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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 08.12.2021

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THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

W.P.Nos.8260 to 8264 of 2017

and

W.M.P.Nos.9020 to 9029 of 2017

R.Palanisamy,  
Proprietor, M/s.Soundararajan Mines and Minerals,  
No.202, Sengodampalayam,  
O.Rajapalayam Post, Tiruchengode Taluk,  
Namakkal District. ... Petitioner in WP.No.8260/2017

M/s.Sakthi Mining Company,  
Rep.by its Proprietor,  
R.Palanisamy,  
No.202, Sengodampalayam,  
O.Rajapalayam Post, Tiruchengode Taluk,  
Namakkal District. ... Petitioner in WP.No.8261/2017

M/s.Max Mining Syndicate,  
Rep.by its Partner R.Palanisamy,  
No.202, Sengodampalayam,  
O.Rajapalayam Post,  
Tiruchengode Taluk,  
Namakkal District. ... Petitioner in WP.No.8262/2017

R.Palanisamy ... Petitioner in WP.No.8263/2017

M/s.D.V.Minerals,  
Rep.by its Partner R.Palanisamy,  
No.85/1, Theppakulam Street,  
Tiruchengode, Namakkal District. ... Petitioner in WP.No.8264/2017

Vs.

1. The Commissioner of Geology & Mining,  
Guindy, Chennai - 600 032.
2. The District Collector,  
Salem District, Salem.



3. The Assistant Director of Geology & Mining,  
Geology & Mining Department,  
Salem, Salem District.
4. State Level Environment Impact Assessment Authority (SEIAA),  
Rep.by its Member Secretary,  
Panagal Building, Chennai - 600 015.
5. The Secretary to Government,  
Ministry of Environment, Forest & Climate Change,  
Government of India,  
Indira Paryavaran Bhawan, Jor Bagh, New Delhi - 110 003.
6. The Secretary to Government,  
Industries Department,  
Government of Tamil Nadu,  
Secretariat, Fort St.George,  
Chennai - 600 009.

...Respondents in WP.Nos.8260 & 8262/2017

1. The Commissioner of Geology & Mining,  
Guindy, Chennai - 600 032.
2. The District Collector,  
Namakkal District, Namakkal.
3. The Assistant Director of Geology & Mining,  
Geology & Mining Department,  
Namakkal, Namakkal District.
4. State Level Environment Impact Assessment Authority (SEIAA),  
Rep.by its Member Secretary,  
Panagal Building, Chennai - 600 015.
5. The Secretary to Government,  
Ministry of Environment, Forest & Climate Change,  
Government of India,  
Indira Paryavaran Bhawan, Jor Bagh, New Delhi - 110 003.
6. The Secretary to Government,  
Industries Department,  
Government of Tamil Nadu,  
Secretariat, Fort St.George,  
Chennai - 600 009.

... Respondents in WP.No.8261/2017

1. The Commissioner of Geology & Mining,  
Guindy, Chennai - 600 032.
2. The District Collector,  
Virudhunagar District, Virudhunagar.



3. The Assistant Director of Geology & Mining,  
Geology & Mining Department,  
Virudhunagar District, Virudhunagar.
4. State Level Environment Impact Assessment Authority (SEIAA),  
Rep.by its Member Secretary,  
Panagal Building, Chennai - 600 015.
5. The Secretary to Government,  
Ministry of Environment, Forest & Climate Change,  
Government of India,  
Indira Paryavaran Bhawan, Jor Bagh, New Delhi - 110 003.
6. The Secretary to Government,  
Industries Department,  
Government of Tamil Nadu,  
Secretariat, Fort St.George,  
Chennai - 600 009. ... Respondents in WP.No.8263/2017
1. The Commissioner of Geology & Mining,  
Guindy, Chennai - 600 032.
2. The District Collector,  
Dindigul District, Dindigul.
3. The Assistant Director of Geology & Mining,  
Geology & Mining Department,  
Dindigul District, Dindigul.
4. State Level Environment Impact Assessment Authority (SEIAA),  
Rep.by its Member Secretary,  
Panagal Building, Chennai - 600 015.
5. The Secretary to Government,  
Ministry of Environment, Forest & Climate Change,  
Government of India,  
Indira Paryavaran Bhawan, Jor Bagh, New Delhi - 110 003.
6. The Secretary to Government,  
Industries Department,  
Government of Tamil Nadu,  
Secretariat, Fort St.George, Chennai - 600 009.  
... Respondents in WP.No.8264/2017

