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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.11.2021

CORAM :

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No. 25400 of 2021

M/s.Star Mines and Minerals
Rep. by its Proprietor N. Sargunam,
4 - 204 Main Road,
Valakudi Post,
Thiruthuraipoondi Taluk
Thiruvarur District - 614715.

... Petitioner

-Vs-

1. The Union of India,
Rep. by its Secretary to Government
Ministry of Environment, Forest and Climate Change,
Paryavaran Bhavan, Jor Bagh,
New Delhi - 110003.

2. State Environment Impact Assessment Authority
(SEIAA) Rep. by its Member Secretary
No. 1, Jeenis Road, Panagal Building
Third Floor, Saidapet,
Chennai - 600015.

... Respondents

Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus or any other writ, directing the 2nd respondent to process the application for environmental clearance dated 3.9.2016 as per the clarification issued by the Government of India Ministry of Environment and Forest and Climate Change (Impact Assessment Division) in F. No. 22 - 28 / 2020 - IA. III dated 12.11.2020 regarding dispensing with public hearing in respect of petitioner's Silica quarry over an extent of 1.49.0 hectares in his patta lands in S. No. 254 / 1-1 and 231 / 5 in Chettipulam Village Vedaranyam Taluk Nagapattinam District.

For Petitioner : Mr. K.R.Krishnan

For Respondents : M/s Sunitha Kumari
Standing Counsel



O R D E R

The petitioner has filed this writ petition seeking issuance of Writ of Mandamus to direct the 2nd respondent to process the application of the petitioner seeking environmental clearance dated 03.09.2016 as per the clarification issued by the Government of India Ministry of Environment and Forest and Climate Change (Impact Assessment Division) in F. No. 22 - 28 / 2020 - IA. III dated 12.11.2020 regarding dispensing with public hearing in respect of petitioner's Silica quarry over an extent of 1.49 hectares in his patta lands in S. No. 254 / 1-1 and 231 / 5 in Chettipulam Village, Vedaranyam Taluk Nagapattinam District.

2. M/s Sunitha Kumari, learned Standing Counsel takes notice for the first and second respondent. In view of the limited relief sought for in this petition, on the consent expressed by the Learned counsel appearing for either side, this petition is taken up for final disposal.

3. The case of the petitioner is that he is the managing partner of the petitioner's company which is engaged in the business of mining and selling limestone and they are carrying out the said activity in an extent of 1.49 hectares in the patta lands S.No. 254/1-1 and 231/5 in Chettipulam Village, Vedaranyam Taluk, Nagapattinam District. The petitioner has filed an application dated 03.09.2016 seeking Environmental Clearance (for short 'EC') under the EIA Notification 2006. It is submitted that as per the EIA Notification 2006, the mining activity carried out by the Petitioner comes under the category of B2 Projects and the extent of land being less than 5 hectares, the process of issuing EC to the Petitioner's mining activity does not warrant a public hearing or "public consultation" in light of the same being excluded in the EIA Notification 2006. The Ministry of Environment, Forest and Climate Change issued a Notification in S.O.804(E) dated 14.03.2017 so as to provide an opportunity to comply with the conditions for obtaining Environmental Clearance and accordingly, the Petitioner filed his application on 03.04.2018 to the Respondent herein. The 1st Respondent issued an Office Memorandum dated 12.11.2020 stating that:

"In this regard, while considering the applications for Environmental Clearance under the violation category as per the provisions of S.O.804(E) dated 14.03.2017, the EACS / SEACS may insist upon public hearing to be conducted only for those categories of projects or which the EIA Notification, 2006 itself requires public hearing to be conducted"



Hence, in the light of the memorandum issued, the petitioner approached the 1st respondent to consider its application dated 03.04.2018. However, the 1st respondent insisted on the conduct of a public hearing and refused to process with the issuance of Environmental Clearance, even though the petitioner is an excluded category as per the EIAN Notification 2006.

4. It is further submitted that, it cannot be denied that the SEIAA has to issue TOR to the petitioner's company which comes under B2 category without public hearing, as per the orders of this Court dated 14.03.2018, However, since no orders have been passed till date and the same is pending for more than two years, the petitioner made representation dated 05.01.2021 before the 2nd respondent, since no action has been taken by the 2nd respondent, the petitioner filed W.P.No.955/2021 before this Court and the same was allowed with the direction to consider the petitioner's representation dated 05.01.2021. However, till date no order has been passed. Hence, this Writ petition is filed.

5. Learned counsel appearing for the petitioner submitted that in-spite of several orders of the Hon'ble First Bench of this Court and various clarifications issued on MOEF on the question of public hearing for B2 mining projects still SEIAA (2nd respondent) is issuing Terms of Referenced (TOR) only with public hearing for violation cases which not at all required. Further, the State Environmental Assessment Authority has passed an order dated 07.09.2016 seeking some clarification in the petitioner's application, thereafter, the petitioner made a fresh application on 08.04.2018. Since no action was taken for grant of EC, the petitioner filed a writ petition in W.P.No.955/2021 before this Court. Though this Court vide order dated 15.04.2021 issued direction to the respondent to consider the petitioner's representation and pass orders, till date no final order was passed. Hence, this Court may issue direction to the respondent to consider the petitioner's application dated 03.09.2016 and subsequent application dated 08.4.2018 for issuance of environmental clearance certificate and representation dated 05.01.2021 and pass appropriate orders in favour of the petitioner.

6. Learned standing counsel appearing on behalf of the respondents submitted that the petitioner's representation will be considered and appropriate order will be passed within the time stipulated by this Court.

7. In view of the aforesaid submissions, this Court without expressing any opinion on the merits of the case, directs the



2nd respondent to consider the petitioner's representation dated 05.01.2021 on merits and in accordance with law and pass appropriate orders, within a period of twelve weeks from the date of receipt of a copy of this order.

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8. This writ petition is accordingly disposed of. No costs.

Sd/-
Assistant Registrar

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Sub Assistant Registrar

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To

1. The Secretary to Government,
Union of India,
Ministry of Environment, Forest and Climate Change,
Paryavaran Bhavan, Jor Bagh,
New Delhi - 110003.
2. The Member Secretary,
State Environment Impact Assessment Authority,
(SEIAA)
No. 1, Jeenis Road, Panagal Building,
Third Floor, Saidapet,
Chennai - 600015.

+1cc to Mr.K.R.Krishnan, Advocate Sr.62295
+2cc to Mr.A.R.Sakthivel, Advocate Sr.62440

W.P.No. 25400 of 2021

srg 03/01/2022