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W.P.No.20652 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.12.2022

CORAM

THE HONOURABLE **DR. JUSTICE ANITA SUMANTH**

W.P.No.20652 of 2015 and
WMP.No.1 of 2015

K.Senthil Kumar

...Petitioner

Vs.

- 1.The District Collector,
Vellore District.
- 2.The Revenue Divisional Officer,
Ranipet.
- 3.The Deputy Director,
Geology and Mining,
Vellore.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of certiorari to call for the records relating to the impugned Order passed by the second respondent in Proceedings Na.Ka.A6/5870/13 dated 11.06.2015 and quash the same.

For Petitioner : Mr.ARL.Sundaresan, Senior Counsel
for Mr.A.G.Sathyanarayana

For Respondents : Mr.B.Vijay
Additional Government Pleader



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ORDER

The petitioner challenges proceedings dated 11.06.2015 passed by the Revenue Divisional Officer, Ranipet/R2. The background in relation to which the present lis arises is set out below.

2. The petitioner was awarded a tender for leasing and mining of stones in respect of 0.80.0 hectares of lands in S.F.No.1/4, Part 12, Wallajah Taluk in Anandalai Village, Vellore District (land in question). On 03.06.2008, a deed of lease had been executed in favour of the petitioner for a period of 10 years, from 03.06.2008 to 02.06.2018. As on date, the above lease has run its course.

3. The petitioner was in receipt of certain communications from R2 commencing from 15.09.2014 proposing to impose penalty in terms of Rule 36(A) of the Tamil Nadu Minor Minerals Concession Rules, 1959 (in short and hereinafter referred to as 'Rules') for unauthorized removal of stones to an extent of 267 loads.

4. According to Mr.A.R.L.Sundaresan, learned Senior Counsel for Mr.A.G.Sathyanarayanan, learned counsel for the petitioner, despite the petitioner having sought various material relied upon by the respondents in



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issuing the above notices, the same were not furnished to him. The impugned order has thus come to be passed, in gross violation of the principles of natural justice.

5. I am of the considered view that the petitioner must be relegated to statutory appeal in terms of Section 36-C of the Rules as an efficacious alternate remedy is provided. This is for the reason that the adjudication of the matter involves the determination of various facts including actual dimensions of the area of operation, determination of illegal quarrying, if any, among others.

6. While learned senior counsel does not seriously contest the conclusion of the Court that the petitioner must approach the appellate authority by way of appeal, an apprehension is expressed that the appellate authority would be prejudiced in dealing with the appeal.

7. This is for the reason that prior to the initiation of proceedings culminating in the impugned order, proceedings had been initiated by R1, the District Collector, Vellore District, who is also the appellate authority in terms of Rule 36 – C (1) of the Rules, on 28.01.2015, calling upon the petitioner to show cause why lease/license granted not be cancelled by virtue of Rule 36(5)(h) of the Rules.



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8. In proceedings dated 28.01.2015, the first respondent refers to a complaint received in respect of unauthorized quarrying on the basis of which inspection of the lands in question had been ordered. The inspection report indicated that there had been excess quarrying and as against the authorization obtained for quarrying of 76,800 cubic meters of land, quarrying had been carried out to the extent of 1,37,445 cubic meters. Excess quarrying of 60,645 cubic meters was determined by the 1st respondent as being unauthorized and illegal.

9. An explanation had been furnished by the petitioner, on the receipt of which, the 1st respondent appears to have been convinced, dropping the proceedings for cancellation of licence. The proceedings for levy of penalty were however continued by R2.

10. To my mind, proceedings dated 28.01.2015 indicate a mere prima facie finding by R1 that the petitioner had engaged in illegal quarrying and cannot lead to the conclusion that R1 would be biased in dealing with the appeal of the petitioner. In fact, R1 has dropped the proposal for cancellation of licence, and is thus seen to have kept an open mind.

11. This argument is thus rejected and the petitioner relegated to appeal in terms of Section 36 – C(1) of the Rules. The inspection report



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which forms the basis of the proceedings has admittedly not been furnished to the petitioner. There is a direction to the respondent to furnish the inspection report as well as any other material relied on by them to the petitioner forthwith.

12. Upon receipt of the material and within a period of two weeks thereafter, the petitioner is permitted to file an appeal challenging the impugned proceedings before the first Appellate Authority, being the District Collector. The appeal shall be disposed within a period of six weeks from date of institution thereof, in accordance with law. The authorities are directed to furnish all materials relied upon by them, and hitherto unfurnished to the petitioner, prior to taking the appeal up for hearing.

13. With the above directions, this Writ petition is disposed. No costs. Connected miscellaneous petitions are closed.

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mpl

Index : Yes/No

Speaking Order/Non speaking Order

Note: Registry is directed to return the original impugned order to the petitioner.



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DR.ANITA SUMANTH,J.
mpl

To

- 1.The District Collector,
Vellore District.
- 2.The Revenue Divisional Officer,
Ranipet.
- 3.The Deputy Director,
Geology and Mining,
Vellore.

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WMP.Nos.28611, 28612 & 28613 of 2022

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