



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Special Original Jurisdiction)

Wednesday, the Fourth day of November Two Thousand and Twenty
PRESENT

The Hon'ble Mr. Justice N. KIRUBAKARAN
AND

The Hon'ble Mr. Justice B. PUGALENDHI

WP(MD). No.11057 of 2020

Sivasankar

...Petitioner

Vs

- 1 The District Collector, Tirunelveli District.
 - 2 The Superintendent of Police, Tirunelveli District.
 - 3 The Revenue Divisional Officer, Revenue Divisional Office,
Tirunelveli District.
 - 4 The Thasildhar, Ambasamuthiram Taluk, Tirunelveli District.
 - 5 Manuvel George, Proprietor of Boomi M Sand (BMS), Pottal,
South Kallidaikurichi, Ambasamuthiram Taluk,
Tirunelveli District.
- ...Respondents

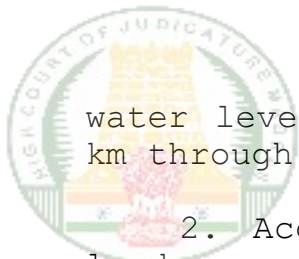
Prayer in WP(MD).No.11057 of 2020 :

Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a writ of Mandamus, directing the respondents No. 1 to 4 herein to restrain the respondent no. 5 from conducting illegal sand quarry in and around Vandala Odai Dam situated at Kallidaikurichi Village, Ambasamuthiram Taluk, Tirunelveli District and consequently direct the respondents no. 1 to 4 to conduct proper enquiry by considering the petitioner's representation dated 23.07.2020 in accordance with law, within a stipulated time period.

ORDER:- Writ Petition coming up for orders on this day and upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of Mr. M. Ramesh, Advocate for the Petitioner and of Mr. K. P. Krishnadoss, Special Government Pleader on behalf of the respondents No. 1 to 4, this Court made the following order:

(Order of the Court was made by **B. PUGALENDHI, J.**)

This writ petition is filed by the petitioner, an Agriculturist, as a *pro bono publico*, that they are mainly depending upon the water source from the river, namely, Vandala Odai and in the river, a check dam was also constructed to enhance the ground



water level. The said river, according to the petitioner, travel 5 km through their village and merge with Thamirabarani river.

2. According to the learned Counsel for the petitioner, the land owners adjacent to the check dam are getting licenses for collecting gravel sand and using that, they are digging upto 20 feet depth, extracting river sand and are illegally transporting the extracted river sand from the Vandala Odai check dam. The fifth respondent, a resident of Kerala, was granted license for storing, processing, consuming of rough stone, gravel, crusher dust and m-sand in the land comprised in S.No.843, South Kallidaikurichi Village, Ambasamuthiram Taluk, Tirunelveli District, adjacent to Vandala Odai check dam for a period of five years with effect from 29.11.2019. But the fifth respondent is indulging in illegal quarry activities and is illegally transporting the river sand from the Vandala Odai dam. Therefore, he prays for a direction restraining the fifth respondent from conducting illegal sand quarry in and around Vandala Odai check dam situated at Kallidaikurichi Village, Ambasamuthiram Taluk, Tirunelveli District.

3. Mrs.Narmadha Sampath, learned Additional Advocate General, by filing a status report of the first respondent / District Collector, Tirunelveli, submits that based on the recommendations of the Tahsildar, Ambasamuthiram Taluk, a stock yard permission was granted to the fifth respondent to store certain minerals in the land comprised in S.Nos.843, 844 & 848 at Tharuvai Village, Palayamkottai Taluk, Tirunelveli District. But several complaints have been received as against the fifth respondent and therefore, the Tahsildar, Ambasamuthiram has also inspected the site. After inspection, the Tahsildar reported that the fifth respondent quarried the sand from the adjacent patta lands and transported the quarried sand to various places, illegally.

