

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.02.2021

C O R A M

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE
W.P.No.3337 of 2012

M/s.Radha Lime Stone Mines,
Rep by its Managing Partner,
K.M.Ramakrishnan,
No.107, State Bank Colony,
Phase-III,
Salem 636 004

... Petitioner

Vs..

1. The State of Tamil Nadu,
Rep by its Secretary to Government,
Industries Department,
Fort St.George,
Chennai 600 009.
2. The Commissioner of Geology and Mining,
Guindy,
Chennai 600 032

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorarified mandamus calling for the records of the second respondent in his proceeding in Rc.No.1955/MM4/2009 dated 06.01.2011 and quash the same and direct the respondents to consider the petitioner's application dated 16.06.2008, afresh after giving opportunity to the petitioner in respect of Lime Stone Quarry situated in Survey No.12/2(P), 13/2(P) etc., in Palayam Village, Vedasandur Taluk, Dindigul District.

For Petitioner : Mr.K.R.Krishnan
For Respondents : Mr.Akhil Akbar Ali
Government Advocate.

ORDER

This Writ Petition has been filed challenging the order dated 06.01.2011 passed by the second respondent rejecting the petitioner's application seeking for Mining lease for Limestone over an extent of 4.60.5 hectares of patta land in SF.Nos.12.2 (P) (0.40.0), 13/2(P) (0.04.0), 14/1A2(P) (0.32.0), 14/1B2(P) (0.90.05), 15//1A(1.45.0), 16/1(P) (1.26.5) and 17/1 (0.22.5) situated in Palayam Village, Vedasandur Taluk, Dindigul District on the ground that the area applied for mining lease falls

within a radius of 20 kms of the existing cement plant, namely, Chettinad Cement Corporation, Karikali and thereby it attracts the instructions issued in Government Letter No.121, Industries Department dated 05.02.1988 which prohibits grant of mining lease to other than cement companies.

2. The petitioner has challenged the impugned order on the ground that the impugned order has been passed arbitrarily and by violation of principles of natural justice. According to the petitioner, the second respondent-Board before passing the impugned order has not issued any notice to the petitioner and therefore has violated Rule 5 of the Mineral Concession Rules, 1960. Rule 5 of the Mineral Concession Rules, 1960 reads as follows:-

"5. Refusal of application for a reconnaissance permit -(1) The State Government may after giving an opportunity of being heard and for reasons to be recorded in writing and communicated to the applicant, refuse to grant a reconnaissance permit over the whole or part of the area applied for.

(2) Where it appears that the application is not complete in all material particulars or is not accompanied by the required documents, the State Government shall, by notice, require the applicant to supply the omission or, as the case may be, furnish the documents without delay and in any case not later than thirty days from the date of receipt of the said notice by the applicant"

3. As seen from the impugned order while rejecting the petitioner's application seeking for mining lease for lime stone, admittedly, no notice was given to the petitioner and no opportunity of hearing was given to them in support of their application seeking for mining lease for lime stone.

4. Therefore, this Court is of the considered view that the second respondent has violated the principles of natural justice before passing the impugned order. Hence, the impugned order dated 06.01.2011 passed by the second respondent has to be necessarily quashed and the matter remanded back to the second respondent for fresh consideration on merits and in accordance with law, after affording a fair hearing to the petitioner.

5. In the result, the impugned order dated 06.01.2011 is hereby quashed and the matter is remanded back to the second respondent for fresh consideration and the second respondent shall pass final orders on merits and in accordance with law in the application submitted by the petitioner seeking for mining

lease for lime stone in their property, measuring an extent of 4.60.5 Hectares in SF.Nos.12.2(P) (0.40.0), 13/2(P) (0.04.0), 14/1A2(P) (0.32.0), 14/1B2(P) (0.90.05), 15//1A(1.45.0), 16/1(P) (1.26.5) and 17/1 (0.22.5) situated in Palayam Village, Vedasandur Taluk, Dindigul District, after affording a fair hearing to the petitioner, within a period of 12 weeks from the date of receipt of a copy of this order.

6. With the aforesaid directions, the Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

srn

To

1. The Secretary to Government,
State of Tamil Nadu,
Industries Department,
Fort St.George,
Chennai 600 009.
2. The Commissioner of Geology and Mining,
Guindy,
Chennai 600 032.

+1CC to Mr.K.R.Krishnan Advocate, SR No. 11941.

+1CC to The Government Pleader, SR No. 12766.

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GMI (CO)
NRA(10/03/2021)