



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.04.2021

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THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P(MD)No.955 of 2021

M/s.Sivam Mines
Rep.By its Managing Partner,
Mr.S.Ilangovan

... 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 - 110 003.

2.State Environment Impact Assessment
Authority (SEIAA),
Rep.by its Member Secretary,
No.1, Jeenis Road, Panagal Building,
Third Floor, Saidapet,
Chennai - 600 015.

... Respondent

*(R2 impleaded vide order of this Court,
dated 17.03.2021)

PRAYER: Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, directing the respondent to consider the petitioner's representation, dated 15.12.2020 and grant environmental clearance to the petitioner without necessitating a public hearing in accordance with the Office Memorandum, dated 12.11.2020.

For Petitioner	:	Mr.Naveen Kumar Murthi
For Respondent-1	:	Ms.L.Victoria Gowri ASGI
For Respondent-2	:	Mr.Dilip Kumar.N

ORDER

This Writ Petition has been filed praying for issuance of a Writ of Mandamus, directing the respondents to consider the petitioner's representation, dated 15.12.2020 and grant



Environmental Clearance to the petitioner, without necessitating public hearing in accordance with the Office Memorandum, dated 12.11.2020.

2. Mr.Naveen Kumar Murthi, learned counsel appearing for the petitioner would submit that the petitioner is a pioneer in mining activities and is engaged in the business of mining and selling of limestone mineral and carrying out the said activity in an extent of land measuring 0.24.29 Hectares at Dindigul District. For the purpose of the said mining activity, the petitioner has filed an application on 03.04.2018, seeking Environmental Clearance(EC), under the EIA Notification 2006. 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 public hearing or "public consultation" in the light of the same being excluded in the EIA Notification 2006.

3. Adding further, the learned counsel for the petitioner submitted that several mining activities were not subjected to the issuance of an Environmental Clearance at the time of initiation, the 1st respondent issued a Notification in S.O.804(E), dated 14.03.2017, to provide an opportunity to comply with the conditions for obtaining Environmental Clearance. The said Notification, dated 14.03.2017 came to be challenged before a Division Bench of this Court in W.P.No.11189 of 2011 and this Court, while disposing of the matter recorded the submission of the Additional Solicitor General that 'public hearing can be read into paragraph 5 of the impugned Notification', whereas the original 2006 EIA Notification did not stipulate public hearing. Subsequently, a clarification petition came to be filed in the above mentioned Writ Petition, wherein this Court held that once when the parent Notification expressly excludes the category of industry / activity from undergoing public hearing for the purpose of issuance of Environmental clearance, the same shall apply in respect of an application made under the Notification in S.O.804(E) dated 14.03.2017 as well. However, the above order of this Court clarified the said position only in respect of the petitioner therein, who was engaged in the activity of construction and real estate.

4. He further submitted that in this regard, the petitioner submitted a representation to the 1st respondent 15.12.2020, outlining that refusal to grant Environmental Clearance without necessitating public hearing is a clear contradiction to the Office Memorandum, dated 12.11.2020. Since, the respondent has not taken any action on the representation of the petitioner, the petitioner is before this Court, for the aforesaid relief.

5. Ms.L.Victoria Gowri, learned Assistant Solicitor General of India appearing for the 1st respondent would submit that the 2nd respondent is not the competent authority to pass orders on the said

<https://hccs.cemilab.org/>



representation of the petitioner.

6. Mr.N.Dilip Kumar, the learned counsel appearing for the 2nd respondent would submit that sofar the 2nd respondent has not received any representation from the petitioner.

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7. Though the petitioner has enclosed the acknowledgement for delivery of the said representation, in the light of the submissions made by the learned counsels appearing on either side, this Court directs the petitioner to re-send the representation to the 2nd respondent, within a period of one week from the date of receipt of the copy of this order and on such receipt, the 2nd respondent is directed to consider the representation to be submitted by the petitioner, within a period of eight weeks thereafter, on merits and in accordance with law, by taking into account the Office Memorandum, dated 12.11.2020.

8. With the above direction, this Writ Petition stands disposed of. No costs.

Sd/-

Assistant Registrar (CS-II)

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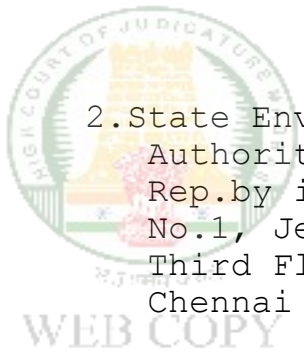
Sub Assistant Registrar(CS)

MPK

Note:(i) In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1.The Union of India,
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2.State Environment Impact Assessment
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+1 CC to M/s.NAVEEN KUMAR MURTHI, Advocate
(SR-15883[F] dated 15/04/2021)

+1 CC to M/s.N.DILIPKUMAR, Advocate (SR-16072
[F] dated 16/04/2021)

W.P (MD) No.955 of 2021
15.04.2021

RM(05.05.2021) 4P 5C