



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.04.2021

CORAM:

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THE HONOURABLE MRS. JUSTICE J.NISHA BANU

W.P. (MD) Nos.8178 and 8185 of 2021

1.R.George Antony ... Petitioner in W.P.No.8178/2021

2.L.Charles ... Petitioner in W.P.No.8185/2021

Vs.

1.The District Collector,
Kanyakumari District,
Kanyakumari.

2.The Assistant Director,
Department of Geology and Mining,
Collectorate,
Kanyakumari District.

... Respondents in all W.P.s

Prayer in W.P. (MD) No.8178/2021: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, directing the 1st respondent to permit the petitioner to conduct stone quarrying operation in petitioner's Patta land in S.F.No.385/1 and 385/2A(P) over an extent of 4.19.0 Ha in Villukuri Village at Kalkulam Taluk, in Kanyakumari District, for a period of 8 months 20 days (non-operative period) for which the petitioner was not permitted to quarry during the lease period accorded vide the proceedings of the respondent in R.C.No.49/G & M/2011, dated 25.12.2014 and consequently, direct the 2nd respondent to issue transport permit to the petitioner for the said period.

Prayer in W.P. (MD) No.8185/2021: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, directing the 1st respondent to permit the petitioner to conduct stone quarrying operation in petitioner's Patta land in S.F.No.350/3B(P) and 350 over an extent of 1.00.0 Ha in Villukuri Village at Kalkulam Taluk, in Kanyakumari District, for a period of 8 months 25 days (non-operative period) for which the petitioner was not permitted to quarry during the lease period accorded vide the proceedings of the respondent in R.C.No.292/G & M/2008, dated 31.12.2014 and consequently, direct the 2nd respondent to issue transport permit to the petitioner for the said period.



For Petitioners : Mr.K.Samidurai(In both cases)
For Respondents : Mrs.J.Padmavathi Devi
(in all WPs) Special Government Pleader

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C O M M O N O R D E R

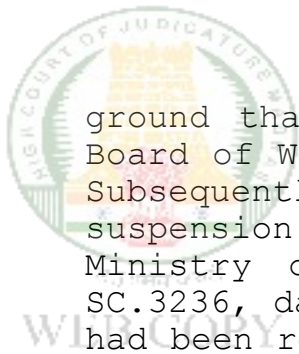
These Writ Petitions have been filed by the petitioners praying to direct the 1st respondent to permit the petitioners to conduct stone quarrying operation in their respective Patta land, for non-operative period, for which, the petitioners were not permitted to quarry during the lease period, as per the permission granted and consequently, direct the 2nd respondent to issue transport permit to the petitioners for the said period.

2. Mr.K.Samidurai, the learned counsel appearing for the petitioners would submit that the petitioners were granted permission to conduct stone quarrying operation, by the 1st respondent, for their patta land bearing S.F.No.385/1 and 385/2A(P), over an extent of 4.19.0 Ha in Villukuri Village at Kalkulam Taluk, in Kanyakumari District, for a period of 8 months 20 days (non-operative period) and in S.F.No.350/3B(P) and 350 over an extent of 1.00.0 Ha in Villukuri Village at Kalkulam Taluk, in Kanyakumari District, for a period of 8 months 25 days (non-operative period), for which, the petitioners were not permitted to quarry during the lease period granted by the 1st respondent in R.C.No.49/G & M/2011, dated 25.12.2014 and in R.C.No.292/G & M/2008, dated 31.12.2014 and consequently, direct the 2nd respondent to issue transport permit to the petitioners for the said period.

3. The learned counsel for the petitioners submitted that as per the permission granted, the petitioners started quarrying operation in their patta land. Before end of the lease period, the 1st respondent had temporarily stopped all the quarry operations on the ground that the quarries are situated within 10 kilometers to Kanyakumari Wildlife Sanctuary, and therefore, 'No Objection Certificate' from the National Wildlife Board is mandated. Thereafter, the Government of India, Ministry of Environment, Forest and Climate Change, vide Notification SC.3236, dated 22.09.2020, revised the stipulated zone of ECO-Sensitive area as 'Zero to Three Kilometers'. Pursuant to that, the first respondent lifted the temporary suspension of the petitioners' quarry operation and permitted to continue the quarry operation.

