



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.07.2021

CORAM :

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P(MD)No.11100 of 2021

M.Radhakrishnan

... Petitioner

Vs.

1.The District Collector,
Kanyakumari District,
Nagercoil.

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

... Respondents

Prayer :Writ Petition 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.Nos.493/1A3 & 493/1D in Mecode Village at Kalkulam Taluk, in Kanyakumari District, for a period of 149 days for which the petitioner was not permitted to quarry during the lease period accorded vide the proceedings of the respondent in R.C.No.302/G & M/2014, dated 04.08.2015 and consequently, direct the 2nd respondent to issue transit pass to transport the rough stone/jelly in SF.Nos.493/1A2, 493/1A3 & 493/1D in Mecode Village, Kalkulam Taluk, Kanyakumari District to the petitioner for the said period.

For Petitioner : Mr.R.J.Karthick

For Respondents : Mr.P.Thilak Kumar,
Government Advocate

ORDER

This Writ Petition has been filed by the petitioner praying to direct the 1st respondent to permit the petitioner to conduct stone quarrying operation in his Patta land, for non-operative period, for which, the petitioner was 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 petitioner for the said period.

2. The learned counsel appearing for the petitioner would submit that the petitioner was granted permission to conduct stone quarrying operation for a period of five years, by the 1st respondent, for his patta land, bearing S.F.Nos.493/1A3 & 493/1D in Mecode Village at Kalkulam Taluk, in Kanyakumari District and for a period of 149 days for which the petitioner was not permitted to quarry during the lease period accorded vide the proceedings of the respondent in R.C.No.302/G & M/2014, dated 04.08.2015.



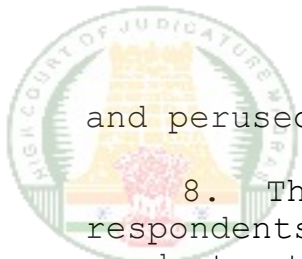
3. The learned counsel for the petitioner would further state that before end of the lease period, the 1st respondent had temporarily stopped all the quarry operations on the ground that the quarry is situated within 10 kilometers to Kanyakumari Wildlife Sanctuary, and therefore, 'No Objection Certificate' 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 respondents lifted the temporary suspension of the petitioner's quarry operation and permitted to continue the quarry operation.

4. It was further contended by the learned counsel for the petitioner that as the lease period of the petitioner came to an end on 03.11.2017, the first respondent has not issued any such revocation order to the petitioner. Therefore, the learned counsel prays that the 1st respondent may be directed to permit the petitioner to conduct stone quarrying operation in his Patta land, for non-operative period, for which, the petitioner was 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 petitioner for the said period.

5. Mr.P.Thilak Kumar, learned Government Advocate appearing for the respondents would submit that initially, on account of the petitioner's non-production of Environmental Clearance Certificate, the petitioner was not allowed to quarry and after production of the said certificate, the petitioner was allowed to continue the quarry work. The said issue had already been settled by the first respondent vide order dated 04.08.2015. Thereafter, 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'.

6. The learned Government Advocate would further point out that in a batch of writ petitions, this Court passed orders directing the authorities to grant extension of lease for the non-operative period, on account of suspension of the mining lease granted. He would further state that non-operation of the quarry by the petitioner is only on account of the suspension order passed by the first respondent and therefore, he would state that the issue is covered by the orders passed by this Court and therefore, the same order may be passed.

<https://hcservices.courts.gov.in/hcservices/> heard the learned counsels appearing on either side



and perused the materials available on record.

8. This Court is of the considered view that when the respondents have got power to grant permission to the petitioner to conduct stone quarrying operation over his land, for the non-operative period, on account of suspension of the mining lease granted in favour of the petitioner for no fault on him and therefore, the request made by the petitioner to conduct stone quarrying operation in his land for the non-operative period, is justifiable and therefore, this Court is of the considered view that the respondents ought to have considered the reasonable request of the petitioner, permitting him to conduct stone quarrying operation, on account of suspension of the mining lease granted in favour of him.

9. In fine, the Writ Petition is allowed and the 1st respondent is directed to permit the petitioner to conduct stone quarrying operation in his Patta land, for non-operative period, for which, the petitioner was 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 petitioner for the said period. No costs.

Sd/-

Assistant Registrar (A.D-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

pm

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 District Collector,
Kanyakumari District, Office at Nagercoil,
At Nagercoil, Kanyakumari.

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

+1 CC to M/s.SPL GP (SR-22514[F] dated 14/07/2021)

W.P(MD)No.11100 of 2021

12.07.2021

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