



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 29.07.2021

Pronounced on : 22.11.2021

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

and

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P.(MD) No.14339 of 2020

WEB COPY

K.Balakrishnan

... Petitioner

-vs-

- 1.The District Collector,
Thoothukudi District,
Thoothukudi.
- 2.The Assistant Director,
Mines and Minerals,
Collectorate Building,
Thoothukudi.
- 3.The Special Chief Engineer,
Public Works Department
/ Water Resource Organization,
Thamirabarani Basin Circle,
Tirunelveli.
- 4.The Superintendent of Police,
Thoothukudi District,
Thoothukudi.
- 5.The Tahsildar,
Srivaikundam Taluk,
Thoothukudi District.
- 6.D.Shanmugavel
- 7.The Secretary to Government,
Department of Atomic Energy,
Union of India,
Anushakti Bhavan,
Chhatrapati Shivaji Maharaj Marg,
Mumbai - 400 001.
- 8.The Director,
Atomic Minerals Directorate for
Exploration and Research,
Department of Atomic Energy,
Union of India,
1-10-153/156, AMD Complex,
Begumpet, Hyderabad - 500 016.



9.The Secretary to Government,
Industries Department,
State of Tamil Nadu,
Secretariat, Chennai.

10.The Secretary to Government,
Public Works Department,
State of Tamil Nadu,
Secretariat, Chennai.

11.The Director General of Police,
Chennai.

... Respondents

[R.7 to R.11 are *suo motu* impleaded vide order dated 10.12.2020]

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of mandamus directing the respondents 1 to 5 to prevent illegal quarrying of sand mining from Thamirabarani River near Agaram Kudiyuruppu, Vallanadu Village, Srivaigundam Taluk, Thoothukudi District, by the sixth respondent and initiate action against the sixth respondent based on the petitioner's representation dated 24.09.2020.

For Petitioner : Mr.N.Marimuthu
for Mr.V.M.Jegadeesha Pandian
For Respondents : Mr.Veera Kathiravan
Additional Advocate General

Assisted by,
i) Mr.B.Saravanan
Additional Government Pleader
for R.1 to R.3, R.5, R.9 & R.10

ii) Mr.S.Ravi,
Additional Public Prosecutor
for R.4, R.11

Mr.P.Chandrasekaran
for R.6

Mrs.L.Victoria Gowri
Assistant Solicitor General
of India
for R.7, R.8

Mr.K.Kalaivanan,
Advocate Commissioner



O R D E R

B. PUGALENDHI, J.,

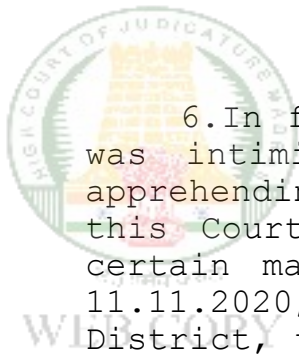
This writ petition is filed by the petitioner, as a public interest litigation, for a writ of mandamus directing the respondents 1 to 5 to prevent illegal quarrying of sand from river Thamirabarani near Agaram Kudiyuruppu, Vallanadu Village, Srivaigundam Taluk, Tuticorin District by the sixth respondent and for taking appropriate action as against the sixth respondent.

2.The Government, considering the need to raise the water table, decided to construct a Check Dam across river Thamirabarani near Agaram Kudiyuruppu in Vallanadu Village of Srivaigundam Taluk. The contract for construction was awarded to the sixth respondent in the year 2019 and the Contractor was permitted to use the sand, which is available nearby the site, for the construction work by way of a special condition no.4. The petitioner's case is that this special condition no.4 is not available in the original agreement dated 15.02.2019 and it has been created and inserted after the complaint lodged by him.

3.Learned Counsel for the petitioner submitted that by taking advantage of the contract for constructing the Check Dam in river Thamirabarani, the sixth respondent has extracted huge quantity of river sand and illegally transported the same. One such consignment was seized by the Murappanadu Police on 23.09.2020, wherein, four Tipper Lorries belonging to the sixth respondent were seized by the police and a case in Crime No.341 of 2020 was registered for the offence under Sections 379 IPC r/w 21(1) of Mines & Minerals (Development & Regulation) Act, 1957, against four named accused. Though the case has been registered and lorries were seized, there is no proper investigation and therefore, the petitioner has filed the present writ petition.

