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W.P(MD)No.18776 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.03.2021

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.18776 of 2017

and

W.P. (MD)No.8726 of 2019

and

W.P. (MD)No.18912 of 2020

and

W.M.P. (MD)Nos.15146, 15147, 15148 of 2017

and

W.M.P. (MD)No.11584 of 2018

and

W.M.P. (MD)No.6796 of 2019

and

W.M.P. (MD)No.15844 of 2020

W.P. (MD)No.18776 of 2017:-

Virudhunagar District Quarry Owners
Welfare Association,
(Regn No.57/2014),
Rep. by its Secretary,
A.Narayana Perumalsamy

... Petitioner

Vs.

1.The Commissioner of Geology and Mining,
Thiru Vi Ka Industrial Estate,
Guindy, Chennai - 32.

2.The District Collector,
Virudhunagar District.

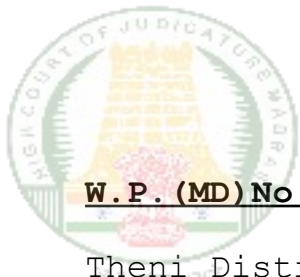
3.The Assistant Director of Mining,
Office of the District Collector,
Collectorate,
Virudhunagar District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the records relating to the impugned order of the 2nd respondent in No.KV1/31528/2016 dated 12.09.2017, quash the same.

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

For Respondents : Mrs.Narmadha Sampath,
Additional Advocate General,



Assisted by Mr.G.Arjunan,
Government Advocate.

W.P. (MD)No.8726 of 2019:-

Theni District Vaigai Stone Quarry and
Crusher Owners Association,
Rep. by its Secretary,
K.Jaganathan

... Petitioner

Vs.

1.The Commissioner of Geology and Mining,
Thiru Vi Ka Industrial Estate,
Guindy, Chennai - 32.

2.The District Collector,
Theni District.

3.The Deputy Director of geology and mining
Office of the District Collector,
Collectorate,
Theni District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, restraining the respondents not to compel the petitioner association members to register as a dealer under Tamilnadu Prevention of Illegal Mining, Transportation and Storage of Minor and Mineral Dealers Rules, 2011 and consequently not to interfere with the transport of the crusher materials from the crushing unit of members of the petitioner association to end users through sales invoice containing GST Number.

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

For Respondents : Mrs.Narmadha Sampath,
Additional Advocate General,
Assisted by Mr.G.Arjunan,
Government Advocate.

W.P. (MD)No.18912 of 2020:-

J.Raja Jebadoss

... Petitioner

Vs.

The Assistant Director of Geology and Mining,
Thoothukudi.

... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, forbearing the respondent in anyway compelling or insisting the petitioner to register the petitioner as a dealer under Tamilnadu Prevention of Illegal Mining, Transportation and Storage of Minor



and Mineral Dealers Rules, 2011 or in anyway interfering in the peaceful quarrying operation and transportation of minerals of the petitioner for not letting the registration under the Rules.

For Petitioner : Mr.Veerakathiravan, Senior Counsel,
For M/s.Veera Associates.
For Respondent : Mrs.Narmadha Sampath,
Additional Advocate General,
Assisted by Mr.G.Arjunan,
Government Advocate.

COMMON ORDER

Heard the learned senior counsel for the writ petitioners and the learned Additional Advocate General for the respondents.

2.The issue raised in these writ petitions is whether a holder of a mining lease or a quarry lease is required to register himself as a dealer under the Tamilnadu Prevention of Illegal Mining, Transportation and Storage of Minor and Mineral Dealers Rules, 2011.

3.The contention of the learned senior counsel is that the answer to this question is provided in the proviso to Rule 3(3) of the Tamilnadu Prevention of Illegal Mining, Transportation and Storage of Minor and Mineral Dealers Rules, 2011. The said Rule reads as follows:

"3. Prohibition:-

(1)

(2)

(3) No mineral dealer shall store any mineral other than the place specified in the registration certificate granted under these rules

Provided that no person purchasing and transporting minerals for use or consumption by himself and such use or consumption does not involve commercial activity and any holder of a mining lease or a quarry lease in respect of the minerals for which he holds a lease, shall not be required to register himself as a dealer"

4.Since the statutory Rule makes it clear that holder of a mining lease or a quarry lease shall not be required to register himself as a dealer, it is illegal on the part of the authorities to insist that the members of the petitioner-association should register themselves as dealers.

5.Per contra, the learned Additional Advocate General would point out that the issue on hand is no longer res integra. She would draw my attention to the order dated 26.06.2014 passed in W.P.Nos.30131 to 30135 of 2012 etc., batch (M/s.Sri



Veknataramanaswamy Blue Metals Vs. The District Collector, Coimbatore District, Coimbatore). In the said batch, the issue that has been raised in these writ petitions was raised and eventually, the writ petitions were dismissed. She submits that these writ petitions deserve to be summarily dismissed by referring to the said order.

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6.Faced with this formidable objection, the learned senior counsel for the petitioners would submit that in the said order dated 26.06.2014, the learned Judge had not at all referred to the proviso on which, he is placing reliance.

7.I am not persuaded by the contentions of the learned senior counsel for the writ petitioners. In paragraphs 13, 14, 15 and 17 of the aforesaid order, the issue raised in these writ petitions have been dealt with. This Court being of coordinate strength is clearly bound by the aforesaid order and if I disagree with the same, I have to necessarily seek a reference to a larger bench. I am not persuaded to seek such a reference. This is for more than one reason. It is true that the proviso to Rule 3(3) categorically states that a lease holder is not required to register himself as a dealer. Such a proviso was expressly carved out because of the wide definition of the term "mineral dealer". Rule 2(15) defines mineral dealer as any person, who carries on the business of buying, selling, storing, supplying, transporting, distributing or delivering for sale of minerals or its products. A quarry lease holder obviously is engaged in storing, delivering and selling minerals. Therefore, on the face of it, he would fall within the sweep of the said definition. In order to provide an exemption, proviso to Rule 3(3) was incorporated. If a person is merely acting as a lease holder and does not do anything else, obviously he is not required to register himself as a dealer under the aforesaid Rules. But if he, apart from being a lease-holder is also engaged in transportation of minerals, then obviously, he has to register himself as a dealer. This is the submission made by the learned Additional Advocate General and I sustain the same. I do not find any ground to grant relief. The writ petitions stand dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CSII)

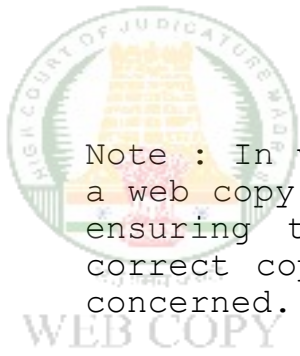
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Sub Assistant Registrar(CS)

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To:

- 1.The Commissioner of Geology and Mining,
Thiru Vi Ka Industrial Estate,
Guindy, Chennai - 32.
- 2.The District Collector,
Virudhunagar District.
- 3.The Assistant Director of Mining,
Office of the District Collector,
Collectorate, Virudhunagar District.
- 3.The District Collector,
Theni District.
- 4.The Deputy Director of geology and mining
Office of the District Collector,
Collectorate,
Theni District.
- 5.The Assistant Director of Geology and Mining,
Thoothukudi.

+3 CC to M/s.VEERA ASSOCIATES, Advocate (SR-13208[F] dated
24/03/2021)

W.P (MD) No.18776 of 2017
and
W.P. (MD) No.8726 of 2019
and
W.P. (MD) No.18912 of 2020
23.03.2021

SRK (CO)
KB(27.04.2021) 5P 9C