



**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED : 05.02.2021**

**CORAM**

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN**

**W.P (MD)No.1789 of 2019**

**and**

**W.M.P. (MD)No.1541 of 2019**

**WEB COPY**

S.Thangaswamy

... Petitioner

**Vs.**

1.The Additional Chief Secretary,  
Government of Tamil Nadu,  
Industries (MMC.1) Department,  
Fort St.George, Chennai-600 009.

2.The Commissioner of Geology and Mining,  
Thiru.Vi.Ka.Industrial Estate,  
Guindy, Chennai - 600 032.

3.The District Collector,  
Kanyakumari District,  
Nagercoil - 629 001.  
Kanyakumari.

4.The Tahsildar,  
Agastheeswaram Taluk,  
Nagercoil - 629 001.

... Respondents

**Prayer** : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the records relating to the order in G.O.(D) No.176 Industries (MMC.1) Department dated 04.10.2018, on the file of the first respondent herein, and to quash the same.

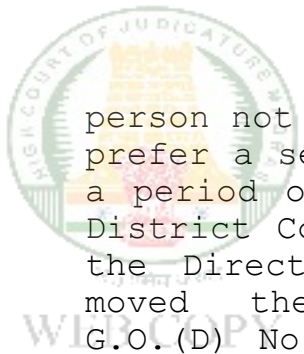
For Petitioner : Mrs.Jeesi Jeeva Priya

For Respondents : Mr.M.Rajarajan,  
Additional Government Pleader.

**ORDER**

Heard the learned counsel on either side.

2.The petitioner was granted quarry license vide order dated 28.10.1996 issued by the District Collector, Kanyakumari District, Nagercoil. G.O.(Ms)No.235, dated 19.12.1996 was issued to streamline the existing procedure but then it had certain financial implications. The petitioner suffered an adverse order at the hands of the Tahsildar, Agastheeswaram Taluk, Nagercoil. Aggrieved by the same, the petitioner filed an appeal before the District Collector, Kanyakumari District. The District Collector vide order dated 06.07.2001 dismissed the appeal as per the Rule 36-C(1) of the Tamilnadu Minor Mineral Concession Rules, 1959. Any aggrieved



person not satisfied with the decision of the District Collector may prefer a second appeal to the Director of Geology and Mining within a period of 30 days from the date of receipt of the order of the District Collector. In the case on hand, in stead of going before the Director of Geology and Mining, the petitioner straightaway moved the Government. The Government by the impugned G.O.(D) No.176 Industries (MMC.1) Department dated 04.10.2018 held that the appeal before the Government is not maintainable. Of course, in the impugned Government Order, what is referred is Rule 36-C(2). The order passed by the District Collector was itself an appellate order. But the question is before which authority, the petitioner should have filed the second appeal. As per the statutory Rules, the second appeal should have been filed only before the Director of Geology and Mining. The first respondent has proceeded on the premise that the order of the District Collector was the original order. It is not so. The District Collector had actually disposed of the appeal filed against the order passed by the Tahsildar, Agastheeswaram Taluk, Nagercoil.

3. In this view of the matter, the Government Order impugned in this writ petition is quashed. The petitioner is permitted to file a second appeal before the Director of Geology and Mining. There is one more reason for me to interfere with the impugned Government Order. After holding that the second appeal is statutorily not maintainable before the Government, the first respondent ought not to have entered into a discussion on merits. Therefore, the writ petition is allowed. The petitioner through her counsel states that second appeal will be filed within a period 30 days from the date of receipt of a copy of this order. On such second appeal being filed, the Director of Geology and Mining shall entertain the same without reference to limitation. All the adverse findings rendered in the impugned Government Orders against the petitioner stand vacated. The second appellate authority will dispose of the second appeal to be filed by the petitioner on merits and in accordance with law. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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Note : 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 solicitors/concerned.

<https://hccourtscs.gov.in/csgas>



**To:**

1.The Additional Chief Secretary,  
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4.The Tahsildar,  
Agastheeswaram Taluk,  
Nagercoil - 629 001.

+1 CC to M/s.P.JESSI JEEVA PRIYA, Advocate ( SR-4120[F] dated  
09/02/2021 )

+1 CC to M/s.GP ( SR-3781[F] dated 08/02/2021 )

**W.P (MD) No.1789 of 2019  
05.02.2021**

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