



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.09.2021

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.NO.18723 OF 2021

AND

WMP.NO.19990 OF 2021

Kamalakanni

.. Petitioner

Versus

1. The District Collector
Villupuram District, Villupuram

2. The District Collector
Kallakurichi District
Kallakurichi 606 202

3. The Assistant Director
Department of Geology and Mining
Kallakurichi District - 605 602

4. The Revenue Divisional Officer
Thirukovilur, Kallakurichi - 605 757

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari to call for the records pertains to original impugned order in order No. Na.Ka.A2/86/2021-I dated 24.07.2021 passed by the 4th respondent and to quash the same as highly illegal and against the principles of natural justice

For Petitioner : Mr. J.Kumaran

For Respondents : Mr. G.Krishnaraja
Government Counsel

ORDER

The present writ petition has been filed seeking to call for the records pertaining to the order No. Na.Ka.A2/86/2021-I dated 24.07.2021 passed by the 4th respondent and to quash the same.



2. According to the petitioner, he was a lease holder for quarrying rough stone. When the period of quarry was to expire, he submitted an application for renewal. On the basis of such application, the third respondent inspected the land and submitted a report indicating that there is no violation of the conditions of lease. In spite of such report, the fourth respondent passed the order imposing penalty payable by the petitioner on the ground that he had quarried the land than what was leased out to him. However, the fourth respondent has not issued any inspection report to show the nature of violation committed by the petitioner warranting imposition of penalty. Therefore, it is contended that the impugned order was passed in violation of the principles of natural justice, hence, this Writ Petition.

3. The learned counsel for the petitioner submits that the report filed by the inspecting authorities is the basis for the fourth respondent to levy penalty. However, such a report has not been served to the petitioner. Therefore, the learned counsel for the petitioner seeks to set aside the impugned order and to direct the fourth respondent to furnish a copy of the inspection report.

4. The learned Government Counsel appearing for the respondents on the other hand submitted that the writ petition is not maintainable inasmuch as there is an alternative and effective remedy of appeal available to the petitioner to challenge the order passed by the fourth respondent. However, the petitioner, without exhausting such remedy, has filed the present writ petition. Therefore, the learned Government Counsel prayed for dismissal of the writ petition.

5. Heard both sides and perused the documents enclosed in the typed set of papers. On perusal of the order impugned in this writ petition, it is evident that the fourth respondent has come to a conclusion that the petitioner has violated the conditions of lease, based on a report filed by the inspection authority. However, the copy of the inspection report has not been served on the petitioner. Further, in the order dated 24.07.2021, it was clearly indicated that if the petitioner is aggrieved by such order, an appeal can be preferred before the District Collector, Kallakurichi. When such an alternative remedy of appeal is provided, it is just and proper for the petitioner to file an appeal instead of filing this writ petition.

6. Accordingly, this writ petition is disposed of. No costs. The fourth respondent is directed to furnish a copy of the inspection report to the petitioner within a period of one week from the date of receipt of a copy of this order. On



receipt of the same, the petitioner is directed to file an appeal before the appellate authority within a period of two weeks thereafter. If any such appeal is filed, the appellate authority shall entertain the same without reference to the delay in filing the appeal by excluding the period spent in prosecuting this writ petition before this Court.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

dhk/rsh

To

1. The District Collector
Villupuram District
2. The District Collector
Kallakurichi District
Kallakurichi
3. The Assistant Director
Department of Geology and Mining
Kallakurichi District - 605 602
4. The Revenue Divisional Officer
Thirukovilur, Kallakurichi - 605 757

+1cc to the Government Pleader, S.R.No.45828

WP No. 18723 of 2021

JP II(CO)
PM/07/10/2021