4.The sixth respondent entered appearance through a Counsel and filed his counter affidavit that he is one of the reputed Class I Contractors in the State, received several awards. He has constructed several Government Buildings, including Court Buildings, apart from various other works.

5.Learned Counsel for the sixth respondent submitted that this writ petition is not filed on public interest, but on personal interest. The writ petition has been used as a tool by his business rivals to stall the project. If the call details of the petitioner is verified, the same would be exposed. He further submitted that the proposed Check Dam would benefit the petitioner's village and the surrounding villages, however, at the instance of his business rivals, this writ petition is filed.



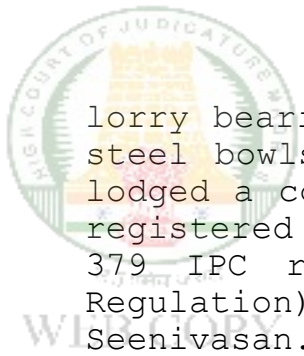
6.In fact, on the hue and cry raised by the petitioner that he was intimidated to withdraw the writ petition and that he is apprehending danger to his life for having filed the writ petition, this Court has taken up the matter and has taken cognizance on certain materials placed before it. An order was also passed on 11.11.2020, directing the Superintendent of Police, Thoothukudi District, to provide police protection to the petitioner. Even then, the petitioner was not provided with police protection and subsequently, further orders were passed by this Court to provide police protection to the petitioner.

7.As per the special condition no.4 of the contract, the sixth respondent / Contractor was permitted to take the sand available near the site and to use the same for the construction of the Dam. The petitioner has filed a document obtained under the Right to Information Act that it is the original agreement of contract executed between the sixth respondent and the Department and established that in the original agreement, the special condition no.4 was not available. This condition has been added, subsequent to the registration of the criminal case on 23.09.2020 and the lodging of complaints by the petitioner.

8.Be that as it may, it is not known as to how such a condition was incorporated. The Public Works Department is not the authority to grant permission to take sand from the river. After the introduction of Rule 38(A) of Tamil Nadu Minor Mineral Concessions Rules, 1959, in the year 2003, nobody is permitted to quarry the sand, other than the Government. For any quarry operations, whatever may be the extent, permission has to be obtained from the concerned authority, namely, the District Collector. Without obtaining any permission from the District Collector, the Chief Engineer cannot impose such a special condition in the contract.

9.That apart, as per the decision of this Court in ***M.Periyasamy v. State of Tamil Nadu and Others [W.P. (MD)Nos.11182 of 2020, etc., batch, dated 02.12.2010]***, no quarry operation is permitted in river Thamirabarani. While so, it is not known as to how such a strange condition has been imposed as a special condition in the contract.

10.Learned Counsel for the petitioner has also placed reliance on the case registered in Crime No.341 of 2020 on the file of the Murappanadu Police Station. One Ramesh Babu, Sub-Inspector of Police, along with his team, while conducting a patrol on 23.09.2020 at about 03.00 am, found four Tipper Lorries, bearing registration nos.TN-52-U-2826; TN-67-R-8755; TN52-U-2610; TN-52-U-2606, transporting sand from river Thamirabarani and intercepted those vehicles. On seeing the police party, the Drivers of the vehicles abandoned the lorries and ran away from the place of occurrence. The police party, on inspection, found three units of sand in the lorry bearing registration no.TN-52-U-2826 and 1/4 unit of sand in the



lorry bearing registration no.TN-52-U-2610, with two spades and two steel bowls. They have seized the vehicles and the instruments and lodged a complaint before the Murappanadu Police Station, which was registered in Crime No.341 of 2020, for the offence under Sections 379 IPC r/w 21(1) of the Mines and Minerals (Development and Regulation) Act, as against Ramesh, Paramasivan, Govintharaj and Seenivasan.