4. It was further contended by the learned counsel for the petitioners that temporary suspension was lifted after a period of 8 months and 20 days; and 8 months and 25 days respectively. The suspension order was passed by the 1st respondent,

<https://hcservices.ecourt.gov.in/hcservices/> suspending the mining operation of the petitioners only on the

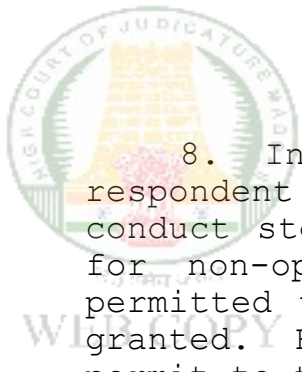


ground that clearance from the Standing Committee of the National Board of Wild Life was not obtained by the respective petitioners. Subsequently, the 1st respondent revoked the earlier order of suspension on the ground that as per the Government of India in Ministry of Environment, Forest and Climate Change Notification SC.3236, dated 22.09.2020, the stipulated zone of ECO-Sensitive area had been revised as Zero to 3 kms. The petitioners were allowed to continue their quarry operation. Therefore, the learned counsel prays that the 1st respondent may be directed to permit the petitioners to conduct stone quarrying operation in their respective Patta land, for non-operative period, for which, the petitioners were not permitted to quarry during the lease period, as per the permission granted and consequently, direct the 2nd respondent to issue transport permit to the petitioners for the said period.

5. Mrs.J.Padmavathi Devi, the learned Special Government Pleader appearing for the respondents would submit that it is true, the 2nd respondent, the Assistant Director, Department of Geology and Mining, Kanyakumari District by Notice, stopped the quarry operations, on the ground that the quarry is situated within 10 kilometers to Kanyakumari Wildlife Sanctuary and latter, the Government of India, Ministry of Environment, Forest and Climate Change, vide Notification SC.3236, dated 22.09.2020, revised the stipulated zone of ECO-Sensitive area as 'Zero to Three Kilometers'. Thereafter, the petitioners were permitted to continue the quarry operation. It is her specific contention that though the 2nd respondent stopped the quarrying operation for sometime, the learned Special Government Pleader wants to verify whether in the interregnum period, the petitioners were permitted to carry-out stone quarrying operation in their respective patta land by the State Government.

6. I have heard the learned counsels appearing on either side and perused the materials available on record.

7. After giving due consideration to the submissions made by the learned counsels appearing on either side, when the respondents have got power to grant permission to the respective petitioners to conduct stone quarrying operation over their respective lands, for the non-operative period, on account of suspension of the mining lease granted in favour of the respective petitioners for no fault on him, rejecting the request made by the respective petitioners to conduct stone quarrying operation in their respective lands for the non-operative period, is not justifiable and therefore, this Court is of the considered view that the respondents ought to have considered the reasonable request of the petitioners, permitting them to conduct stone quarrying operation, on account of suspension of the mining lease granted in favour of them.



8. In fine, the Writ Petitions are allowed and the 1st respondent is directed to permit the respective petitioners to conduct stone quarrying operation in their respective Patta land, for non-operative period, for which, the petitioners were not permitted to quarry during the lease period, as per the permission granted. Further, the 2nd respondent is directed to issue transport permit to the petitioners for the said period. No costs.

Sd/-

Assistant Registrar (CSII)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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To

1.The District Collector,
Kanyakumari District,
Kanyakumari.

2.The Assistant Director,
Department of Geology and Mining,
Collectorate,
Kanyakumari District.

+2 CC to M/s.K.SAMIDURAI, Advocate (SR-17428,17426[F] dated 26/04/2021)

+1 CC to M/s.SPL GP (SR-17906[F] dated 28/04/2021)

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GS (16.06.2021) 4P 6C