



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.03.2021

CORAM:

**THE HONOURABLE MR.JUSTICE M.M.SUNDRESH  
AND**

**THE HONOURABLE MRS. JUSTICE S.ANANTHI**

**W.P. (MD) Nos.16884 and 14088 of 2020  
and WMP(MD) Nos.12785 of 2020 and 4684 of 2021  
(Through Video Conferencing)**

**W.P. (MD) NO.16884/2020**

Elephant G.Rajendran : Petitioner  
Vs.

1.The Executive Engineer,  
Public Works Department  
Mining and Monetary Department  
Near DIG Bungalow,  
Thanjavur.

2.The Project Director,  
Sand Quarrying Operation,  
Public Works Department  
Chepauk  
Chennai 600 005.

: Respondents

**PRAYER:** Petition is filed under Article 226 of the Constitution of India praying for the issue of a Writ of Mandamus to direct the respondents to issue 30 units of river sand from Government river sand quarry at Sengipatty Village, Budaloor Division, Thanjavur District through the lorry at the petitioner choice.

For Petitioner : Mr.Elephant G.Rajendran  
Petitioner in person  
For Respondents : Mr.K.Chellapandian  
Additional Advocate General  
assisted by Mr.K.P.Krishnadoss,  
Special Govt. Pleader

**W.P. (MD) NO.14088/2020**

M.Thangavel : Petitioner  
Vs.

1.The Project Director,  
Sand Quarrying Operation,  
Public Works Department  
Chepauk



Chennai 600 005.

2.The District Collector  
Thanjavur District,  
Thanjavur.

3.The Assistant Director,  
Mines and Minerals Department  
Thanjavur District.

4.The Executive Engineer,  
Public Works Department  
Mining and Monetary Department  
Near DIG Bungalow,  
Thanjavur District.

5.Elephant G.Rajendran : Respondents

(5<sup>th</sup> respondent has been suo motu impleaded  
vide order of this Court dated 09.10.2020)

**PRAYER:** Petition is filed under Article 226 of the Constitution of India praying for the issue of a Writ of Mandamus to direct the respondents to enable only the general public to purchase river sand through "Tamil Nadu Sand Web Service Portal" on all working days.

For Petitioner : Mr.C.Bharathi

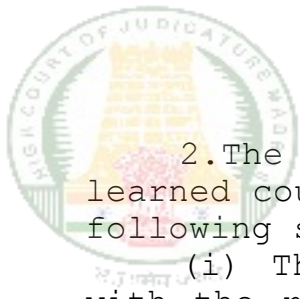
For Respondents : Mr.K.Chellapandian  
Additional Advocate General  
assisted by  
Mr.K.P.Krishnadoss  
Special Government Pleader  
for R1 to R4

**COMMON ORDER**

(Order of the Court was made by M.M.SUNDRESH, J.)

Inasmuch as the issues are overlapping and involving giving permission to remove the sand from two portals under the custody of the PWD Department, we are inclined to pass a common order.

2.W.P.No.16884/2020 is filed by the petitioner, who appears as party in person, seeking a direction to the respondents to issue 30 units of sand, which he is scaling down to 20 units. W.P.(MD) No.14088 of 2020 has been filed by way of Public Interest Litigation seeking certain directions and direct the respondents to issue 30 units of sand.



2.The petitioner, who appears as party in person and the learned counsel for the petitioner in W.P(MD) No.14088/2020 made the following submissions:

(i) There cannot be any insistence upon a vehicle registered with the respondents, as it is for the individual person to whom a permit has been given to undertake the said exercise ;

(ii) The public are not given the sand as against the lorry owners, since the same has been prioritized with the collusion of the officials on the premise that such permissions are being given at first come first service basis ;

(iii) In view of the aforesaid collusion, the lorry owners got into the category pertaining to the portal meant for the general public and in the case of general public, they take sand and there must be an insistence to the effect that the approved plan from the authority concerned will have to be shown ; and

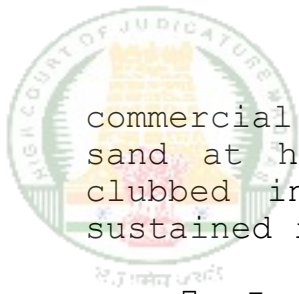
(iv) There cannot be clubbing of permissions involving in two portals, as the lorry owners will have to take the back seat and therefore, after exhausting the permits in favour of the individuals, their requirement will have to be considered.