11.This case was referred as mistake of fact by the Inspector of Police stating that the lorries have carried sand for the construction of the Check Dam near Agaram Kudiyuruppu, as per the Government Order in G.O.No.87, Public Works (WL) Department, dated 28.03.2020. The construction of Check Dam is a very big project, which requires a minimum number of Site Engineers and Supervisors in the site. The vehicles have been seized by the Sub-Inspector of Police in the small hours, ie., at about 03.00 am. As per the First Information Report, the vehicles were found near the burial ground of Agaram Kudiyuruppu and on seeing the police party, the Drivers abandoned the lorries and ran away. If they are legally permitted to carry sand, it is now known as to what necessitated them for taking the sand at such odd hours and why they abandoned the vehicles and flee away.

12.Based on these materials, this Court *prima facie* satisfied that a case has been made out by the petitioner and therefore, by order dated 23.11.2020, appointed an Expert [Geologist] as a Commissioner to conduct an inspection and to find out whether sand has been illegally quarried and transported from the site.

13.The Commissioner, who is an Advocate and a Retired Joint Director of Department of Geology and Mining, Government of Tamil Nadu, conducted a detailed survey with the help of Total Station Survey and filed a report that approximately 109077.17 cubic metre of sand have been excavated from the Check Dam site and also from the adjacent areas. He also submitted that it is not only ordinary sand, but it contains substantial amount of heavy minerals, including Atomic minerals, which are classified under Part B of Schedule I of Mines and Minerals (Development & Regulation) Act.

14.According to the learned Advocate Commissioner, the sand contains substantial percentage of heavy minerals like Garnet, Ilmenite, Rutile, Zircon, Leucoxene, Sillimanite, Kyanite and Monazite. Based on this report, this Court, by order dated 10.12.2020, *suo-motu* impleaded Department of Atomic Energy, Union of India and the Secretaries to the Government of Tamil Nadu of Industries and Public Works Department, as respondents 7 to 10 in this writ petition.

15.Considering the quantum of sand said to have been excavated, ie., 109077.17 cubic metre, which is quite alarming, this Court directed the newly impleaded respondents 9 & 10 to file their



response. Accordingly, the sixth respondent and the newly impleaded tenth respondent / Public Works Department filed individual objections to the Commissioner's report, running to pages, disputing the quantum of sand excavated, among other things.

16.Two issues are now before this Court. One is with regard to the illegal quarrying of sand from the river, for which the writ petition is actually filed. Since this is a public interest litigation, this Court, in view of the report of the learned Advocate Commissioner, extended the scope of this writ petition and the other issue for consideration is with regard to the presence of heavy minerals in the river sand.

17.In this regard, this Court has also directed the newly impleaded respondents 7 & 8 to visit the subject area, assess the river Thamirabarani as well as the percentage of minerals found therein.

Issue No.1:

18.Learned Assistant Solicitor General of India appearing for respondents 7 & 8, on instructions, submitted that the existence of atomic minerals in and around river Thamirabarani is proved and that the Department of Atomic Energy, Union of India, is the competent authority to deal with atomic minerals.

19.If that is the case, then, neither the Public Works Department nor the Revenue Department of the State of Tamil Nadu will have any jurisdiction at all to deal with the sand.

20.A report has also been filed on behalf of the respondents 7 & 8 on 29.12.2020, as follows:

"(a) FIELD INVESTIGATION

For the purpose of assessment, a total of 22 auger holes of 0.5 to 2.35 cm depth were drilled at 30m x 30m spacing wherever possible so as to cover the maximum portion mentioned in the report submitted by the Advocate Commission. Most the excavated areas referred by the learned Advocate Commission in his report are submerged under flood water and drilling was not possible. The flood plains and dunal systems developed in the check dam site and adjoining areas have been covered systematically.

(b) LABORATORY INVESTIGATION

The total heavy mineral (THM) concentration in the collected samples of 500 gm ranges from 5.62% to 21.16% (av.10.94%). Radiometric assay of the samples records 0.019% to 0.097%. Monazite equivalent content (av.0.037%). On visual estimation, the samples predominantly contain quartz and feldspar with minor concentration of heavy minerals.

