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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.02.2022

CORAM

THE HONOURABLE MR. JUSTICE M.GOVINDARAJ

W.P.No.8545 of 2012

S.S.M.Brothers Ltd
Rep by its Director
A.Balasubramanian
11-D, Gandhipuram
Komarapalayam
Namakkal District

... Petitioner

Vs.

1.The State of Tamilnadu
rep by its Secretary to Government
Department of Industries
Fort St.George
Chennai-600 009

2.The District Collector
Erode District
Erode-638 011

3.The Assistant Director
Geology and Mines
District Collectorate
Erode-638 011

... Respondents

PRAYER: The Writ Petition has been filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus Calling for the records relating to the order in Na.Ka.No.21692/2010 (X1) Dated 22.04.2010 on the file of the 3rd respondent quash the same and consequently direct the respondents to refund the bid amount of Rs.6.00 lakhs deposited by the petitioner on 09.02.1990 towards the Tender amount for obtaining quarry rights in the Survey No.1475/1 Mallankuli Village Sathyamangalam Taluk Erode District with interest by considering the representations dated 06.07.2007 06.12.2007 22.03.2008 13.05.2008 10.07.2008 03.10.2008 21.01.2009 09.03.2009 10.07.2009 21.11.2009 28.12.2009 and 05.08.2010.



For Petitioner : Mr.N.Manokaran
For Respondents : Mr.B.Vijay, AGP
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O R D E R

Petitioner is a quarry operator obtained a mining lease on 05.10.1990. As per Rule 8 (A) 2b(i) of The Tamil Nadu Minor Mineral Concession Rules, 1959 the applicant who is issued with a letter of commitment shall set up a granite cutting and polishing industry within a period of two years from the date of receipt of letter of commitment issued by the Government failing which the letter of commitment issued by the Government shall be deemed to have been cancelled and the entire amount remitted by the applicant towards the grant of lease shall stand forfeited to the Government.

2. Admittedly, the applicant has made the application in the year 1999 after a lapse of nine years for setting up the polishing unit. The request was rejected and the petitioner preferred a Writ petition in W.P.No.21929 of 2000 challenging the refusal to grant quarry lease under R.39 of Tamil Nadu Mines and Minerals Concession Rules 1959. This Court after considering the matter in detail by its order dated 29.04.2003 has categorically observed that the petitioner has failed to comply with the condition within the time granted and therefore the rejection is justified and the amount deposited to the Government would stand automatically forfeited.

3. Aggrieved over the dismissal of the Writ petition he preferred an Writ Appeal in W.A.No.3462 of 2003. The Division Bench of this Court by its order dated 08.04.2004 affirmed the order passed by the Single Judge and refused to interfere with the same. However, a plea was made by the petitioner for a direction to return the earnest money deposit with the Government. The Division Bench has observed that a direction is outside their jurisdiction and however directed the authorities to consider and dispose of the representation made by the petitioner. That representation was rejected by the respondent which is under challenged before this Court.

4. Admittedly, the issue of extension of time for setting up polishing unit as per the terms and conditions of the permit was rejected by this Court at an earlier instance and that the Division Bench of this Court has categorically held that a direction to refund the earnest money deposit is outside the scope of the Writ Appeal. In such circumstances, we cannot revisit the order passed by the Hon'ble Division Bench and give a positive direction in favour of the petitioner.



5. As contended by the learned counsel for the respondent that it amounts to constructive resjudicata and the matter is covered by the earlier round of litigation. Therefore, this Court is not in a position to grant the relief in favour of the petitioner. Accordingly, the writ petition is dismissed. No costs.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

To

1.The Secretary to Government
State of Tamil Nadu
Department of Industries
Fort St.George
Chennai-600 009

2.The District Collector
Erode District
Erode-638 011

3.The Assistant Director
Geology and Mines
District Collectorate
Erode-638 011

+1 cc to Mr.N.Manokaran , Advocate Sr.NO. 8426
+1 cc to Government Pleader Sr.NO. 9175

W.P.No.8545 of 2012

SRA(CO)
A.SK(24.02.2022)