PRAYER in WP.No.8260/2017: Petition filed Under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, to forbear the respondents from in any manner interfering with the mining operations of the petitioner insisting Environmental Clearance and continue to issue transport permits to excavate



and transport Limestone on payment of requisite royalty, from the existing mining lease area measuring an extent of 0.45.5 Hectares in Survey No.243/1 of Chinnagoundanur Village, Sankagiri Taluk, Salem District and consequently direct the SEIAA/4<sup>th</sup> respondent to dispose of the application of the petitioner dated 22.01.2017, in seeking for issuance of Environmental Clearance for the aforesaid mining lease area.

PRAYER in WP.No.8261/2017: Petition filed Under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, to forbear the respondents from in any manner interfering with the mining operations of the petitioner insisting Environmental Clearance and continue to issue transport permits to excavate and transport Limestone on payment of requisite royalty, from the existing mining lease area measuring an extent of 2.98.0 Hectares in Survey Nos. 76/2, 77/13 and 77/14 of Kodur Agraharam Village, Paramathivelur Taluk, Namakkal District and consequently direct the SEIAA/4<sup>th</sup> respondent to dispose of the application of the petitioner dated 22.01.2017, in seeking for issuance of Environmental Clearance for the aforesaid mining lease area.

PRAYER in WP.No.8262/2017: Petition filed Under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, to forbear the respondents from in any manner interfering with the mining operations of the petitioner insisting Environmental Clearance and continue to issue transport permits to excavate and transport Limestone on payment of requisite royalty, from the existing mining lease area measuring an extent of 2.53.5 Hectares in Survey No.101/2 of Alathur Village, Sankagiri Taluk, Salem District and consequently direct the SEIAA/4<sup>th</sup> respondent to dispose of the application of the petitioner dated 22.01.2017, in seeking for issuance of Environmental Clearance for the aforesaid mining lease area.

PRAYER in WP.No.8263/2017: Petition filed Under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, to forbear the respondents from in any manner interfering with the mining operations of the petitioner insisting Environmental Clearance and continue to issue transport permits to excavate and transport Limestone on payment of requisite royalty, from the existing mining lease area measuring an extent of 2.53.5 Hectares in Survey No.87 of Pannaimoondradaippu Village, Tiruchuli Taluk, Virudhunagar District and consequently direct the SEIAA/4<sup>th</sup> respondent to dispose of the application of the petitioner dated 24.01.2017, in seeking for issuance of Environmental Clearance for the aforesaid mining lease area.

PRAYER in WP.No.8264/2017: Petition filed Under Article 226 of the Constitution of India praying to issue a Writ of Mandamus,



to forbear the respondents from in any manner interfering with the mining operations of the petitioner insisting Environmental Clearance and continue to issue transport permits to excavate and transport Limestone on payment of requisite royalty, from the existing mining lease area measuring an extent of 4.01.0 Hectares in Survey Nos.130(P), 131/2, 132/2 and 133/1 of Palayam Village, Veda sandur Taluk, Dindigul District and consequently direct the SEIAA/4<sup>th</sup> respondent to dispose of the application of the petitioner dated 22.01.2017, in seeking for issuance of Environmental Clearance for the aforesaid mining lease area.

