



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.07.2021

CORAM:

**THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
AND
THE HONOURABLE MRS.JUSTICE S.ANANTHI**

W.A. [MD]No.937 of 2020

and

C.M.P(MD)Nos.5168 and 5791 of 2020

1.The District Collector,
Theni District,
Theni.

2.The Assistant Director,
Geology and Mining Department,
Collectorate Building,
Theni District.

: Appellants/Respondents

Vs.

A.Mithun Chakravarthi : Respondent/Petitioner

PRAYER: Writ Appeal filed under Clause 15 of the Letters Patent, praying to set aside the order passed in W.P(MD)No.2739 of 2020, dated 21.09.2020 on the file of this Hon'ble Court and allow this Writ Appeal.

Prayer in WP(MD). 2739/ 2020 :

Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the 2nd respondent to issue Bulk permit and dispatch slip to the petitioner till completion of the quarry lease period of 5 years upto 17.11.2021 as per quarry license given by the first respondent in Na.Ka.No.293/Mines/2015 dated 18.11.2016 and quarry lease agreement executed between first respondent and petitioner dated 18.11.2016 within a stipulated period

For Appellants : Mr.R.Baskaran
Standing Counsel for Government
For Respondent : Mr.T.Ayngaraprabhu



JUDGMENT

[Judgment of the Court was delivered by **T.S.SIVAGNANAM, J.**]

We have heard Mr.R.Baskaran, learned Standing Counsel for Government appearing for the Appellants and Mr.T.Ayngaraprabhu, learned counsel appearing for the respondent.

2.This Writ Appeal by the District Collector, Theni District is directed against the order dated 21.09.2020, in W.P(MD)No.2739 of 2020.

3.The said writ petition was filed by the respondent praying for issuance of a Writ of Mandamus, to direct the second appellant to issue bulk permit and despatch slip to the petitioner till the completion of the quarry lease period up to 17.11.2021. The writ petition has been allowed by the impugned order.

4.On going through the impugned order, we find, though the learned Writ Court took note of the fact that already action has been initiated by the appellants for cancellation of the lease granted and for levying of penalty, yet, the Court allowed the writ petition on the ground that the sealing limit for quarrying has been increased. The learned Writ Court opined that the department was under a factually erroneous impression. After having held so, the Court observed that it does not want to go into the said point and that since the writ petitioner is having a valid license, the appellants have to necessarily issue bulk permit.

5.We note that the allegation against the writ petitioner is one of illegal quarrying / excessive quarrying and in this regard, proceedings have already been initiated for cancellation and levy of penalty. In such circumstances, the Writ Court was not justified in directing bulk permit and despatch slip to be issued. In fact, the license had been cancelled and penalty has also been imposed by proceedings dated 06.03.2020 and the respondent has filed the writ petition, challenging the said order in W.P.[MD]No.5083 of 2020. The said writ petition was allowed by order dated 06.08.2020, on a technical ground and not on the merits of the matter and the matter has once again been remanded to the appellants for fresh enquiry. In such circumstances, the order impugned before us in the writ petition cannot be allowed to stand.

6.For the above reasons, the writ appeal is allowed and the order issued in the writ petition dated 21.09.2020, is set aside. Consequently, the Writ petition is dismissed. Since, the cancellation of the lease has now been remanded to the first appellant for fresh consideration in a writ petition filed by the respondent in W.P.[MD]No.5083 of 2020, we direct the first appellant to offer reasonable opportunity to the respondent and conduct an enquiry and complete the same as expeditiously as possible, preferably within a period of six [6] weeks from the date of receipt



of a copy of this judgment. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (P&A)

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// True Copy //

/ /2021

Sub Assistant Registrar(CS)

MR

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 advocate/litigant concerned.

To

- 1.The District Collector,
Theni District,
Theni.
- 2.The Assistant Director,
Geology and Mining Department,
Collectorate Building,
Theni District.

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TP (CO)

LR (22.07.2021) 3P 3C