Among the heavies, garnet, ilmenite and sillimanite are the



dominant minerals with some grains of zircon, rutile and monazite.

Observations:

1.The collected samples from river sand in the Thamirabarani check dam site near Agaram Kudiyurppu, Vallanadu village, Srivaigundam taluk records 5.62% to 21.16% of heavy minerals with an average of 10.94%. Among the heavy minerals, garnet, ilmenite and sillimanite are the dominant minerals, with some zircon, rutile and monazite.

2.Monazite equivalent content of 0.019% to 0.097% (av.0.037%) is recorded from these samples by Radiometric assay. In Indian beach sand placer deposits, the monazite varies from 0.01 to 5% and 0.25% monazite is permissible for export of mineral consignments.

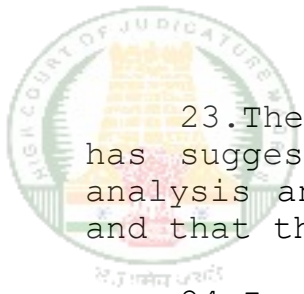
3.Heavy Mineral concentration in the study area is attributed to the arrest of water flow by the check dam downstream, which results in deposition of heavy minerals."

21.The respondents 7 & 8 / Department of Atomic Energy have also filed a counter affidavit, showing their action plan, as follows:

"4.a.The proposal for reservation of the area can be considered only after completion of detailed prospecting in the said area and it depends on the extent and the quantum of atomic minerals available in the area.

b.If the Hon'ble Court issues a direction in this regard, the area can be taken up for exploration from November, 2021 as a Special Assignment and a detailed report can be furnished in 8-10 month time."

22.The first respondent / District Collector, in his report dated 29.07.2021, has stated that the beach sand minerals are economic heavy minerals found in the teri or beach sands, which includes Ilmenite, Rutile, Leucoxene, garnet, Monazite, Zircon and Sillimanite. These mineral deposits can be transported for hundreds of kilometer from their source. Generally, these deposits are confined to beaches rather than to the streams, which is due to the fact that the light heavy minerals are slightly denser than quartz and felspar with which they are associated. The Government of India vide Notification in S.O.No.2356(E), dated 11.07.2016 made an amendment to Part-B "Atomic Minerals" in the Schedule I of Mines and Minerals (Development & Regulation) Act, 1957, as Zero threshold value to all cases of beach sand minerals and other placer deposits associated with Monazite. Therefore, in view of this amendment to the threshold value for the Atomic minerals, mining leases for mining Ilmenite, Rutile, Zircon, Monazite, Garnet, Sillimanite and Leucoxene could be granted only to a Government Company or Corporation owned or controlled by the Government.



23.The Atomic Minerals Directorate, in their counter affidavit, has suggested that the estimated time to carry out the detailed analysis and preparation of report would take around 8 - 10 months and that the work can be taken up from November, 2021.

24.In view of the counter affidavit filed by the first respondent / District Collector and the reports filed by the respondents 7 & 8 / Department of Atomic Energy, in and by which, they have affirmed the presence of heavy minerals with an average of 10%, including, Garnet, Ilmenite, Monazite, etc., this Court suggests the respondents 7 & 8 to take cognizance of the matter, explore the area, thoroughly and proceed further as per their terms. All that this Court expects is that the available minerals be identified by the Departments concerned and be utilized by the Government.

Issue No.2:

25.This Court has taken cognizance of the matter, issued various orders and has also appointed an Advocate Commissioner by order dated 23.11.2020. The learned Commissioner has also issued notice to the respective Counsel for the parties on 27.11.2020 and inspected the place from 30.11.2020 to 02.12.2020. The learned Commissioner, who is also an Expert in the field, has conducted inspection in a scientific and systematic manner and with the series of Google Satellite images of the subject area. He has also filed a typed set of papers along with his report, enclosing the Satellite images, inspection photographs, drone photographs, trench photographs and photographs of the excavation site. The photographs from page nos.21 to 23 show huge pits of sand taken from river Thamirabarani with the help of Hitachi machines and those pits are also away from the Check Dam.