3. By way of reply, the learned Additional Advocate General submitted that even the lorry owners are catering to the need of the public and that is the reason why same price is fixed for the sale of the sand. There is no insistence of the vehicle after the permission is given, while giving in favour of the general public. What is required is that the registration number of the vehicle is required to be given, so that verification can be done as to whether the sand sold is utilized for the avowed purpose. The public is at liberty to register their own/choice of the vehicle. Incidentally, it is submitted that there is no wrong in the first come first come basis, as the statistics would show that public has received more sand than the lorry owners.

4. When a query raised by the Court that it is mandatory that only lorries alone shall be permitted to take the sand, the learned Additional Advocate General submitted that the carrying of the sand is the look out of the buyer and therefore, any vehicle can be permitted, provided, the registration number of the vehicle will have to be furnished.

5. We have heard the submissions made by the learned counsel for the petitioners, petitioner appeared in person and the learned Additional Advocate General for the respondents.

6. We are of the view that the respondents' logic in fixing the same price both for domestic and commercial purpose can never be



commercial purpose. There is no doubt that they are selling the sand at higher price. Therefore, both these factors cannot be clubbed into one. Thus, the very procedure adopted cannot be sustained in the eye of law.

7. In such view of the matter, the respondents are directed to exhaust the online applications made by the general public and thereafter if anything is left, the requisite for the lorry owners will have to be considered. To resolve this issue, we make it clear that the application/request made till 1.30 p.m., on the date of effecting sale received from the general public will have to be exhausted and thereafter only the applications made by the lorry owners will have to be considered, provided, the sand has not been exhausted by the time. This would serve the avowed purpose, for which, the entire scheme has been formulated.

8. In view of the aforesaid submissions made by the learned Additional Advocate General, any vehicle can be permitted, provided, the buyer has to give the particulars of the said vehicle.

9. On the allegations made with respect to the alleged collusion between the lorry owners and the officials, we make it clear that before effecting the sale, the respondents will have to satisfy that there is an approved plan produced by the applicant, namely, the intending purchaser to the satisfaction of the officials and based upon the same alone permission will have to be granted.

10. Alternatively, the respondents can take note of the registration number of the vehicle at the time of either effecting the sale or loading and thereafter taking the sand from their custody. This is for the reason that at times insisting on the registration number of the vehicle, even before the sale is effected or permission given, would result in the lorry owners' taking advantage of the situation, as against an individual person, who intends to use the sand for domestic purpose.

11. Insofar as the petitioner in W.P.(MD) No.14088/2020 is concerned, though he filed the writ petition styling it as public interest litigation, his request seeking 30 units of sand is pending and insofar as the writ petition No.16884/2020 seeking issuance of 30 units, which has been scaled down to 20 units, inasmuch the petitioner has made the said request way back in the year 2020 onwards, the respondents are directed to grant 30 units of sand to both the petitioners within two weeks from the date of receipt of a copy of this order, subject to the compliance of the aforesaid conditions.



12. The writ petitions are disposed of with the aforesaid observations and directions. No costs. Consequently connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(CS-III)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

RR

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 Project Director,  
Sand Quarrying Operation,  
Public Works Department  
Chepauk, Chennai 600 005.

2.The District Collector  
Thanjavur District, Thanjavur.

3.The Assistant Director,  
Mines and Minerals Department  
Thanjavur District.

4.The Executive Engineer,  
Public Works Department  
Mining and Monetary Department  
Near DIG Bungalow, Thanjavur District.

+2 CC to M/s.ELEPHANT.G.RAJENDRAN, Advocate ( SR-11914[F] dated 17/03/2021 )

+1 CC to M/s.SPL GP ( SR-12119[F] dated 18/03/2021 )

Order made in  
**W.P. (MD)Nos.16884 and 14088 of 2020**  
Dated: 17.03.2021

ES (CO)

TR(08.04.2021) 5P 8C

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