



1BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.07.2021

CORAM :

WEB COPY

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P(MD)No.11874 of 2021

C.Gangaharan

... Petitioner

Vs.

1.The District Collector,
Nagercoil,
Kanyakumari District..

2.The Assistant Director,
Department of Geology and Mining,
Collectorate, Nagercoil,
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.472/2A(P) and 472/2B, over an extent of 1.13.5 hectares in Aruvikarai Village of Kalkulam Taluk, Kanyakumari District, for a period of 291 days which as not - operative period of leave period for which the petitioner was not permitted to quarry during the lease period accorded by the first respondent vide his proceedings in Rc.No.169/G & M/2009, dated 22.01.2015 and consequently, direct the 2nd respondent to issue transport permit to the petitioner for the said period.

For Petitioner : Mr.C.Kishore
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

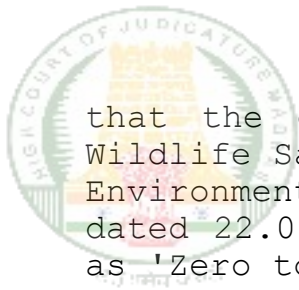


quarrying operation, by the 1st respondent, for his patta land, bearing S.F.Nos.472/2A(P) and 472/2B, over an extent of 1.13.5 hectares in Aruvikarai Village of Kalkulam Taluk, Kanyakumari District, for a period of 291 days for which the petitioner was not permitted to quarry during the lease period accorded by the first respondent vide his proceedings in Rc.No.169/G & M/2009, dated 22.01.2015 and consequently, direct the 2nd respondent to issue transport permit to the petitioner for the said period.

3. The learned counsel for the petitioner would further state that earlier the petitioner was granted lease till 18.04.2009 and thereafter, the petitioner made an application for renewal of quarry lease and thereafter, vide proceedings of the first respondent dated 22.01.2015, the lease was extended for a period of five years. While the matter stood thus, the 1st respondent had temporarily stopped the quarry operation vide order dated 05.04.2019, 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 the suspension order was passed by the 1st respondent, suspending the mining operation of the petitioner only on the ground that clearance from the Standing Committee of the National Board of Wild Life was not obtained by the petitioner. 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. Thereafter, the petitioner was allowed to continue his quarry operation. However, as the quarry lease period came to an end on 21.01.2020, the petitioner could not operate the quarry operations. 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 it is true, the 2nd respondent, the Assistant Director, Department of Geology and Mining, Kanyakumari District, 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'.

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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.

7. I have 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(CS-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.C.KISHORE, Advocate (SR-23125[F] dated 19/07/2021)

+1 CC to M/s.GP (SR-23293[F] dated 20/07/2021)

W.P (MD) No.11874 of 2021
19.07.2021

SE (CO)
TR(27.07.2021) 4P 5C