4. The status report further reads that the Sub-Collector, Cheranmahadevi, inspected the site and found that the fifth respondent, by exploiting the stock yard permission, has quarried the sand in the nearby place, removed 27,773.66 cubic metre of sand from the nearby check dam. The Sub Collector, Cheranmahadevi, has also initiated a proceedings as against the fifth respondent and levied a penalty of Rs.7,59,83,994/- and Rs.1,97,37,584/- as cost of mineral, under the provisions of the Tamil Nadu Mines and Minerals Concession Rules, 1959. Subsequently, the registration certificate issued in favour of the fifth respondent was also cancelled on 08.09.2020 and a criminal case has also been registered as against the fifth respondent and others in Crime No.417 of 2020, on the file of the Kallidaikuruchi Police Station, Tirunelveli, under Section 379 IPC.

5. In order to transfer this investigation in Crime No.417 of 2020 from the file of the Kallidaikuruchi Police Station to some
<https://hccservices.hccourt.gov.in/hccservices/> investigation agency, one V.Christy has filed the writ



petition in W.P.(MD)No.15312 of 2020 and the same is also pending before this Court.

6. Based on the directions of this Court, Ms.S.Arul George Sahaya Santhi, Inspector of Police, Kallidaikurichi Police Station, Ambasamuthiram Taluk, Tirunelveli District; Thiru A.Arumuga Nainar, Joint Director, Geology & Mining, Madurai; Thiru H.Lakshmi Ram Prasath, Assistant Geologist, Geology & Mining, Tirunelveli; and Thiru M.Pandiyarajan, Assistant Geologist, Geology & Mining, Madurai were present and they were also heard by us.

7. This Court has also paid it's anxious consideration to the materials placed on record, including the CD file in Crime No.417 of 2020.

8. It appears during the course of investigation, certain materials were collected by the investigation agency, which would reveal the nexus between the officials and the accused, who have indulged in the commission of offence. The fifth respondent, a resident of Kerala, who is not having any quarry in the State and any land in that area, obtained permission from the authorities concerned, as if he wants to have a stock yard for storing the minerals, but exploited the same by quarrying the river sand from a nearby check dam. The Sub Collector, Cheranmahadevi, who inspected the site, has also assessed that 27,773.66 cbm of sand has been illegally quarried and transported.

9. The Assistant Engineer, Agricultural Engineering Department has also facilitated the offence by creating seven farm ponds in S.Nos.845, 846/6, 844, 849, 848, 833 of Therkkur Kallidaikuruchi Part II Village, Ambasamuthiram Taluk, Tirunelveli District. The farm ponds are created for the benefits of the farmers for supplying the water with a Government subsidy, but the same has been misused by the Government Officials, for exploiting the sand. However, though law has been set in motion as against the fifth respondent and 22 others, no action has been taken as against the concerned officials, who have facilitated the fifth respondent to commit the offence.

10. The status report reads that so far nine accused were arrested. But the first accused and the remaining accused are yet to be apprehended. By referring to the anticipatory bail application and the interim orders pending before the Sessions Court, it is represented by the Inspector of Police that they have not apprehended the first accused. It appears, a register has also been seized from one of the accused during the course of the investigation, wherein, the details as to the disbursement of amount to various officers has been recorded, but the same has not been investigated so far.

11. When this Court posed a query as to the action taken as against the officials, who have facilitated the fifth respondent and



investigation, the learned Additional Advocate General sought for a short accommodation to file a further status report.

12. At the request of the learned Additional Advocate General, this writ petition stands adjourned, enabling the official respondents to come up with a further status report. Needless to say that the status report should speak about the involvement of officials; action taken against them; and the register recovered during the investigation and the details thereof.

13. Post the matter on 18.11.2020, along with W.P. (MD) No.15312 of 2020.

Sd/-

Assistant Registrar (co)

// True Copy //

/ /2020

Sub Assistant Registrar (CS)

To

- 1 The District Collector, Tirunelveli District.
- 2 The Superintendent of Police, Tirunelveli District.
- 3 The Revenue Divisional Officer, Revenue Divisional Office, Tirunelveli District.
- 4 The Thasildhar, Ambasamuthiram Taluk, Tirunelveli District.
- 5 The Special Government Pleader,
Madurai Bench of Madras High Court, Madurai.

Copy to

The Section Officer, Writ Section,
Madurai Bench of Madras High Court, Madurai.
(To List the mater on 18.11.2020
along with W.P. (MD). No.15312 of 2020)

W.P. (MD) No.11057 of 2020

04.11.2020

VB (09.11.2020) 4P 7C