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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19-01-2022

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

WP No.7720 of 2016

And

WMP No.6922 of 2016

K.Palanivelu

..

Petitioner

vs.

1.The Commissioner,
Department of Geology and Mines,
Thiru Vi Ka Industrial Estate,
Guindy,
Chennai - 32.

2.The District Collector,
O/o.The District Collector,
Tiruvannamalai District,
Tiruvannamalai - 606 601.

3.The Revenue Divisional Officer,
O/o.Revenue Divisional Officer,
Tiruvannamalai - 606 601.

4.V.Venkatesan

..

Respondents

Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorari, calling for the records relating to the impugned proceedings in Rc.No.4190/MM9/2015 dated 29.01.2016 passed by the first respondent upholding the orders passed by the second and third respondents in Na.Ka.No.21/Kanimam/2013 dated 15.04.2015 and Se.Mu.Ka.No.A3/1734/2014 dated 30.07.2014 respectively and quash the same.

For Petitioner

:

Mr.S.Kumara Devan for

Mr.G.Mohan

For Respondents-1 to 3 : Mr.K.M.D.Muhilan,
Government Advocate.



For Respondent-4

: No Appearance

O R D E R

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The penalty levied for expanding the quarrying operations in an unleased area and for illegal transportation of gravel/earth passed by the first respondent in proceedings dated 29.01.2016, is under challenge in the present writ petition.

2. On 23.08.2013, the petitioner obtained a lease for taking 2000 lorry load gravel/sand from Samudiram Lake Area, Tiruvannamalai in S.No.3/1C1. The petitioner has been permitted to take gravel/sand from the leased area of 4.90.5 hectares out of 147.71.5 hectares by the proceedings of the second respondent. The lease period was granted from 23.08.2013 to 22.07.2014 for a period of 11 months.

3. The petitioner states that he went to the leased out area along with lorries and manpower for taking gravel/sand. But to the shock and surprise of the petitioner, some members of the locality threatened the workers accompanied the petitioner. There was an illegal extraction of sand from the Samudiram Lake by 10 lorries with registration numbers and JCB and Hitachi Excavators without registration numbers. The petitioner further states that the Executive Engineer, Public Works Department, Water Resources Organisation also was threatened by the Gang and one Mr.V.Venkatesan-fourth respondent stating that the lease granted to the petitioner must be cancelled. Under these circumstances, the second respondent issued a show cause notice to the petitioner on 10.01.2014. The petitioner submitted his detailed explanations on 20.01.2014 and thereafter on 24.01.2014, the second respondent cancelled the lease permit in his proceedings dated 25.03.2014. The third respondent summoned the petitioner to appear before him on 04.04.2014 at 10.00 A.M. The petitioner appeared and further given detailed representation. The third respondent passed an order on 30.07.2014 and fixed the liability as Rs.61,49,941.50. Thereafter, the petitioner preferred the First Appeal under Section 36C(1) of the Tamil Nadu Minor Mineral Concession Rules, 1959 before the second respondent. The District Collector also rejected the appeal on 15.04.2015. The petitioner further preferred Second Appeal under Section 36C(2) of the Tamil Nadu Minor Mineral Concession Rules, 1959 before the first respondent-Commissioner. The Commissioner has not taken any action on the Second Appeal filed by the petitioner. Thus, the petitioner filed WP No.31653 of 2015 before this Court and this Court directed the first respondent to dispose of the Second Appeal. The petitioner and his counsel appeared before the first



respondent and submitted their written arguments. However, the first respondent passed the impugned order in proceedings dated 29.01.2016, confirming the orders passed by the second and third respondents.

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4. The learned counsel appearing on behalf of the petitioner mainly contended that the impugned orders were passed by the Authorities in a mechanical manner without considering the case of the petitioner. The grounds raised in the writ petition reveal that the Public Works Department Officials went to the lease spot i.e., Samudiram Lake and found that some unauthorised persons, who are not belongs to the appellant to gravel/earth by 10 lorries, JCB and Hitachi Excavators. In spite of that the respondents have not taken any action against those persons, but cancelled the lease granted in favour of the petitioner.

5. At the outset, it is contended by the petitioner that when some illegal persons had taken gravel/sand in an illegal manner for which the petitioner cannot be blamed.

6. The respondents filed counter by stating that the petitioner was granted a permission for quarrying 2000 lorry loads of gravel/earth under Rule-12 of the Tamil Nadu Minor Mineral Concession Rules, 1959 and the lease period was for 11 months.

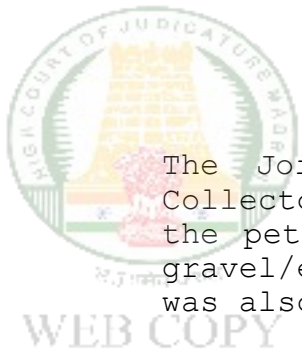
7. The Executive Engineer, Public Works Department, Water Resources Organisation, Middle Pennaiyar Basin Division, Tiruvannamalai in letter dated 17.10.2013 addressed to the District Collector, Tiruvannamalai has informed that Thiru K.Palanivel without prior intimation to the Public Works Department had quarried earth in the Samudiram 'Eri' beyond one meter depth adjacent to the bund of 'Eri', which has been noticed during the inspection of the Assistant Executive Engineer and the Assistant Engineer of Public Works Department, Water Resources Organisation, Tiruvannamalai. The Assistant Executive Engineer, Public Works Department, had inspected the subject Tank on 24.09.2013 had furnished a report stating that the appellant is carrying out illicit quarrying operations in the non-permitted area and beyond the permitted depth of one meter and all the conditions stipulated in the District Collector's order has been violated. The Executive Engineer, Public Works Department, Water Resources Organisation, has informed that the staff, who had gone for inspection, were not permitted to carry out inspection by Thiru V.Venkatesan, the Councillor of Samudiram Village. The Inspection Registers were snatched from the Officials and also threatened with dare consequences. The Executive Engineer, Public Works Department, Water Resources Organisation has also furnished a list of