For Petitioners : Mr.G.Arul Murugan

For Respondents : Mr.K.M.D.Muhilan  
Government Advocate for R1 to R3 & R6

Mr.V.Chandrasekaran for R4

Mr.B.Sudhir Kumar

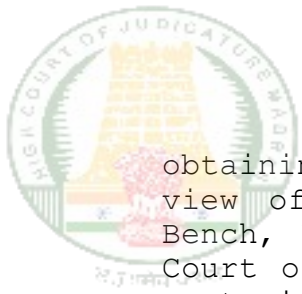
Senior Panel Counsel for R5

... in all WPs.

#### COMMON ORDER

These Writ Petitions are filed to forbear the respondents from in any manner interfering with the mining operations of the petitioner insisting Environmental Clearance and continue to issue transport permits to excavate and transport Limestone on payment of requisite royalty, from the existing mining lease areas and consequently direct the SEIAA/4<sup>th</sup> respondent to dispose of the applications of the petitioners dated 22.01.2017 & 24.01.2017 respectively, in seeking for issuance of Environmental Clearance for the aforesaid mining lease area.

2. When these matters are taken up for hearing, the learned counsel for the petitioners would submit that the State Government granted mining lease in favour of the petitioners herein, for a period of 20 years, to quarry limestone in respect of their respective lands, as specifically mentioned in the prayers above. Pursuant to the said mining lease, the petitioners were carrying on quarry operations and the Assistant Director of Geology and Mining, Geology and Mining Department / third respondent, was issuing necessary transport permits to the petitioners for transporting the quarried limestone till 2017. While so, the Commissioner of Geology and Mining / first respondent, issued a communication to all the District Collectors and Deputy Directors/Assistant Directors of Mining vide letter dated 11.01.2017, intimating the necessity for



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obtaining Environmental Clearance for Mining/quarry leases in view of the orders of the National Green Tribunal, Principal Bench, New Delhi, as well as the dictum of the Hon'ble Supreme Court of India. Pursuant to the same, the petitioners have been restrained from transporting quarried limestone for want of production of environmental clearance, which prompted the petitioners to approach the State Level Environment Impact Assessment Authority/ 4<sup>th</sup> respondent, and made necessary applications along with necessary documents and payment of prescribed fee by way of Demand Draft, seeking for grant of Environment Clearance. The grievance of the petitioners is that while their applications were pending for grant of Environment Clearance, they were restrained from transporting the quarried minerals and even stopped the mining operations while the lease period was still subsisting. In such circumstances, finding no other alternative, the petitioners approached this Court by way of present writ petitions.

3. The Hon'ble Supreme Court of India in the case of Deepak Kumar vs. State of Haryana reported in (2012) 4 SCC 629, has made Environmental Clearance as mandatory for operating the existing lease and for grant of mineral concessions. Also the National Green Tribunal, New Delhi in the case of "Jatinder Singh vs. Union of India", made it mandatory for all the applicants / lease holders to get environmental clearance for carrying on mining activities of both major and minor minerals, even if the lease area is less than 5 hectares. The operative portion is extracted as under:

"a) it shall be mandatory for all the applicants to seek Environmental Clearance for carrying on mining activities of minor or major minerals even if the lease area is less than 5 hectares. In other words, MOEF, SEIAA and all other authorities would adopt uniform practice for issuance of E.C in regard to the mining area of less than 5 hectare notwithstanding the fact that Environment impact of mining of minor minerals is no way less than that of the mining of major minerals. The judgment of the Supreme Court, in the Deepak Kumar vs. State of Haryana (2012) 4 SCC 629 is applicable to both minor and major minerals."

4. Therefore, in view of the above, it is mandatory for the petitioners to get Environmental Clearance, for the purpose of carrying on their mining activities. Even the learned counsel appearing for the petitioners would fairly accepted the said position and he is not insisting the prayers in respect of forbearing the respondents from insisting upon production of Environmental Certificate to carry out their mining operations.



5. As regards, the prayers for issuance of Environmental Clearance is concerned, the learned counsel for the petitioners would submit that almost all the petitioners have made applications seeking for issuance of Environmental Clearance along with requisite fee and necessary documents and the same have been pending with the 4<sup>th</sup> respondent and therefore, the learned counsel sought for appropriate direction to the 4<sup>th</sup> respondent to expedite the applications made by the petitioners.

