

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 25.10.2021

PRONOUNCED ON : 11.11.2021

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

W.P.No.13675 of 2021

V.Dileep

...Petitioner

Versus

1. The District Collector,
Office of the District Collector,
Coimbatore District.
2. The Assistant Director,
Department of Geology and Mining,
Coimbatore.
3. The Superintendent of Police,
Office of the Superintendent of Police,
Coimbatore District.
4. The Inspector of Police,
Kinathukadavu Police Station,
Coimbatore District.

5.Balasubramaniam

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus directing the 3rd and 4th respondents to provide police protection to the petitioner to peacefully carryout the quarrying operations in 728/2, 729/1, 729/2, 729/3 for an extent of 2.78.5 Hectares at Sokkanur Village, Kinathukadavu Taluk, Coimbatore in accordance with the license issued to the petitioner by the 2nd respondent in Na.Ka.No.267/Kanimam/2019, dated 20.11.2020 for a period of 5 years from 20.11.2020 to 19.11.2025 by considering the petitioner's complaint in C.S.R.No.95/2021, dated 19.06.2021.

For Petitioner : Mr.M.Habeeb Rahman

For R1 to R4 : Mr.A.Damodaran,
Additional Public Prosecutor

For R5 : Mr.C.R.Prasanan

ORDER

This Writ Petition has been filed to direct the 3rd and 4th respondents to provide Police protection to the petitioner to peacefully carry out the quarry operations in 728/2, 729/1, 729/2, 729/3 for an extent of 2.78.5 Hectares at Sokkanur Village, Kinathukadavu Taluk, Coimbatore in accordance with the license issued to the petitioner by the 2nd respondent in Na.Ka.No.267/Kanimam/2019, dated 20.11.2020 for a period of 5 years from 20.11.2020 to 19.11.2025 by considering the petitioner's complaint in C.S.R.No.95/2021, dated 19.06.2021.

2.The learned counsel for the petitioner submitted that the petitioner was granted quarry license for quarrying rough stone and gravel quarry at 728/2, 729/1, 729/2, 729/3 for an extent of 2.78.5 Hectares at Sokkanur Village, Kinathukadavu Taluk, Coimbatore by the 2nd respondent. The necessary environmental clearance is also granted vide Lr.No.SEIAA-TN/F.No.7214/1(a)/EC.No.4148/2020, dated 10.02.2020 by the Member Secretary, State Level Environment Impact Assessment Authority. Further to it, the 2nd respondent executed quarry cum lease agreement in document No.7100 of 2020, dated 24.11.2020 on the file of the Sub Registrar Office, Kinathukadavu for quarry purpose in the above said survey numbers for a period of five years from 20.11.2020 to 19.11.2025 for a seigniorage fee of Rs.3,21,10,956/-. This being the case, the 5th respondent and his henchmen from Sokkanur Village used to stop the lorries carrying stones to pay mamool for them, since they are powerful persons and threatened that without their approval, no transportation can be done and also gave life threat to them. The lorry drivers informed the 5th respondent and his henchmen about the proper license and clearance obtained from all the authorities, but they failed to heed the same and continued their threat and illegally demanded mamool/protection money.

3.The learned counsel further submitted that on 19.06.2021, the petitioner approached the 4th respondent to take legal action against the 5th respondent and his henchmen and also to provide police protection. Though C.S.R.No.95 of 2021 was assigned, no action taken. The respondents 3 and 4 are duty bound to consider the petitioner's complaint and also to provide Police protection for unhindered quarry operation to be carried out by the petitioner who were granted license, approval and Environment Clearance Certificate by the respondents 1 and 2. The petitioner, due to the 5th respondent's high handedness and obstruction, is undergoing huge loss of interest to the seigniorage fee of Rs.3,21,10,956/-.

4.In support of his submission, the learned counsel for the petitioner produced the Environment Clearance Certificate, dated

10.02.2020, Quarry cum Lease Agreement, dated 20.11.2020, Certificate of Registration for Transport, dated 12.02.2021, the complaint dated 19.06.2021, the copy of C.S.R.No.95 of 2021 issued by the 4th respondent Police and the orders passed by this Court in W.P.No.1963 of 2021, dated 04.02.2021 and W.P.No.9128 of 2021, dated 17.04.2021, wherein this Court on similar grounds had granted Police protection for quarrying of stones and transportation of the same.

5.The learned Additional Public Prosecutor appearing for the respondents 1 to 4 submitted that on the complaint of the petitioner, enquiry was conducted by the 4th respondent. Both the petitioner and the 5th respondent partook in enquiry and they were explained that the Police, Revenue and the Department of Geology officials are having control and regularly visiting the quarry operation of the petitioner and also verifying all the safeguards being properly followed. Usage of explosives were ascertained and misgivings of the 5th respondent and other villagers were clarified. He further submitted that the petitioner is carrying on the quarry operation after obtaining the Environment Clearance Certificate, dated 10.02.2020, Certificate of Registration for Transport, dated 12.02.2021 and got approval from the District Collector, Coimbatore and the Assistant Director of Mines and Minerals. The Tahsildar, Kinathukadavu in Na.Ka.No1428/2021/A1, dated 13.08.2021 confirmed that there is no violation by the petitioner and clarified the topography of the place around the quarry. He further submitted that if there is any violation, the 4th respondent Police as well as the concerned official would take action against the petitioner. Without concrete complaint and material, the operation and right of the business of the petitioner cannot be curtailed/stopped merely on the ground of emotional obstruction by the 5th respondent and others.

