



W.M.P. No.25899 of 2021
in W.P.No.13878 of 2021

N.ANAND VENKATESH,J.,

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This petition has been filed by the respondents 5 to 7 seeking for recalling the order passed in the writ petition on 05.08.2021 and to give them an opportunity to put forth their case and thereafter to pass final orders in the writ petition.

2.This Court disposed of the writ petition through an order dated 05.08.2021, by recording the stand taken by the 3rd respondent viz., the Tiruppur Corporation in their counter affidavit, wherein, they have undertaken that the officials will not grant any approval for layout within 500 meters from the crushing unit run by the petitioner. The respondents 5 to 7 filed this petition to recall the said order mainly on the ground that there were several residential houses that were present within 150 meters from the crushing unit and infact, the District Collector had stopped the quarrying units that were run by the writ petitioner on the ground that there were residential houses in the vicinity. According to the contesting respondents, the crushing unit that has been established by the writ petitioner is in violation of the Tamil Nadu Minor Mineral Concession Rules and the crushing unit is being run within 300 meters from the inhabitant site.

3.The petition came up for hearing on 13.04.2022 and this Court passed the following order:



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Since the pleadings are complete, the writ miscellaneous petition was taken up for hearing. The learned counsel appearing for the petitioners in the writ miscellaneous petition brought to the notice of this Court paragraph No.7 of the affidavit filed in support of the writ miscellaneous petition. It is specifically stated that the District Collector through proceedings dated 09.07.2007 had closed the quarrying unit after finding that the residents belonging to the locality have been put to hardship. To substantiate this plea taken at Paragraph No.7 of the affidavit, the proceedings of the District Collector, Erode, was also brought to the notice of this Court.

2. The learned counsel for the petitioner further submitted that the petitioner in the writ petition got the consent to run a crusher unit only in the year 2015. As per the relevant Rules, the crusher unit cannot be run within the distance of 500 meters from a residential locality. Therefore, if there is already a residential locality available and which was identified by the District Collector in the year 2007, there is no question of the petitioner in the writ petition stopping the land owners from developing their property

3. The Counter affidavit has been filed by the respondents 4 and 5 and this stand taken in the writ miscellaneous petition has not been properly met. This was brought to the notice of the learned Additional Advocate General appearing on behalf of the respondents 4 and 5.

4. The learned Additional Advocate General sought for some time to take instructions and to clarify the same before



this Court. Post this case under the caption for continuation of arguments on 27.04.2022.

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4.The matter was once again taken up for hearing on 29.07.2022 and this Court passed the following order:

Pursuant to the earlier order passed by this Court on 13.04.2022, the fourth respondent has filed an additional counter affidavit. The relevant portions in the additional counter affidavit are extracted hereunder:-

"4.I further submit that, as per the Hon'ble High Court instruction, I inspected the layout site on 28.07.2022, the layout site is immediately adjacent to the crusher unit located in S.F.No.84/2 in Sarkar Periyapalayam Panchayat, Uthukuli Taluk.

5.I submit that there are few houses located in scattered nature within the vicinity of 500m from the crusher unit. The crusher unit is located outside the Tiruppur Corporation limit. I further submit that, there is no approved layout within 500 meter from the crusher unit in the Tiruppur Corporation limit.

6.Further submit that the crusher unit consent to establish and consent to operate is wholly vested with Tamil Nadu Pollution Control Board and competent authorities.

7.I further humbly submit that, the first respondent/petitioners had not filed any application



before The Tiruppur Corporation for making of layout in proper format and they have to make an application in prescribed format to The Tiruppur Local Planning Authority through the Tiruppur Corporation adhering all rules and regulations with necessary documents for approval of layout."

2.It is clear from the above additional counter affidavit that there are few houses which are within the vicinity of 500 meters from the crushing unit. For establishing a crushing unit, consent of the Pollution Control Board is required and the license is to be granted by the Pollution Control Board.

3.As per the proceedings of the District Collector dated 01.06.2007, the stone quarrying unit that was run by the petitioner in the Writ Petition in the very same locality was cancelled, since it was operating within a distance of 300 meters from the residential locality. This distance rule of 500 meters is equally applicable for a stone crushing unit also. If the petitioner in the Writ Petition has been stopped from running the stone quarry operations on the basis of the distance rule, the same yardstick must apply even for running the stone crushing unit.

4.When this Court sought for a clarity on this from the learned counsel for the petitioner in the Writ Petition, the learned counsel brought to the notice of this Court, the proceedings in B.P.MS.No.4, dated 02.07.2004, issued by the Tamil Nadu Pollution Control Board. This Board's proceeding was issued pursuant to the final order of the Hon'ble Supreme Court made in SLP(Civil)No.13564 of 1990, dated 25.09.2000 and by virtue of this proceeding, the Tamil Nadu Pollution Control Board



wanted to clearly fix the norms for the existing and new/proposed stone crushers and the distance criteria. The distance criteria for the existing stone crushing units was fixed under Clause 1.0 of the Board proceeding and the explanation states that the existing stone crushing units are those which have a valid licence as on 10.05.1999.