8. Based on the Report of the Executive Engineer, the District Collector, in letter dated 25.10.2013, had directed the Revenue Divisional Officer, Tiruvannamalai, Tahsildar, Tiruvannamali, Assistant Director, Geology and Mining, Tiruvannamalai and the Executive Engineer, Public Works Department, Water Resources Organisation, Tiruvannamalai to jointly inspect the subject Tank and submit a report. A joint inspection report was submitted that the subject Tank was jointly inspected by the Revenue Divisional Officer, Tiruvannamalai, Tahsildar, Tiruvannamali, Assistant Director, Geology and Mining, Tiruvannamalai.

10. The quarry pits of earth/gravel in Samudiram 'Eri' was surveyed and assessed by the Public Works Department and the quantity of earth/gravel illicitly removed in the Samudiram 'Eri' was assessed as 139800.78 cubic meters. The permission to the appellant for quarrying of earth/gravel was granted for 2000 lorry loads @ 12 cubic meter/lorry load i.e., (2000 x 12 cubic meter) i.e., (24,000 cubic meter). Therefore, it was arrived by the Executive Engineer that the permit holder Thiru K.Palanivel had quarried an excess quantity of 115800.78 cubic meter. The Executive Engineer has reported that the entire Samudiram 'Eri' Poramboke land has been damaged and due to illicit removal of earth/gravel, there is revenue loss caused to the Government. Thus, the Executive Engineer, Public Works Department, Water Resources Organisation requested the District Collector to impose and collect appropriate penalty for the excess quantity of 115800.78 cubic meter quarried by the petitioner and also requested to cancel the permissible granted to the petitioner.

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The Joint Inspection Report was relied on by the District Collector and based on that they have arrived a conclusion that the petitioner has illegally quarried and illicitly removed the gravel/earth in 'Eri' poramboke and the quantum of damage caused was also assessed by the Competent Authorities.

12. The enquiry conducted by the Revenue Divisional Officer, Tiruvannamalai reveals that both the petitioner and the said Thiru V.Venkatesan had illegally quarrying the gravel/sand from 'Eri' poramboke. Thus, the Authorities arrived a conclusion that the petitioner is liable to pay penalty amount of Rs.61,49,941.50.

13. This Court is of the considered opinion that the illicit quarry carried out by the petitioner and some other persons were identified by the Authorities. Joint inspections were conducted pursuant to the orders passed by the District Collector. During the Joint Inspection, the Authorities found that the large quantity of gravel/earth was removed in an illicit manner, causing damage to the 'Eri' poramboke and further revenue loss to the State. When the allegation against the petitioner was established, he cannot cover up his mistakes by simply stating that Thiru V.Venkatesan was illegally quarrying. The Authorities found that the petitioner has involved in an illegal quarrying and accordingly assessed the quantity and imposed the penalty.

14. This being facts and circumstances, this Court is of an opinion that the orders passed by the respondents are candid and convincing. The grounds raised by the petitioner are elaborately considered by the Original Authority as well as by the Appellate Authority. Sufficient opportunities were given to the petitioner to represent his case. When the facts are adjudicated elaborately by the Original Authority, Appellate Authority and further by the first respondent, the Second Appellate Authority and the Authorities have consistently formed an opinion that the illegal quarrying of gravel/earth was established and the joint Inspection Committee's Report also provides all informations regarding the damage caused to the 'Eri' poramboke and the loss of revenue to the State.

15. The learned Government Advocate, appearing on behalf of the respondents 1 to 3, made a submission that against the fourth respondent also penalty of Rs.61 lakhs was imposed. Thus, actions were taken against all the persons, who were involved in illegal quarrying. Further, it is not made clear whether the amount of penalty has been recovered from the fourth respondent or not. If it is not recovered, actions are to be initiated for the recovery of penalty from all concerned, including the petitioner.



16. This being the factum, which is categorically established and the Authorities also considered all these aspects, this Court is not inclined to exercise the power of Judicial Review under Article 226 of the Constitution of India as the Original Authority, Appellate Authority and the Second Appellate Authority have considered the facts and circumstances elaborately and arrived an uniform decision, there is no other reason whatsoever to interfere with the findings of the orders passed by the respondents.

17. Accordingly, the writ petition stands dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-
Assistant Registrar(CS-VIII)

//True Copy//

Sub Assistant Registrar

Svn

To

1.The Commissioner,
Department of Geology and Mines,
Thiru Vi Ka Industrial Estate,
Guindy,
Chennai - 32.

2.The District Collector,
O/o.The District Collector,
Tiruvannamalai District,
Tiruvannamalai - 606 601.

3.The Revenue Divisional Officer,
O/o.Revenue Divisional Officer,
Tiruvannamalai - 606 601.

+1cc to Mr.G.Mohan, Advocate, S.R.No.2868
+1cc to the Government Pleader, S.R.No.3979

WP 7720 of 2016

PMK (CO)
CB(01/02/2022)