



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.02.2021

CORAM:

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN**

W.P.(MD)No.17536 of 2017

and

W.M.P.(MD)No.14063 of 2017

WEB COPY

Sugumar

... Petitioner

Vs

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

2.The Assistant Director,  
Geology and Mining Department,  
Virudhunagar District.

... Respondents

**PRAYER:** Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, to direct the first respondent to extend one week time for deposit 90% of the bid amount by the petitioner relating to the ordinary rough stone quarry comprising 2.02.0 hector in Virudhunagar District, Rajapalayam Taluka, Muthusampuram in Survey No.394/1(P) within the time stipulated by this Court .

For Petitioner : Mr.R.Alagumani

For Respondents : Mr.M.Rajarajan

Additional Government Pleader

### **ORDER**

Heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader appearing for the respondents.

2.The petitioner applied in response to the tender notification dated 17.08.2017 issued by the first respondent inviting tenders for grant of license to conduct rough stone quarry in the petition mentioned survey number belonging to the Government. The petitioner was the highest bidder. As per the terms of the tender notification, he had to pay 10% of the bid amount ( Rs.3,61,500/-) immediately. He was to pay 90% of the bid amount on or before 13.09.2017.

3.The case of the petitioner is that when he went to remit the balance amount on 13.09.2017, the treasury declined to accept the amount on the ground that there was some confusion in the communication issued by the first respondent. Therefore, the petitioner filed the present writ petition seeking extension of time for depositing the balance 90% of the bid amount.



4.The matter was taken up for admission on 18.09.2017 and interim order was granted in favour of the petitioner herein.

5.Today, when the matter was taken up for hearing, almost 3 ½ years have elapsed. It would not be proper for this Court to grant relief sought for by the petitioner at this point of time.

6.At this stage, the learned counsel appearing for the petitioner submitted that even though he may not be justified in asking for the same relief after a lapse of several months, this Court could atleast consider directing the respondent to refund 10% of the bid amount already deposited by him.

7.Even, this request is opposed by the learned Additional Government Pleader. He would draw my attention to the forfeiture clause set out in the tender notification. It is true that there is a clause for forfeiting 10% of the bid amount, if the balance 90% of the bid amount is not remitted within the time stipulated.

8.I am of the view that this forfeiture clause will not have any application to the case on hand. This is for more than one reason. As rightly pointed out by the learned counsel appearing for the petitioner, the communication dated 07.09.2017 issued by the first respondent mentions one figure in number and another figure in writing. In fact, the said communication states that the petitioner had already remitted a sum of Rs.3,61,500/- and also Rs.7,25,000/-. This is because of mentioning of both in the same breadth, confusion had arisen. However, in Paragraph No.2 of the said communication, the balance 90% of the bid amount had been correctly mentioned. Still, I see force in the petitioner's request. This is because, on the same day, i.e., 13.09.2017, he had has given a representation to the respondents complaining that the treasury declined to accept the amount tendered by him. It is also seen that this Writ Petition was filed on the very next day i.e., 14.09.2017. In other words, on the same day i.e., 13.09.2017, he had complained the respondents that even though he was ready to perform a part of his obligation, he was unable to do so. The forfeiture clause could be pressed into service, only if there was default on the side of the petitioner. In this case, the petitioner was not at fault. He was prevented from carrying out his obligation. Therefore, this is not a case, in which, forfeiture clause can be invoked.

9. Therefore, even while declining to grant the relief sought for by the petitioner, I direct the respondents to return 10% of the bid amount (Rs.3,61,500/-) to the petitioner at the earliest, in any event, within a period of eight weeks from the date of receipt of a copy of this order.

10.The Writ Petition is disposed of with the aforesaid



WEB COPY

W.P.(MD)No.17536 of 2017

direction. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CSIII)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

rmi

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,  
Office of the District Collector,  
Virudhunagar District.
- 2.The Assistant Director,  
Geology and Mining Department,  
Virudhunagar District.

+1 CC to M/s.SPL GP ( SR-5687[F] dated 17/02/2021 )

W.P. (MD)No.17536 of 2017  
16.02.2021

ES (CO)

KB(01.03.2021) 3P 4C