



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.01.2022

CORAM :

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.8006 of 2010

&

MP.No.1 of 2010

P.Shankar

...Petitioner

Vs.

1. The State of Tamil Nadu
Rep. by its Secretary to Government
Industries Department
Secretariat
Chennai-600009.

2. The District Collector
Thiruvallur District
Thiruvallur.

... Respondents

Prayer : Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records of the 1st respondent relating to G.O.(D) No.470, Industries (MMC2) Department, dated 29.12.2008 and quash the same and consequently direct the first respondent to grant within a reasonable time as fixed by this Hon'ble Court, the revival of the lease by granting the alternative site in S.F.No.295 over an extent of 2.06.0 hectares out of the total extent and 4.11.0 hectares in Tirutani Village and Taluk of Thiruvallur District for a period of 5 years.

For Petitioner : Mr. Baskaran
for Mr.Muniratnam

For Respondents : Mr. B.Vijay
Additional Government Pleader.

O R D E R

The Order dated 29.12.2008 issued by the 1st respondent in GO.(D) No.470, Industries Department is sought to be quashed in the present writ petition. Further direction is sought for to grant revival of the lease by granting an alternative site in



S.F.No.295, over an extent of 2.06.0 hectares out of the total extent of 4.11.0 hectares in Tirutani Village and Taluk of Thiruvallur District for a period of five years.

2. The petitioner states that he was the highest bidder in the tender-cum-public auction conducted as per Rule 8(1) of the Tamil Nadu Minor Mineral concession Rules, 1959 (in short 'Rules'). The lease was granted for the period of five years i.e. from 1997 to 2002 in proceeding dated 20.06.1997 of the District Collector, Thiruvallur District. The petitioner remitted the bid amount of Rs.1,85,000/- for the entire lease period of five years and also paid all other necessary charges followed by execution of the lease deed along with the sketch dated 17.08.1997. The petitioner submitted the lease deed for Registration on 10.08.1997 but the same was not returned to him in the guise of under valuation for stamp duty.

3. The learned counsel for the petitioner made a submission that the lease has not been cancelled so far and even the impugned order has been passed in the year 2008. Further it is contended that the period of lease was from the year 1997 to 2002 and therefore, the manner in which the issues were dealt with by the respondents is not in accordance with law and therefore, the impugned order is to be set aside. It is submitted that the petitioner has paid the lease amount for the period of 5 years but he was not allowed to quarry and the money deposited has also not been refunded to the petitioner. Thus, for these reasons the petitioner is entitled for the relief.

4. The learned Additional Government Pleader appearing on behalf of the respondents disputed the said contention by stating that no doubt the petitioner was granted rough stone quarry lease for the period of five years from 1997 to 2002 in respect of S.F.No.295, over an extent of 2.06.0 hectares out of the total extent of 4.11.0 hectares in Tirutani Village and Taluk of Thiruvallur District vide District Collector proceeding dated 20.06.1997. However, the petitioner did not commence the quarrying operation for a period of two years continuously. He had also failed to hand over the registered lease agreement.

5. The petitioner has instead of submitting any specific reason for non-cooperation of the quarry had sent letter dated 28.08.1999, wherein he had stated that he could not commence the quarrying operations due to unavoidable circumstances. In response to the Secretary to Government, Industries Department in D.O. Letter dated 21.11.2002, a detailed report was submitted by District Collector Thiruvallur, wherein it was requested not to consider the individual's claim for quarrying of rough stone.



6. After the expiry of the original lease granted to the petitioner, auction was taken to bring the above rough stone quarrying under Tender-cum-auction not only to arrest the illicit quarrying but also to avoid loss of revenue to the State. As such, necessary notification was published by the District Collector, Tiruvallur in Notification No.5, dated 28.02.2003.

7. The petitioner in his letter dated 21.03.2003 has stated certain reasons for not operating the quarrying and had requested for withdrawal of the above notification. The claim of the writ petitioner was considered and necessary proceedings were issued by the District Collector, Tiruvallur, on 03.05.2003, specifying eight reasons for rejecting the request for the extension of lease period as well as stating that there is no need for withdrawal of Notification dated 28.02.2003. Thereafter, the petitioner approached the Government and Government also rejected the petition on 29.12.2008.

8. The learned Additional Government Pleader submitted that there is no provision of renewal or restoration of the lease. The High Court directed the Authorities to consider the representation in W.P.No.5690 of 2006 on 01.03.2006 and pursuant to the said directions, the application was considered. The District Collector, Tiruvallur has stated that the petitioner was not interested to operate the rough stone query as per the lease granted to him by the District Collector, Tiruvallur but he has been posing a picture now as if he had genuine claims to operate on the rough stone query and thereby trying to cause hinderance to the functions of the Government routine work.

9. It is stated that the that the petitioner had deliberately caused loss of revenue to the Government. Subsequently, tender-cum-auction was conducted on 15.02.2006 and the quarrying has fetched revenue to the Government of a sum of Rs.4,85,140/-. The highest bidder would also remit seigniorage fee periodically for the quantity of rough stone quarried by him. On accounts of this, indulgence of the anti-social elements engaging in illicit illegal mining and illegal transportation of the mineral was arrested.

10. Based on the recommendations of the District Collector, the Government also furnished reasons by stating that for non-operation of the querying for two years the petitioner has stated that the selling price of the rough stones by other permit holders was less and hence, he was not in a position to query and sell at a competitive price and that the approach road has been settled now only and query workers have now come forward to query. These reasons are not justifiable for revival



of query under Section 4-A(4) of the Mines and Minerals (Development and Regulation) Act, 1957.

11. This Court is of the considered opinion that when the petitioner had, admittedly, not commenced querying operations for a period of two years, the authorities are empowered to initiate actions. This apart, subsequent tender-cum-auction was conducted on 15.02.2006 itself. The petition submitted by the petitioner was considered and order was passed in the year 2008, only pursuant to the orders passed by this Court to consider the representation in W.P.No.5690 of 2006 dated 01.03.2006. Therefore, the Authorities have not considered the request for revival of the lease or passed any orders otherwise. This being the factum established, this Court is of an opinion that the petitioner has not made any acceptable ground for the purpose of considering the relief, as such sought for in the writ petition. The order impugned passed by the Government is convincing and the reasons stated are in consonance with the Rules in force. Thus, the writ petition is devoid of merits and stands dismissed. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

shr/ska

To

1. The Secretary to Government
The State of Tamil Nadu
Industries Department
Secretariat
Chennai-600009.

2. The District Collector
Thiruvallur District
Thiruvallur.

+1cc to Mr.Muniratnam, Advocate, S.R.No.4952

W.P.No.8006 of 2010 &
MP.No.1 of 2010

PMK[co]
NSK 07/02/2022