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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.01.2022

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.31350 of 2014
and M.P.Nos.1 of 2014 & 1 of 2015

M/s.Sankarar Granites,
Represented by its Proprietor
Mrs.P.Meenakshi
Rep. by her POA Mr.A.Palanichamy
No.59/K1, Kori Street,
South Udayarpalayam,
Attur, Salem District.

...Petitioner

Vs

1.Government of Tamil Nadu,
Rep. by Principal Secretary,
Industries [MME-2] Department,
Fort St. George, Chennai - 600 009.

2.The District Collector,
Krishnagiri District,
Krishnagiri.

3.The Commissioner of Geology & Mining,
Guindy, Chennai - 600 032.

...Respondents

PRAYER : Writ Petition filed Under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records in G.O. (D) No.151 Industries (MME-II) Department dt. 24.10.2014 on the file of the 1st respondent herein and quash the same and direct the 1st respondent herein to grant renewal of lease granted under G.O. (3D) dt 19.05.1995 in respect of an extent of 2.00 acres of land comprised in S.F.No.271 part Kaveripattinam Village Krishnagiri Taluk, Krishnagiri District to quarry the grey granite transport export and market the same to the petitioner

For Petitioner : Mr.S.Sadasharam

For Respondents : Mr.M.D.Muhilan
Government Advocate



O R D E R

The order impugned rejecting the renewal application preferred by the writ petitioner for extending the lease for mining operations is under challenge in the present writ petition.

2.The petitioner states that they submitted an application on 02.05.1994 for grant of quarry lease with respect to an extent of 2.00 acres of Government poromboke land comprised in Survey No.271 Part, Kaveripattinam Village, Krishnagiri Taluk and District to quarry grey granite under the erstwhile Rule 39 of the Tamil Nadu Minor Mineral Concession Rules, 1959. The petitioner was granted with the lease and thereafter, it was not renewed.

3.The learned counsel appearing on behalf of the petitioner made a submission that under Rule 8-A of the Tamil Nadu Minor Minerals Concession Rules, 1959, the renewal becomes automatic as the petitioner was granted with the valid lease. Thus, rejection of renewal application is contrary to the provisions of the Rules. The petitioner was carrying on the mining operations as per the lease conditions and therefore, the order impugned is liable to be set aside.

4.The learned Government Advocate appearing on behalf of the respondents objected the contentions raised on behalf of the petitioner by stating that admittedly the lease was granted in favour of the writ petitioner only under Rule 39 of the Tamil Nadu Minor Mineral Concession Rules, 1959 and therefore, the question of automatic renewal of lease would not arise at all. It is further contended that Rule 39 itself was deleted on account of the fact that the discretionary powers are abused during the relevant point of time by granting lease for mining operations in an unguided manner. Rule 39 was introduced on 08.03.1993 and it was omitted with effect from 27.06.1996. The Government thought fit that the leases granted by invoking Rule 39 was mostly abused and the special circumstances as contemplated were not have been recorded and under those circumstances, the provision itself was omitted.

5.As far as the case of the petitioner is concerned, the order impugned categorically states that the District Collector, Dharmapuri has cancelled the quarry lease granted in favour of the petitioner in the subject area in proceedings dated 23.11.1999 for the following violations notices in the quarry:

- i. Quarrying operations was carried out upto the boundary of the leased out area and 7.5 meters safety distance was not found.



ii. Boundary stone are not fixed.

iii. Quarry waste materials have been dumped other than the leased out area.

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Therefore, the petitioner was not continuing the quarrying operations after cancellation of lease by the District Collector in proceedings dated 23.11.1999.

6. Section 4-A(4) of the Mines and Minerals [Development and Regulation] Act, 1957 enumerates that "where the holder of a mining lease fails to undertake production and dispatch for a period of two years after the date of execution of the same for the period of two years, the lease shall lapse on the expiry of the period of two years from the date of execution of the lease or as the case may be, discontinuance of the production and dispatch".

7. In the present case, the lease was cancelled on account of certain violations by the District Collector in proceedings dated 23.11.1999 and the renewal application is filed by the petitioner on 17.02.2012 after a lapse of about 13 years and therefore, under Section 4-A(4) of the Mines and Minerals [Development and Regulation] Act, 1957, the petitioner is not entitled to get renewal of lease and further, the lease was not granted under Rule 8-A of the Tamil Nadu Mines and Minerals Concession Rules, 1959 and thus, submission of renewal application would not arise at all.

8. As per Section 8-A(3)(a) of the Tamil Nadu Mines and Minerals Concession Rules, 1959, an auction tender process has to be conducted by the District Collector by issuing a notification. Rule 8-A(11) of the said Rules contemplates that the lease granted under this Rule may be renewed for a period not exceeding twenty years provided that renewal of lease shall be subject to the satisfactory performance of the lessee in the past in fulfilling the conditions of lease.

9. In the present case, the lease granted in favour of the petitioner was cancelled in the year 1999 for certain violations committed by the petitioner and the renewal application was filed in the year 2012 and therefore, the petitioner is not entitled for any such renewal. Further, the case of the petitioner is not falling under Rule 8-A of the Tamil Nadu Minor Minerals Concession Rules and in fact the lease was granted under Rule 39 and the said Rule was omitted in the year 1996 and for all these reasons, the petitioner is not entitled for the relief as such sought for in the present writ petition.



10. With these observations, the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

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Sd/-

Assistant Registrar (CS-IX)

//True Copy//

Sub Assistant Registrar

cse

To

1. The Principal Secretary,
Government of Tamil Nadu,
Industries [MME-2] Department,
Fort St. George, Chennai - 600 009.

2. The District Collector,
Krishnagiri District,
Krishnagiri.

3. The Commissioner of Geology & Mining,
Guindy, Chennai - 600 032.

+1cc to Mr. S. Sadasharam, Advocate SR. No. 3323

+1cc to Government Pleader SR. No. 3980

W.P.No.31350 of 2014

PMK (CO)

PR (07/02/2022)