26.The learned Commissioner has also taken photographs of the site and the surrounding area through drone and the drone photographs are annexed from page nos.10 to 20. Those photographs also show the excavation of sand and availability of pits in and around the Check Dam. He has also measured those pits using Total Station Survey and submitted a report that the total quantity of sand excavated from the subject area during the inspection is arrived as 109077.17 cubic metre. The details of the volume of sand / minerals excavated in the Check Dam site and in the adjacent area are furnished by the Commissioner in the typedset of papers in page no.96 and the same is usefully extracted as under:

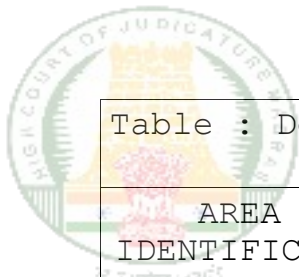
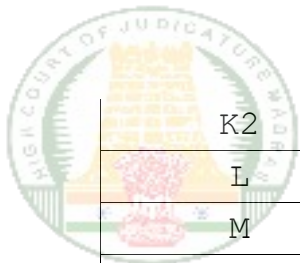


Table : Details showing volume of sand / minerals excavated in the check dam site in the adjacent area

AREA IDENTIFICATION MARK	LENGTH <i>in meter</i>	WIDTH <i>in meter</i>	AREA <i>in cubic meter</i>	AVERAGE HEIGHT	VOLUME <i>in cubic meter</i>	REMARKS
A	76.4	32.4	2475.36	1.015	2512.49	
B	275	36.67	10084.25	1.643	16568.42	
C	333	20.316	6765.228	2.1	14206.98	NGL - 95.6, EXISTING FLOOR RL - 94.9, Stone pitching thickness - 1.4M
C1	333	0.6	199.8	2.7	539.46	DOWNSIDE TOE WALL
D	333	12	3996	2.3	9190.80	CC BLOCK AREA
D1	333	0.6	199.8	4	799.20	DOWN STREAM CUTOFF WALL
E	333	7.7	2564.1	1.833	4700.00	STILLING BASIN AREA
F	333	2.465	820.845	1.95	1600.65	CHECK DAM PORTION
G	320	2.4	768	0.6	460.80	UP STREAM APRON
G1	320	0.6	192	3.1	595.20	UP STREAM CUT OFF WALL
H	320	2.4	768	1.3	998.40	UP STREAM BED PITCHING
H1	320	0.6	192	1.7	326.40	TOE WALL CONCRETE EXCAVATION
I	27.5	12	330	2.185	721.05	
J	75	56.92	4269	1.949	8320.28	EASTERN PIER SIDE
K1	74	57.94	4287.56	1.2	5145.07	



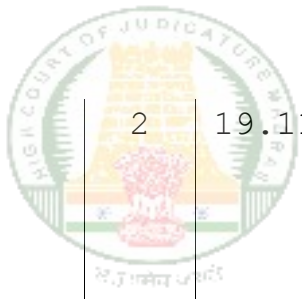
K2	303	6.77	2051.31	2.1	4307.75	
L	163.5	62.33	10190.955	0.318	3240.72	
M	18.2	11.86	215.852	0.742	160.16	
N	36	14.27	513.72	1.2	616.46	
O	180	29.86	5374.8	3.2	17199.36	
P	138.5	35.66	4938.91	2.41	11902.77	
Q	85	35.55	3021.75	1.643	4964.735	
TOTAL					109077.17	

27.This figure is, of course, disputed by the respondents 6 & 10. But, from the report of the learned Advocate Commissioner, this Court could infer that considerable quantity of sand has been excavated from the river Thamirabarani under the guise of constructing a Check Dam, by the sixth respondent, armed with the special condition no.4 in the agreement of the Public Works Department.

