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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.01.2022

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.NO.1649 OF 2016

AND

W.M.P.NOS.1423 AND 1424 OF 2016

(Through Video Conference)

N.Athimuthan

... Petitioner

.Vs.

1. The Government of India,
Rep. by its Secretary to Government,
Ministry of Environment & Forests,
Paryavaran Bhavan, Lodi Road,
New Delhi - 110 003.

2. The Government of India,
Rep. by its Secretary to Government,
Ministry of Mines,
Shastri Bhawan,
Dr.Rajendra Prasad Road,
New Delhi- 110 001.

3. The Government of Tamil Nadu,
Rep. by its Secretary,
Industries Department,
Secretariat,
Chennai - 600 009.

4. The District Collector,
Madurai District.

... Respondents

PRAYER:-

Writ Petition filed Under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus, calling for the records pertaining to the impugned orders passed by the 3rd respondent in G.O.Ms 79 Industries (MMC-1) dated 06.04.2015 and the consequential order passed by the 4th respondent in Na.Ka.513 - 28/2015 - Mines dated 25.04.2015 and quash the same



as per Rule 41 (viii) and Rule 42 (iii) and (iv) and consequently direct the respondents to permit the petitioner to continue the lease for quarrying rough stone as per agreement dated 24.08.2011 in so far as rough stone quarrying operations comprised in Survey No.52/2 (p.II) Admeasuring 2.00 Hectares of Palamedu Village, Vadapatti Taluk, Madurai District.

For Petitioner : Mr.Mohamed Ismail

For RR 1 and 2 : M/s.N.K.Nithilavani
Central Government
Standing Counsel

For RR 3 and 4 : Mr.K.M.D.Muhilan
Government Advocate

O R D E R

The relief sought for in the present writ petition for continuance of the lease for quarrying rough stone is no more res integra and this Court has elaborately considered the issues involved in a batch of writ petitions comprised in W.P.Nos.32563 of 2019....etc(batch of cases) and delivered the judgment on 23.12.2021. The relevant paragraphs are extracted hereunder:

"90. In the backdrop of the factual position, above, this Court is of the considered view that the above aspects have been gone into in detail by C.V.Karthikeyan, J., and the learned Judge had come to the conclusion that the non-issuance of notice would in no way be termed to be violation of principles of natural justice and this Court, for the reasons recorded by it, as aforesaid, is in agreement with the view expressed by C.V.Karthikeyan, J. In view of the above, this Court is of the view that the order passed by C.V.Karthikeyan, J., being a binding precedent, this Court has to necessarily accept the said view, as even on an independent application of mind, this Court has expressed its view that nonissuance of notice in the present case could not be termed to be in violation of principles of natural justice and, therefore, no reference is required to be made in this regard by following the reference made by G.R.Swaminathan, J. In doing so, this Court is not also in any manner breaching judicial discipline, which has been time and again pointed out by the Hon'ble Supreme Court, more recently in its recent decision in M.S.Bhati's case (supra).



92. Before parting with the case, it is to be pointed out that even in the reference, G.R.Swaminathan, J., has made the following observation :-

93. From the above, it is clear that even the learned Judge, who had referred the matter to a Larger Bench, had lamented at the act of the Government in aiding the petitioners in continuing with their mining operation with scant regard to the environment inspite of the categorical orders passed by the Hon'ble Supreme Court in Deepak Kumar's case and Common Cause case (supra). It is crystal clear from the facts enumerated by the learned Judge that without the connivance of the officials at the helm of affairs, the petitioners could not have mined the minerals, in utter disregard to the directions of



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the Hon'ble Supreme Court, as the officials had aided the petitioners by providing them transport permits and other requisite permits to mine the minerals and collecting seigniorage fees, thereby allowing the petitioners to degrade and deteriorate the environment for satisfying their needs. When the petitioners, for their act in causing deterioration of the environment, have been penalised with levy of penalty, the officials, who were equally responsible for allowing the petitioners to mine without submitting environmental clearance, should also be dealt with in an appropriate manner, which would be befitting the injury that they have caused to the environment and put in jeopardy the interest, safety and health of the public and, therefore, in the fitness of things and in the interest of justice, necessary action by way of departmental proceedings should be initiated on such of those officials, who, with scant regard to the environmental degradation, had allowed the petitioners to continue their reprehensible acts. No amount of cost imposed on the petitioners would be a lesson to the erring officials, who have committed this unpardonable act. "

2. In view of the above judgment, this Writ Petition stands Dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary,
The Government of Tamil Nadu,
Industries Department,
Secretariat, Chennai - 600 009.
2. The District Collector,
Madurai District.



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3. The Secretary to Government,
The Government of India,
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The Government of India,
Ministry of Mines,
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W.P.NO.1649 OF 2016

NRL (CO)
PBS/31/01/2022