6. The learned Government Advocate appearing for the respondents would submit that the applications, if any, made by the petitioners and pending with the 4<sup>th</sup> respondent would be considered, if they are otherwise in order, within a stipulated period as directed by this Court. He would further submit that as far as the three writ petitions, i.e., W.P.Nos.8260, 8261 & 8264 of 2017 are concerned, the petitioners made applications for issuance of Environmental Clearance and on receipt of the same, the respondents already processed and terms of references were also issued. Therefore, now it is for the respective petitioners to comply with the same. However, as regards the other two Writ Petitions viz., W.P.Nos.8262 and 8263 of 2017 are concerned, he would submit that the the petitioners have not filed the requisite drawings and documents and therefore, nothing is pending with the respondents to pass any further orders. He further submits that once drawings and other relevant documents are filed by the petitioners, the same will be considered and terms of references will be issued.

7. In reply, the learned counsel for the petitioners would submit that they have time to comply the terms of references till 22.05.2022 and the petitioners will certainly comply with the same. He would also submit that the petitioners in W.P.Nos.8262 and 8263 of 2017 will file the drawings and other required documents before the respondents and the same may be directed to be considered in accordance with law.

8. In view of the above submissions made by the learned counsel on either side, this Court directs the 4<sup>th</sup> respondent to consider and issue Environmental Clearance in respect of the petitioners in W.P.Nos.8260, 8261 & 8264 of 2017 if the petitioners have complied with all the requirements, as per the terms of references, within a period of eight weeks from the date of compliance of the terms of reference as issued by the respondent. As regards the writ petitioners in W.P.Nos.8262 and 8263 of 2017 are concerned, the petitioners are directed to submit the required drawings and documents within a period of four weeks from the date of receipt of a copy of this order and on such submission, the 4<sup>th</sup> respondent is directed to process the same and issue references for compliance by the petitioners and on compliance of the references, the 4<sup>th</sup> respondent may consider



to issue Environmental Clearance to them if it is otherwise in accordance with law.

9. With the above directions, all these Writ Petitions are disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-  
Assistant Registrar (CS-V)

//True Copy//

Sub Assistant Registrar

Pns

To

1. The Commissioner of Geology & Mining,  
Guindy, Chennai - 600 032.
2. The District Collector,  
Salem District, Salem.
3. The Assistant Director of Geology & Mining,  
Geology & Mining Department,  
Salem, Salem District.
4. Member Secretary,  
State Level Environment Impact Assessment Authority (SEIAA),  
Panagal Building, Chennai - 600 015.
5. The Secretary to Government,  
Ministry of Environment, Forest & Climate Change,  
Government of India,  
Indira Paryavaran Bhawan, Jor Bagh, New Delhi - 110 003.
6. The Secretary to Government,  
Industries Department,  
Government of Tamil Nadu,  
Secretariat, Fort St. George,  
Chennai - 600 009.
7. The District Collector,  
Namakkal District, Namakkal.
8. The Assistant Director of Geology & Mining,  
Geology & Mining Department,  
Namakkal, Namakkal District.



9. The District Collector,  
Virudhunagar District, Virudhunagar.

10. The Assistant Director of Geology & Mining,  
Geology & Mining Department,  
Virudhunagar District, Virudhunagar.

11. The District Collector,  
Dindigul District, Dindigul.

12. The Assistant Director of Geology & Mining,  
Geology & Mining Department,  
Dindigul District, Dindigul.

+5ccs to M/s.G.Arul Murugan, Advocate, S.R.Nos.65554 to 65558

+1cc to Mr.B.Sudhir Kumar, Advocate, S.R.No.65068

W.P.Nos.8260 to 8264 of 2017  
and  
W.M.P.Nos.9020 to 9029 of 2017

SMI (CO)  
SU(12/01/2022)