5.The petitioner claims that they had the licence for the stone crushing unit even prior to 10.05.1999 and hence, they will fall within the distance criteria fixed under the above Board proceeding. To substantiate the same, the learned counsel for the petitioner brought to the notice of this Court the receipt that was issued in the name of the father of the petitioner on 10.02.1998 by the concerned Panchayat. There is no record before this Court to show that licence was issued to run the stone crushing unit on or before 10.05.1999, except the above receipt. What is available before this Court is the licence that was issued by the Panchayat on 21.01.2021 and the consent order that was issued by the Pollution Control Board on 30.04.2021.

6.In view of the above discussion, the only fact that requires a clarification in this case is as to when the petitioner was given the licence to run the stone crushing unit in the subject property. An answer can be provided for this question only by the Pollution Control Board. Hence, this Court deems it fit to implead (a) The Member Secretary, TNPCB, No.76, Mount Road, Chennai – 600 032 and (b) The District Environmental Engineer, Tamil Nadu Pollution Control Board, Tiruppur North, as eighth and ninth respondents in the Writ Petition.



7.M/s.Shanmugavalli, the learned standing counsel takes notice on behalf of the impleaded respondents 8 and 9. The learned Standing Counsel shall take instructions and report before this Court during the next date of hearing.

8.Post this case under the caption 'Part Heard Cases' on 10.08.2022.

5.The petition was once again taken up for hearing today and this Court heard Mr.Arun Anbumani, learned counsel appearing on behalf of the petitioners, Mr.M.Muthappan, learned counsel appearing on behalf of the 1st respondent, Mr.U.Baranidharan, learned Additional Government Pleader appearing on behalf of the 2nd and 3rd respondents and M/s.P.Shanthi, learned counsel appearing on behalf of the 4th and 5th respondents.

6.The learned counsel appearing on behalf of the impleaded respondents 8 and 9 produced consent orders passed in favour of the petitioner and it is seen that the consent order was given only in the year 2015. The Pollution Control Board has not produced any material to show that the petitioner was permitted to run the crushing unit on or before 10.05.1999, which was a crucial date fixed in the Board proceedings that was relied upon by the learned counsel for the petitioner.

7.The learned Additional Government Pleader appearing on behalf of the 1st and 2nd respondents produced the written instructions received from the Assistant Director and District Town and Country Planning Office,



Tiruppur District. On carefully going through the same, it is seen that till 2015 no application has been made by the contesting respondents seeking for permission for formation of the residential layout in the subject property. By pointing out to the written instructions received from the 2nd respondent, the learned Additional Government Pleader submitted that once an application is received by the concerned authority, they will make an inspection and take into consideration the relevant Rules and thereafter, take a decision on the application made by the contesting respondents. That situation is yet to arise and therefore, the learned Additional Government Pleader submitted that the issue can be kept open and it will be decided by the authorities in accordance with the Rules.

8.This Court sought for a clarification from the learned Senior Counsel appearing on behalf of the Tiruppur Corporation as to why the 3rd respondent took such a stand in the writ petition. The learned Senior Counsel clarified that such a stand was taken by the 3rd respondent only on the ground that an unapproved layout was sought to be laid by the contesting respondents and therefore, action was initiated against them. Insofar as the grant of approval for any planning permission submitted by the contesting respondents, the same will be forwarded to the 2nd respondent and the 2nd respondent will forward the same to the 1st respondent and thereafter, an inspection will be conducted and the relevant Rules will be taken into consideration and only based on the orders passed by the Local Planning Authority, Tiruppur Corporation will proceed further to take a decision. The



learned Senior Counsel submitted that such a situation has not arisen in the present case and the stand taken by the Tiruppur Corporation confines itself only to the unapproved layout and not to the issue pertaining to the prohibited distance between the residential locality and the crushing unit. The learned Senior Counsel therefore, concluded his arguments by submitting that this issue can be kept open and the same will be considered by the authorities as and when they receive a planning permission application from the contesting respondents.

9. In view of the specific stand that has been taken by the official respondents, this Court has to necessarily clarify the order passed in the writ petition on 05.08.2021. Accordingly, the 7th and 8th Paragraphs in the Order is recalled and it is substituted with the following order:

7. In the present case, the issue with regard to granting planning permission to the contesting respondents has not arisen, since they have not even submitted an application seeking for planning permission. The stand taken by the Tiruppur Corporation confines itself only to the unapproved layout that was sought to be laid by the contesting respondents. According to the contesting respondents, they were not attempting to put up any unapproved layout and they were only levelling the lands before submitting an application seeking for planning permission.



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8. Insofar as the distance factor is concerned, the official respondents will deal with the same strictly in accordance with the relevant Rules and Regulations and it is not necessary for this Court to give a finding in that regard in this writ petition. The contesting respondents will have to make an application seeking for planning permission before the Tiruppur Corporation and the Corporation in turn will forward the same to the 2nd respondent and the 2nd respondent in turn will place the files before the 1st respondent. Thereafter, the planning authorities will conduct an inspection and they will see if the planning permission can be granted in line with the relevant Rules and Regulations, by considering the distance factor and their decision will be forwarded to the Tiruppur Corporation who thereafter will pass appropriate orders. In view of the same, for the present, there is no restriction for the contesting respondents to submit an application seeking for planning permission. It is enough if clarity is given to that extent in this writ petition and there is no need for this Court to give any findings on the distance restriction at this stage. This issue is kept open and it is left open to the authorities to deal with the same in accordance with the Rules and Regulations as and when the application is made by the contesting respondents.

9. This writ petition is disposed of with the above directions.



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10. Accordingly, this writ miscellaneous petition stands allowed.

10.08.2022

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