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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.07.2021

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P. No. 11566 of 2016

Prashant Prasad ...Petitioner

Versus

1. The Government of Tamilnadu
   Rep. By its Principal Secretary
   Home Department
   Fort St. George
   Chennai - 9.

2. The Government of Tamilnadu
   Rep. By its Principal Secretary
   Prohibition and Excise Department
   Fort St. George
   Chennai - 9.

3. The Government of Tamilnadu
   Rep. By its Principal Secretary
   Revenue Department
   Fort St. George
   Chennai - 9.

4. The Government of Tamilnadu
   Rep. By its Principal Secretary
   Hindu Religious Charitable Endowment Department/
   Commercial Taxes Department,
   Fort St. George
   Chennai - 9.

5. The Director General of Police,
   Tamilnadu Police Department,
   Kamarajar Salai,
   Chennai.

6. The Commissioner,
   Commercial Taxes Department,
   Chepauk, Chennai.

7. The Director of Mines and Minerals,
   Guindy, Chennai.

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8. The District Collector,
   Kanyakumari District
   Nagercoil.

9. The Superintendent of Police,
   Kanyakumari District
   Nagercoil.

10. The District Collector,
    Coimbatore District,
    Coimbatore.

11. The Superintendent of Police,
    Coimbatore District,
    Coimbatore.

12. The District Collector,
    Tirunelveli District
    Tirunelveli.

13. The Superintendent of Police,
    Tirunelveli District
    Tirunelveli ...Respondents

Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus directing the respondents No.1 to 7 to issue necessary direction to the respondents No.8 to 13 to permit the vehicles of petitioner's enterprises with sand to cross the State of Tamilnadu, especially the District Limit of Coimbatore, Kanyakumari and Tirunelveli to reach Kerala based on petitioner's representation dated 23.02.2016 made to the respondents No.1 to 7.

For Petitioner : Mr. M. Sarfudeen Ali Ahamed

For R1 to R13 : Mr. Stalin Abimanyu
Government Advocate

O R D E R

Heard the counsel for both sides and perused the documents enclosed in the typed set of papers.

2. According to the petitioner, he is engaged in the business of transportation and is the Proprietor of the firm

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"M/s. Pulimootil Enterprises" having registered office in the State of Kerala and also an office in the State of Orissa. The petitioner would state that he had obtained necessary permission and/or licence to transport sand, aluminium bar, steel reinforced cement bricks, cement etc., from the concerned authorities at Orissa and has been doing his business lawfully. For the purpose of transporting the construction materials from Orissa to Kerala, the petitioner also said to have obtained permission from the authorities in the State of Karnataka, Andhra as also the Government of Tamil Nadu. However, the petitioner's vehicles were intercepted by the respondents 1 to 7 without any justification. Therefore, on 23.02.2016, the petitioner submitted a representation to the respondents 1 to 7 and requested to issue necessary direction to the subordinates in the State not to intercept the vehicles of the petitioner which are transporting sand from the State of Orissa to Kerala. According to the petitioner, his representation has not been considered by the respondents 1 to 7 and therefore, the present writ petition is filed for issuing appropriate direction.

3. Upon notice, the thirteen respondent filed a detailed counter affidavit, wherein in paragraph 12, it is specifically averred as follows:

> "12. I further submit that in M/s RGNS Enterprises represented by its Managing Partner Mr.N.Gokulakannan Vs The commissioner, Dept., of Geology & Mining, Thiruvika Industrial Estate, the Hon'ble Madras High Court has observed that the transportation of sand should be allowed across the border unless such inter-state sale and transportation are permitted by the competent authorities and also directing the officers at check posts to be more vigilant and Collusion or Connivance, if any, noticed, should be dealt with stringent action. Rejecting the petition, the Hon'ble Judge further quoted "When inter-state transportation is impermissible, the Petitioner's plea is beyond the legislative police of the State Government which has prohibited transportation of sand across the border. "

4. In the light of the averments made in the counter affidavit filed by the second respondent, this Court directs the respondents 1 to 7 to consider the petitioner's representation dated 23.02.2016 and pass appropriate orders, on merits and in accordance with law after affording an opportunity of hearing to him. Such an exercise shall be completed within a period six weeks from the date of receipt of a copy of this order.

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5. With the above direction, this Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

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To

1. The Principal Secretary,
The Government of Tamilnadu,
Home Department,
Fort St. George,
Chennai - 9.

2. The Principal Secretary,
The Government of Tamilnadu,
Prohibition and Excise Department,
Fort St. George,
Chennai - 9.

3. The Principal Secretary,
The Government of Tamilnadu,
Revenue Department,
Fort St. George,
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4. The Principal Secretary,
The Government of Tamilnadu,
Hindu Religious Charitable Endowment Department/
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    Tirunelveli.

13. The Superintendent of Police,
    Tirunelveli District
    Tirunelveli.

+1cc to the Government Pleader, S.R.No.33267

WP No. 11566 of 2016

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NSK 07/09/2021

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