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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11-01-2022

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

WP NO.29275 OF 2016

M/s.Dalmia Bharat Sugar and Industries Limited,  
(Previously known as 'Dalmia Cement (Bharat) Ltd'),  
a Company incorporated under the  
Indian Companies Act, 1913, having its  
Registered Office at Dalmiapuram,  
District, Tiruchirapalli, Tamil Nadu,  
Inter alia, carrying on business under  
the name and style of Dalmia Magnesite  
Corporation at Salem, Tamil Nadu 636 012  
Represented by its Managing Director,  
Mr.Jai Hari Dalmia.

.. Petitioner

.vs.

1. The State of Tamil Nadu,  
Represented by its Secretary to Government,  
Department of Industries Labour and Cooperation,  
Fort St. George,  
Chennai - 600 009.
2. The Secretary,  
Industries Department (MMDI) and (MMCI),  
Fort St. George,  
Chennai - 600 009.
3. The Commissioner,  
Department of Geology and Mining,  
Guindy Industrial Estate,  
Chennai - 600 032.
4. Deputy Director,  
Geology and Mining,  
Collectorate Complex,  
Salem.
5. The District Collector,  
Salem - 636 001.

.. Respondents



Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, forbearing the respondents from interfering with the mining operations of the petitioner in the Petition Schedule Premises and directing the respondents to continue to issue permits to excavate minerals namely Magnesite and Dunite on payment of the requisite royalty and without insisting on an Environmental Clearance Certificate.

For Petitioner : Mr.T.Poornam

For Respondents-1 to 5 : Mr.R.Shanmugasundaram,  
Advocate General Assisted by  
Mr.K.M.D.Muhilan,  
Government Advocate.

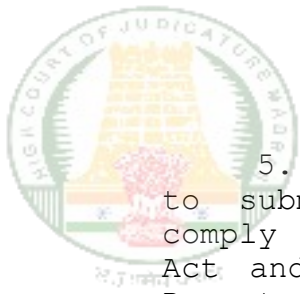
#### O R D E R

The relief sought for in the present writ petition is to forbear the respondents from interfering with the mining operations of the petitioner in the Petition Schedule Premises and directing the respondents to continue to issue permits to excavate minerals namely Magnesite and Dunite on payment of the requisite royalty and without insisting on an Environmental Clearance Certificate.

2. The learned counsel for the petitioner made a submission that the petitioner-Company had already suspended their mining operations and submitted an application for Environmental Clearance Certificate before the Competent Authority and the process is in advanced stage and they are waiting for orders.

3. The learned Advocate General made a submission that the question of suspension of mining operations by the petitioner-Company would not arise at all, in view of the fact that no lease has been granted in favour of the petitioner by the State. Pursuant to the judgment of the Supreme Court in the case of Common Cause vs. Union of India and Others [(2016) 11 SCC 455], the Environmental Clearance Certificate becomes mandatory for the purpose of grant of lease by the State. Therefore, only in the event of furnishing Environmental Clearance Certificate, the case of the petitioner-Company needs to be considered, but not otherwise.

4. The learned Advocate General further made a submission that all other requirements are also to be complied with for the purpose of grant of lease in accordance with the provisions of the Act and the Rules.



5. Thus, it is made clear that petitioner-Company is required to submit necessary Environmental Clearance Certificate and comply with all other requirements under the provisions of the Act and the Rules, enabling the Competent Authorities of the Department to consider the case for grant of lease for carrying on the mining operations strictly in consonance with the Act and Rules in force.

6. In the present case, the writ itself is to forbear the respondents from interfering with the mining operations of the petitioner-Company and the petitioner-Company have made a submission that they are not carrying on any mining operations at present. It is left open to the petitioner-Company to submit all the required documents, including the Environmental Clearance Certificate issued by the Competent Authorities of the State, enabling the State Authorities to consider the case and take a decision and pass appropriate orders on merits and in accordance with law. The respondents are directed to conduct inspection and verify whether mining operations were done or not, by verifying the statement made by the learned counsel for the petitioner.

7. With the abovesaid directions, the writ petition stands disposed of. However, there shall be no order as to costs.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

Svn

To

1. The Secretary to Government,  
State of Tamil Nadu,  
Department of Industries Labour and Cooperation,  
Fort St. George,  
Chennai - 600 009.
2. The Secretary,  
Industries Department (MMDI) and (MMCI),  
Fort St. George, Chennai - 600 009.



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3. The Commissioner,  
Department of Geology and Mining,  
Guindy Industrial Estate,  
Chennai - 600 032.

4. Deputy Director,  
Geology and Mining,  
Collectorate Complex,  
Salem.

5. The District Collector,  
Salem - 636 001.

+1cc to Mr.T.Poornam, Advocate, S.R.No.2555  
+1cc to the Government Pleader, S.R.No.3047

WP 29275 of 2016

SRA(CO)  
PM/25/01/2022