



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.04.2021

CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P.(MD)No.15662 of 2020 and

WMP(MD) No.13142 of 2020

T.Murugesan

Petitioner

Vs.

1.The District Collector,
Office of the District Collector,
Sivagangai.

2.The Assistant Director,
Geology and Mines Department,
Collectorate Campus,
Sivagangai,
Sivagangai District.

3.The Tahsildar,
Office of the Taluk Office,
Sivagangai,
Sivagangai District.

Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records pertaining to the impugned order issued by the first respondent in Na Ka No.M2/97/2020, dated 08.10.2020 and quash the same as illegal and unconstitutional.

For Petitioner : Mr.A.Gopal

For Respondents : Mr.P.Kannidevan

Additional Government Pleader

O R D E R

This Writ Petition has been filed by the petitioner to quash the impugned order of the first respondent in Na Ka No.M2/97/2020, dated 08.10.2020.

2. The case of the petitioner is that he is the absolute owner of the property in Patta No.181/1, measuring a total extent of 0.32.0 ares, situate at Lakshmipuram Village, Vembathur Group, Sivagangai District. According to the petitioner, one Dharmaraj filed a Writ Petition in W.P.(MD) No.8554 of 2020 before this Court, seeking relief of forbearing the first respondent/District Collector from granting lease of Savudu sand in respect of Survey Nos.183/3, 186/5, 302/2A etc., which is the land adjacent to the petitioner's land. By order dated 04.08.2020, this Court has directed the second respondent to cause inspection of the permitted lands as well as the adjacent lands in Survey Nos.183/2A, 183/2B and 181/1, after putting notice to the parties and further direction has been issued to the effect that depending upon the result of the inspection, appropriate



action shall be taken and the decision also shall be communicated to the petitioner as well as the third respondent.

2.1. According to the petitioner, the land in Survey No.181/1 is owned by the petitioner. On 03.08.2020, the third respondent has conducted a spot inspection in the petitioner's land also, even without giving any notice to the petitioner, that too, before the date of the order of this Court. The grievance of the petitioner is that in the inspection report, it was erroneously held that the petitioner herein has been digging savudu sand and the said report was also sent to the first respondent, based on which, the first respondent/District Collector issued a show cause notice vide proceedings in Na Ka No.M2/97/2020, dated 08.10.2020. In pursuant to the show cause notice, the petitioner sent a detailed reply on 20.09.2020, but without considering his explanation, the impugned order levying Rs.3,68,550/- as penalty came to be passed. In order to substantiate his contentions, the learned counsel for the petitioner would rely upon the order of this Court in W.P.(MD) No.24400 of 2012, dated 07.02.2020.

3. The learned Additional Government Pleader would submit that the impugned order has been passed based on the inspection report of the third respondent and in accordance with law and there is no violation of principles of natural justice. He would further submit that, if the petitioner is aggrieved, he is having an appeal remedy before the concerned Appellate Authority and therefore this Writ Petition is not maintainable.

4. Admittedly, in the case on hand, a reply was given by the petitioner on 20.09.2020 to the show cause notice dated 03.08.2020. When a categorical stand has been taken that the petitioner has carried illegal mining operations in his property, it is the duty of the authorities to furnish the copies of the inspection reports based on which the impugned order dated 08.10.2020 was passed by the first respondent against the petitioner. The quasi-judicial authorities like that of the respondents must always adopt fair play and transparency to avoid any suspicion about the fairness of the orders passed by them. In the case on hand, the non-furnishing of the documents reflected in the impugned order discloses that fair play and transparency were not adopted by the respondents. It is also seen that sufficient opportunity has not been given to the petitioner to place his submissions with regard to the demand made by the respondents towards penalty.

5. As pointed out by the learned counsel for the petitioner that the issue involved in the present writ petition is squarely covered by the order of this Court in W.P.No.24400 of 2012, dated 07.02.2020, wherein, the learned single judge has elaborately discussed the issue in question and set aside the impugned order and remanded the matter back to the respondents concerned for passing orders afresh, after giving sufficient opportunity.



6. In view of the above and considering the fact that the issue has already been settled by this Court and it is apparent that no notice of inspection or the copy of the inspection reports were furnished to the land owner/petitioner prior to the passing of the orders against him, I am of the considered opinion that the impugned order has to be set aside and accordingly, the same is set aside. The matter is remanded back to the respondents to pass final orders, after granting sufficient opportunity to the petitioner to place all his submissions, including granting him right of personal hearing, within a period of eight weeks from the date of receipt of a copy of this order. There shall be a further direction to the authorities concerned to serve the copy of the inspection report to the petitioner.

7. With the above observations and directions, this Writ Petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

vrn

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,
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Sivagangai.
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W.P.(MD)No.15662 of 2020

+1 CC to M/s.A.GOPAL, Advocate (SR-15538[F] dated 08/04/2021)

+1 CC to M/s.SPL GP (SR-15614[F] dated 09/04/2021)

WEB COPY

Order made in
W.P. (MD) No.15662 of 2020 and
WMP (MD) No.13142 of 2020
08.04.2021

RK (28.04.2021) 4P 6C