6.The learned counsel for the 5th respondent filed counter affidavit and submitted that the petitioner hails from the State of Kerala and is carrying on the quarry operation in the lands near the cultivating lands of the 5th respondent and others, who are farmers of Veerappa Goundanur Village. The quarry is situated near the residential quarters, agricultural lands, channel (odai)and burial grounds. Hence, the farmers of Veerappa Goundanur Village made objections, which was not considered by the revenue authorities and other officials and license was granted to the petitioner by the District Collector on 20.11.2020. Further, the quarry operation created noise pollution, dust pollution, besides being polluting ground water in the nearby wells. He further submitted that the 5th respondent sent a letter on 17.12.2020 to the 1st respondent and other revenue authorities requesting the District Collector and other officials to take action against the petitioner. The Revenue

Inspector, Village Administrative Officer, Panchayat Inspector inspected the spot on 12.12.2020 and instructed the petitioner to come to the revenue officials office on 14.12.2020 for giving an undertaking that such incident of flying of stones, which caused damage to the field will not occur in future. The petitioner failed to respond to the directions of the revenue officials, on the other hand continued his quarry operations. The check dam and channels (odai), which runs near the petitioner's land was obstructed and culvert put on odai near the petitioner's lands to have a pathway from their lands. The farmers of the village are being affected overall due to the operation of the quarry of stones by using explosives. When the villagers agitated the same, the Tahsildar came to the spot, heard the grievance of the farmers and assured that action would be taken against the petitioner and would stop the quarry operation. The agitation had been widely covered and published in the newspaper viz., Dinakaran on 20.06.2021. Enraged over the same, a false complaint was lodged by the petitioner against the 5th respondent and others as though they are threatening and extracting money from the petitioner.

7.It is further submitted that it is very painful to hear that the petitioner terming the 5th respondent and other villagers as though they are collecting mamool from the lorry drivers. The complaint lodged by the 5th respondent was closed in C.S.R.No.95 of 2021 citing the orders passed by this Court in W.P.No.1963 of 2021, dated 04.02.2021 and W.P.No.9128 of 2021, dated 17.04.2021. The legal notice sent by the 5th respondent to the 1st respondent on 07.11.2019; the order passed by the 1st respondent on 25.02.2020; the 5th respondent sent a representation to the 1st respondent and other revenue officials on 17.12.2020; the paper publication in Dinakaran Newspaper; Topo Plan showing the boundaries of the certified land where the quarry operation is carried out and the photographs of the quarry near the field of the 5th respondent and other villagers, are produced by way of typed set.

8.This Court considered the rival submissions and perused the materials available on record.

9.It is seen that the petitioner had been granted Quarry cum Lease Agreement by the Assistant Director, Department of Geology and Mining, Coimbatore. The District Collector had approved the same and also gave Certificate of Registration for Transport, dated 12.02.2021. The Environment Clearance Certificate had been granted by the Member Secretary, State Level Environment Impact Assessment Authority in Lr.No.SEIAA-TN/F.No.7214/1(a)/EC.No.4148/2020 on 10.02.2020. Thus, the petitioner had complied with all the statutory requirement for operation of the quarry. The objection by the 5th respondent that the petitioner

is from Kerala and the villagers are objecting for quarrying stones, cannot be sustained merely on emotion. Earlier to the grant of license to the petitioner, the 5th respondent sent a legal notice to the 1st respondent, which was considered. After getting all the clearance, the petitioner commenced the quarry operation and he has paid huge sums as seigniorage fee. The right of trade and business is a fundamental right, which cannot be curtailed/stopped without proper reason.

10.In a similar situation, this Court in W.P.No.1963 of 2021, dated 04.02.2021 and W.P.No.9128 of 2021, dated 17.04.2021 had allowed the operation of quarry.

11.In the considered view of this Court, the petitioner having been given a valid license to carry on with the quarrying operations, no one can stop the petitioner from carrying on with the quarry operations under the threat of extortion and the same can never be encouraged. The 4th respondent is directed to immediately act upon the complaint made by the petitioner and if there is any threat or resistance from any persons, appropriate action can be taken against them immediately and if required, police protection shall also be given to the petitioner. It is made clear that if the petitioner has to pay any charges towards police protection, the same shall be paid to the Police. The petitioner is directed to make a fresh representation to the 4th respondent along with a copy of this order.

12.This Writ Petition is disposed of with the above directions. No costs.

Sd/-
Assistant Registrar(CS-VIII)

//True Copy//

Sub Assistant Registrar

vv2

To

1. The District Collector,
Office of the District Collector,
Coimbatore District.
2. The Assistant Director,
Department of Geology and Mining,
Coimbatore.

3. The Superintendent of Police,
Office of the Superintendent of Police,
Coimbatore District.
4. The Inspector of Police,
Kinathukadavu Police Station,
Coimbatore District.
5. The Public Prosecutor,
High Court, Madras.

+2cc to Mr.M.Habeeb Rahman, Advocate, S.R.No.58358

+1cc to M/s.C.R.Prasanan, Advocate, S.R.No.58224

W.P.No.13675 of 2021

SJ(CO)
RGA(22/11/2021)