28.Neither the Public Works Department is the competent authority to issue such a permission nor the special condition no.4 was available in the original agreement. For any mining operation, there must be a mining plan as required under Sections 41 & 42 of the Tamil Nadu Minor Mineral Concession Rules and Environment Clearance, as per the dictum laid down by the Hon'ble Supreme Court in **(2012) 4 SCC 629 [Deepak Kumar and Others v. State of Haryana and Others]**. It is not known as to how the officials of the Public Works Department, who knew these provisions very well, have granted permission to the sixth respondent to take sand from the river and to utilize the same for the construction purpose.

29.It appears that with regard to the illegal quarrying of sand from river Thamirabarani, apart from the case registered in Crime No.341 of 2020, based on which this Court has taken cognizance of this issue, four other cases were also registered. The details of all such cases are as follows:

S.No	Date of complaint	Name of the complainant	Name of the Accused	Crime No.	Status of the case
1	23.09.2020	K.N.Ramesh Babu, Sub-Inspector of Police, Murappanadu (<i>suo-motu</i>)	1.Ramesh 2.Paramasivan 3.Govindharaj 4.Seenivasan	341/2020 u/s.379 IPC & 21 (1) of MMDR Act	Further Action Dropped



2	19.11.2020	Balakrishnan (writ petitioner)	1.Harihara Sudhan 2.Petchimuthu 3.Ramasamy	377/2020 u/s.341, 294(b), 506(i) IPC	Referred as mistake of fact
3	18.12.2020	Balakrishnan (writ petitioner)	1.Shanmugavel 2.Aathomoolam 3.Santhanaraja 4.Logu 5.Raj & 5 others	396/2020 u/s.379 IPC	Referred as mistake of fact
4	12.02.2021	M.G.Raja Robert, Sub- Inspector of Police, Murappanadu (suo-motu)	1.Loganathan 2.Karuppasamy	33/2021 u/s.21 (1) of MMDR Act	Further Action Dropped
5	13.02.2021	Balakrishnan (writ petitioner)	Harihara Sudhan	34/2021 u/s.341, 294(b), 506(i) IPC	Referred as mistake of fact

Crime No.377 of 2020:

30.According to the petitioner, he was intimidated to withdraw this writ petition pending before this Court and therefore, he has lodged this complaint on 19.11.2020. By recording the statements of one Murugan S/o.Kandhan, the then Panchayat President of Vallanadu and one Kumarasamy S/o.Kandasamy Thevar, the complaint was closed.

31.Murugan, in his statement, has stated that one Harihara Sudhan has called the village elders to his house on 30th March and the village elders, namely, one Madasamy S/o.Ramasubbu; Nanga Devar S/o.Mahalinga Devar; Arunachalam S/o.Siva Subbu Devar; Isaki S/o.Subbaiah Devar; and Vallanadu Panchayat Ward Member, Balu @ Balakrishnan S/o.Komba Devar / the petitioner herein, attended the same. In the meeting, Harihara Sudhan has conveyed that since they are constructing a Check Dam, they want to do something for the village and decided to construct a Mandapam for Mutharamman and Santhanaraja Temples. The construction Manager, one Gomathi Shanmugaraj, who was also present in that meeting, has also given assurance for the same. At that time, this petitioner, who is a Ward Member, has raised an objection that as a Ward Member for the relevant place, he must be paid separately, which was not accepted by the construction company and therefore, this case was registered. Based on this statement, the case was closed.

32.It is not known as to why, a construction company, which is constructing a Check Dam at river Thamirabarani, is extending its



arms by inviting the village elders to give an assurance for constructing some Mandapam for the Temples in that village. This, according to the petitioner, is the *modus operandi* of the illegal mining operators. By offering something to the nearby villages, they can carry on the illegal mining activities without any disturbance from the villagers adjacent to the quarry site. This Court feels that there is some substance in this argument advanced by the petitioner.

