



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :26.04.2021

CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P (MD)No.21067 of 2019

and

W.M.P (MD)Nos.17696 and 17697 of 2019

WEB COPY

B.Panchavarnam

... Petitioner

Vs.

1.The Commissioner,
Mines and Minerals Department,
Thiru Vi.Ka Industrial Estate,
Guindy, Chennai.

2.The District Collector,
Office of the District Collector,
Theni District.

3.The Assistant Director,
Mines, Theni District.

... Respondents

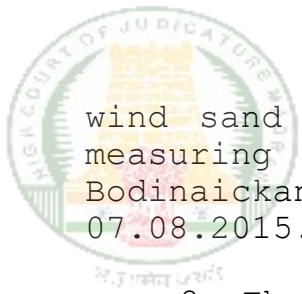
PRAYER: Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned orders passed by the second respondent in Na.Ka.No.190/Mineral/2017 dated 26.11.2018 and subsequent proceedings by the first respondent in Na.Ka.No.9447/mm8/2018 dated 07.08.2019 and quash the same and consequently direct the respondents herein to grant extension of time / issue licence to the petitioner for carrying out quarry operations for the non-operational period in respect of the wind sand in petitioner's patta land comprised in S.No.115/2B B1 measuring 1.20.0 Hectares situated at Rajasingapuram Village, Bodinaickanur Taluk, Theni as per orders of the second respondent dated 07.08.2015.

For Petitioner : Mr.Veera Kathiravan, Senior Counsel
M/s.Veera Associates

For Respondents : Mrs.J.Padmavathi Devi,
Special Government Pleader

ORDER

This writ petition is filed by the petitioner to quash the impugned orders passed by the second respondent in Na.Ka.No.190/Mineral/2017 dated 26.11.2018 and subsequent proceedings of the first respondent in Na.Ka.No.9447/mm8/2018 dated 07.08.2019 and consequently, direct the respondents herein to grant extension of licence period to the petitioner for carrying out quarry operations for the non-operational period in respect of the



wind sand in petitioner's patta land comprised in S.No.115/2B B1 measuring 1.20.0 Hectares situated at Rajasingapuram Village, Bodinaickanur Taluk, as per orders of the second respondent dated 07.08.2015.

2. The brief facts of the case are as follows:

(i) The husband of the petitioner namely Balamurugan was granted lease for carrying out the operations of wind sand in the patta land comprised in S.No.115/2 B 1 B1, admeasuring to an extent of 1.20.0 Hectares situated at Rajasingapuram Village, Bodinaickanur Taluk, Theni District as per the orders dated 07.08.2015, issued by the District Collector, Theni. It was admittedly issued for a period of three years from 09.10.2015 to 08.10.2018.

(ii) While the matter stood thus, within one month from the date of commencement of the quarry operations, the petitioner's husband died on 26.06.2016, due to illness. Therefore, the petitioner filed a writ petition in W.P(MD)No.10270 of 2017 wherein this Court has also given direction to grant licence in favour of the petitioner due to the death of her husband. Thereafter, one R.B.Rathinam filed a Public Interest Litigation in W.P(MD)No.12940 of 2017 alleging illegal quarrying of sand in Rajasingapuram village, wherein an order of interim injunction was granted by the Honourable Division Bench of this Court, restraining the respondents therein from issuing transport permit to the licencees. Thereafter, based on the report filed by the Superintendent of Police, Theni, the said writ petition was closed.

(iii) Thereafter, the petitioner made a representation to the District Collector on 26.10.2018 seeking to change the lease agreement in her favour and to extend the period of quarry operation insofar as the non-operational period. However, the District Collector has rejected the petitioner's request vide order dated 26.11.2018 stating that there is no provision for extension of lease period. Aggrieved over the same, the petitioner filed an appeal before the first respondent on 08.12.2018. However, the said appeal was dismissed by the first respondent on 07.08.2019. Hence, this writ petition.

3. The learned counsel appearing for the petitioner would contend that that for getting the lease granted, the husband of the petitioner obtained 'No Objection Certificate' from the Pollution Control Board, 'Consent Letter' from the State Environmental Impact Assessment Authority, approval from the Mining Authorities and also 'No Objection Certificate' from Rajasingapuram village Panchayat and the lease was granted to the petitioner's husband after fulfilling all the formalities prescribed and the lease period was for three years from 09.10.2015 to 08.10.2018 and within that period, on 26.06.2016, the petitioner's husband expired and thereafter, an interim injunction granted by the Division Bench of



this Court in W.P(MD)No.12940 of 2017, the lease was not transferred in the name of the petitioner.

4. It is the specific contention of the learned counsel for the petitioner that all other persons whose quarrying operations were stopped in view of the order passed by the Honourable Division Bench of this Court, have been subsequently granted extension of lease for the period which they have not operated the quarry. But, in the case of the petitioner, without considering the merits of the case, the impugned orders have been passed and therefore, the same are liable to be quashed.

5. The learned Special Government Pleader appearing for the respondents on instructions would submit that grievance of the petitioner will be considered.

6. Heard the learned counsel appearing for the petitioner and the learned Special Government Pleader appearing for the respondents and perused the materials placed before this Court.

7. Perusal of the records shows that in respect of one K.Prem, a lessee like that of the petitioner, extension of lease was granted for the non-operational period. The petitioner is also on the same footing. Further, this Court has also in number of cases, considered the request for extension of lease for the non-operational period and therefore, the impugned orders are liable to be set aside.

8. In the result, the writ petition is allowed and the impugned order passed by the second respondent in Na.Ka.No.190/Mineral/2017 dated 26.11.2018 and subsequent order passed by the first respondent in Na.Ka.No.9447/mm8/2018 dated 07.08.2019, are hereby set aside.

9. The respondents are directed to grant extension of licence period to the petitioner for carrying out quarry operations for the non-operational period in respect of wind sand in the petitioner's patta land comprised in S.No.115/2B B1 measuring 1.20.0 Hectares situated at Rajasingapuram Village, Bodinaickanur Taluk, during the period in which the licence was in existence, as per orders of the second respondent dated 07.08.2015. No Costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(CS-III)

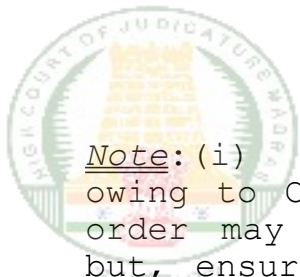
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/ /2021

Sub Assistant Registrar(CS)

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



Note: (i) 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 Commissioner,
Mines and Minerals Department,
Thiru Vi.Ka Industrial Estate,
Guindy,
Chennai.
- 2.The District Collector,
Office of the District Collector,
Theni District.
- 3.The Assistant Director,
Mines, Theni District.

+1 CC to M/s.VEERA ASSOCIATES, Advocate (SR-17671[F] dated 27/04/2021)

W.P (MD) No.21067 of 2019
26.04.2021

TP (CO)
TR(23.06.2021) 4P 5C