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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.06.2021

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THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.No.7553 of 2013
and M.P.No.1 of 2013

M/s.Rane Blue Metals,
Rep. By its Managing Partner
Mr.R.Rajendran
No.4/39-1, Chinnamudalaipatti,
Namakkal Taluk,
Namakkal District.

... Petitioner

Vs

The Sub Collector,
Namakkal District,
Namakkal.

...

Respondents

Prayer : This Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records pertaining to the respondent's common notice of hearing bearing Roc.No.1517/2013 (M-1) dated nil-02-2013 signed and despatched on 08.03.2013 and quash the same.

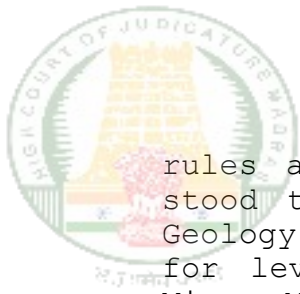
For Petitioner : M/s.K.Ramakrishna Reddy

For Respondent : Mr.Stalin Abhimanyu
Government Advocate

O R D E R

Challenging the show cause notice dated 08.03.2013, issued by the respondent, the petitioner has come up with this writ petition.

2.The case of the petitioner is that they were granted permission for stone quarry in Survey No.176(Part) Bit - 6, situated in Pottanam Village, Namakkal Taluk, Namakkal District. Pursuant to the same, a lease agreement was executed on 24.05.2011 for a period of five years commencing from 24.05.2011 to 23.05.2016. After execution of the same, the petitioner has taken possession of the subject quarry and commenced operations by investing huge amounts and transporting the quarried mineral on payment of necessary seigniorage by strictly following the



rules and conditions of the lease agreement. While the things stood thus, based on the report of the Assistant Director of Geology and Mining dated 08.02.2013 recommending to take action for levying penalty on the petitioner as per the Tamil Nadu Minor Mineral Concession Rules, 1959, r/w Rule 36-A (1) & (5) for the alleged removal of 8673 tractor loads of stones illegally, contrary to the permit granted to them to a quantity of 10050 cbm or 3350 tractor loads, the respondent issued the impugned show cause notice dated 08.03.2013, calling upon the petitioner to be present and explain as to why revenue loss to the Government should not be recovered from them. Aggrieved over the same, the petitioner is before this Court with the present writ petition for the aforesaid relief.

3.The learned counsel for the petitioner submitted that though the impugned notice is styled as show cause notice, the respondent already pre-determined everything viz., the petitioner has indulged in illegal quarrying, the quantity of stones alleged to have been illegally quarried, etc. that too, without issuing any notice and / or conducting enquiry and hence, the same is arbitrary, illegal and in violation of the principles of natural justice. Placing reliance on the decision of the Supreme Court in Siemens Limited v. State of Maharashtra and others [(2006) 12 SCC 33], the learned counsel submitted that when a notice is issued with premeditation, a writ petition would be maintainable and in such an event, even if the court directs the statutory authority to hear the matter afresh, ordinarily such hearing would not yield any fruitful purpose. The said decision was followed by this Court in several cases. Thus, the learned counsel sought to allow this writ petition by setting aside the notice impugned herein.

4.On the other hand, the learned Government Advocate appearing for the respondents resisted the averments so made in the writ petition and submitted that the notice impugned herein is only a show cause notice calling upon the petitioner to explain their stand with regard to the allegation raised against them, whereas the petitioner without doing so, rushed to this Court by filing the present writ petition to quash the same. The learned Government Advocate further submitted that the respondent would take any action against the petitioner, after following the principles of natural justice.

5.This Court, after considering the submissions made on either side and upon perusal of the documents enclosed in the typed set of papers, is of the view that to meet the ends of justice, the petitioner can be directed to submit their reply in writing to the notice impugned herein, by treating it as show cause notice, along with documentary evidence to the respondent, within a period of three weeks from the date of receipt of a



copy of this order and it is accordingly, ordered. On receipt of the same, the respondent shall consider the same and pass appropriate orders, on merits and in accordance with law, after affording an opportunity of personal hearing to the petitioner, within a period of eight weeks thereafter.

6. This writ petition stands disposed of in the above terms. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

rgr

To

The Sub Collector,
Namakkal District,
Namakkal.

+1cc to the Government Pleader, S.R.No.29386

W.P.No.7553 of 2013

KV(CO)
CB(13/08/2021)



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R.MAHADEVAN, J.
rgr

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