33.This Court is also not satisfied with the manner in which the investigation has been referred as mistake of fact. The statement of the complainant projected by the respondent police is contra to the complaint dated 19.10.2020. Apart from the complainant, his wife Alagammal and one Malaialagu were also examined and they have supported the occurrence. But their statements have been ignored completely and the Inspector of Police has concluded that the complainant has demanded money from the construction company and since it was not heeded to, he has lodged the complaint. By recording so, the Inspector of Police closed the complaint. If the investigating officer comes to the conclusion that the complainant, as a Ward Member, in order to extract illegal consideration, foisted a false case, in all fairness, the investigating officer ought to have referred the matter to the Vigilance and Anti Corruption for further probe. Instead, he chose to close the case as a mistake of fact, in order to avoid any further probe by any other investigating agency.

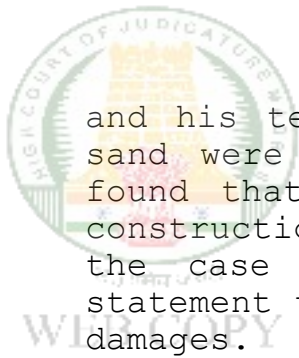
Crime No.396 of 2020:

34.The petitioner has lodged another complaint as against the sixth respondent herein and nine others on 18.12.2020 that pursuant to the orders of this Court appointing Advocate Commissioner, the accused, by using Hitachi machines and Lorries, have brought-in other minerals and filled the pits to conceal the evidence of illegal quarrying. By recording the statements of the Village Administrative Officer, Vallanadu and the Tahsildar of Srivaigundam Taluk and three other independent witnesses, the case was closed. According to the Village Administrative Officer and the Tahsildar, they have visited the site on 17.12.2020 at about 10.00 am and 10.30 am and there was no activity at all in the spot.

35.But, a cursory look of the statements of the independent witnesses, namely Ukkirapandi; Paramasivam S/o.Balakrishnan; Marimuthu S/o.Shanmugavel; and Marimuthu S/o.Mundasamy Thevar, would reveal that there was some movement and the heap of sand near the water pipe line for Virudhunagar was moved and placed near the shores of the river.

Crime No.33 of 2021:

36.This *suo-motu* complaint was registered by the Sub-Inspector of Police, Murappanadu Police Station that on 12.02.2021, when he



and his team was on patrol, they found that around five units of sand were transported from river Thamirabarani. On enquiry, they found that on the directions of one Loganath, Supervisor of the construction of Check Dam, the sand was transported and therefore, the case was registered. But it was closed by recording the statement that the sand was taken for the purpose of rectifying some damages.

37.The police found a pit near the river Thamirabarani and that has been projected as if, in order to fill up the sand in another place, they have taken it and that was not taken for the purpose of construction. The Assistant Engineer, Public Works Department; Thiru Shanmuganathan, Village Administrative Officer; and Thiru Raja, Village Assistant of Vallanadu, gave a statement that the sand has been removed to rectify the pathways damaged due to flood and the same has not been used for Check Dam construction work or any other work. Based on these statements, the case was closed.

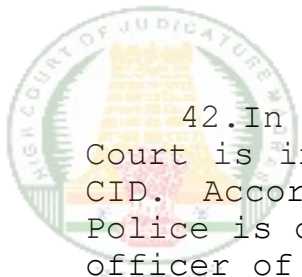
38.When this Court has specifically directed that no sand from river Thamirabarani should be excavated and that the construction activities should go on with m-sand alone, without any permission, the sand was again excavated. When a case was registered, it was projected as if the sand was taken to rectify the damaged footwork.

Crime No.34 of 2021:

39.This complaint was registered based on the orders of the learned Judicial Magistrate. The crux of the complaint is that the petitioner was intimidated by the accused to withdraw this writ petition filed before this Court. The Deputy Superintendent of Police collected the call details of the proposed accused and closed the complaint, by stating that the accused was not available in the occurrence place at the relevant point of time.

40.When the call details can be collected in this complaint, it is not known as to why it was not done in the earlier complaint of very same intimidation. Rather, it was closed by recording the statements of some individuals, while neglecting the statements of others who have supported the complainant.

