was issued to the petitioners and they have submitted their explanation. In the explanation submitted by the petitioners, they have narrated about several factual aspects, which were considered and rejected by the second respondent. The allegation as to whether the petitioners have indulged in quarried excess lands, what was the period during which such mining work has been carried out, whether the excess lands were quarried beyond the period of lease, what was the quantum of mineral generated thereof and the exact loss occasioned to the exchequer are matter of facts which cannot be adjudicated by this Court in exercise of power under Article 226 of The Constitution of India.

5. Further, on perusal of the separate order dated 15.04.2015 passed by the second respondent, the facts of the case have been elaborately dealt with individually. Ultimately, it was concluded that the petitioners in these writ petitions have caused loss to the exchequer due to excess mining or quarrying of the leased lands. In the order dated 15.04.2015, it was also clearly stated that if the petitioners are aggrieved by the said order, an appeal can be preferred before the District Collector, Vellore. However, for the reasons best known to them, the petitioners have not preferred any such appeal but they have filed the aforesaid writ petitions before this Court. When there is an alternative and effective statutory remedy available, the present writ petitions filed by the petitioners cannot be entertained.

6. At this stage, the learned counsel for the petitioners submitted that as against the orders dated 15.04.2015, which are impugned in these writ petitions, the petitioners may be given liberty to file an appeal before the appellate authority and the appellate authority may be directed to entertain the appeal without reference to the period of limitation.

7. Having regard to the above submission of the learned counsel for the petitioners, liberty is given to the petitioners to file an appeal before the appellate authority within a period



of two weeks from the date of receipt of a copy of this order and on receipt of any such appeal, the appellate authority shall entertain it without reference to the period of limitation in filing the appeal and dispose of the appeals, if any filed by the petitioners, on merits and in accordance with law, within a period of six weeks thereafter.

8. Granting such liberty to the petitioners, these writ petitions are disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS-II)

//True Copy//

Sub Assistant Registrar

av

To

1. The District Collector,
Vellore District.
2. The Revenue Divisional Officer,
Ranipet.
3. The Deputy Director,
Department of Geology & Mining,
Vellore.

+10cc to Mr.M.Suresh Kumar, Advocate, S.R.No.42864
+1cc to the Government Pleader, S.R.No.42660

WP .Nos. 11715 of 2015 etc., batch

PL(CO)
RGA(20/09/2021)