41.From the materials available, this Court feels that the investigation in the aforesaid five cases have been conducted and concluded in a hurried manner. The fact remains that as against the rules and regulations, the sixth respondent has taken sand from the river Thamirabarani and also appeased the villagers that they would construct Mandapam for two Temples in their village. Two different Sub-Inspectors of Police have registered two *suo-motu* cases, for illegal transportation of sand from the river Thamirabarani, of which, one case was registered after this Court has taken cognizance of the issue and directed that no sand from river Thamirabarani should be taken for any purpose.



42.In view of the foregoing discussions and reasonings, this Court is inclined to transfer the investigation to the Crime Branch CID. Accordingly, the eleventh respondent / Director General of Police is directed to transfer the investigation in this issue to an officer of the rank of Deputy Superintendent of Police, Crime Branch CID.

WEB COPY

43.The proposed investigating officer of CBCID is directed to investigate,

i)the cases in crime nos.341, 377, 396 of 2020; and 33, 34 of 2021 on the file of the Murappanadu Police Station, irrespective of their stages;

ii)on the quantum and the extent of sand excavated by the sixth respondent from the site, after taking note of the report of the learned Advocate Commissioner dated 09.12.2020;

iii)as to whether the excavated sand was transported and sold illegally; and

iv)on the manner and the circumstances in which the special condition no.4 was incorporated in the contract, without any authority by the Department, that too after the registration of the criminal cases.

44.It is the duty of the State to protect the life and liberty of its citizen. The eleventh respondent / Director General of Police is, therefore, to ensure that no injury / damage is caused to the petitioner for having raised this issue by filing this writ petition.

45.With the above directions and observations, this writ petition stands disposed of. There shall be no order as to costs. Pending miscellaneous petitions, if any, shall stand closed.

46.For the report of the Atomic Minerals Directorate as to their detailed analysis and exploration of the subject area, let the matter be listed in the month of October, 2022.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2021

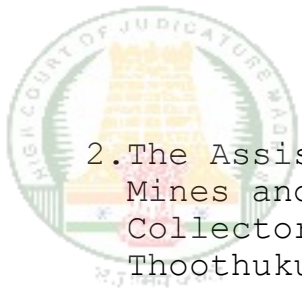
Sub Assistant Registrar(CS)

gk

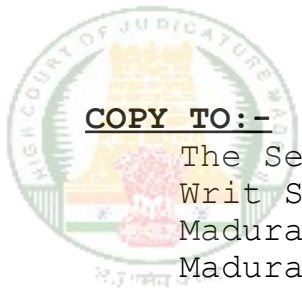
To

1.The District Collector,
Thoothukudi District,
Thoothukudi.

<https://hcservices.ecourts.gov.in/hcservices/>



- 2.The Assistant Director,
Mines and Minerals,
Collectorate Building,
Thoothukudi.
- 3.The Special Chief Engineer,
Public Works Department
/ Water Resource Organization,
Thamirabarani Basin Circle,
Tirunelveli.
- 4.The Superintendent of Police,
Thoothukudi District,
Thoothukudi.
- 5.The Tahsildar,
Srivaikundam Taluk,
Thoothukudi District.
- 6.The Secretary to Government,
Department of Atomic Energy,
Union of India,
Anushakti Bhavan,
Chhatrapati Shivaji Maharaj Marg,
Mumbai - 400 001.
- 7.The Director,
Atomic Minerals Directorate for
Exploration and Research,
Department of Atomic Energy,
Union of India,
1-10-153/156, AMD Complex,
Begumpet, Hyderabad - 500 016.
- 8.The Secretary to Government,
Industries Department,
State of Tamil Nadu,
Secretariat, Chennai.
- 9.The Secretary to Government,
Public Works Department,
State of Tamil Nadu,
Secretariat, Chennai.
- 10.The Director General of Police,
Chennai.



COPY TO:-

The Section Officer,
Writ Section,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.P. CHANDRASEKARAN, Advocate (SR-35518[F]
dated 23/11/2021)

+1 CC to M/s.SPL GP (SR-35638[F] dated 24/11/2021)

W.P. (MD) No.14339 of 2020
22.11.2021

PS (CO)

GC(03.12.2021) 16P 14C