



W.P.No.25504 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved On	26.08.2022
Pronounced On	10.10.2022

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

W.P.No.25504 of 2021

and

W.M.P.No.26933 of 2021

S.Lakshmi Appukutty

... Petitioner

Vs.

- 1.The District Collector,
District Collector Office,
Coimbatore District – 641 018.
- 2.The Director,
Directorate of Geology and Mining,
Industrial Estate,
Guindy, Chennai – 600 032.
- 3.The Block Development Officer,
Pollachi Panchayat Union South,
Pollachi.
- 4.The Executive Engineer,
TANGEDCO, Udumalai Road,
Pollachi – 642 001.
- 5.Solapalayam Village President /
Administrative Officer,



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Solapalayam, Pollachi South,
Pollachi – 642 003.

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6.The Special Officer,
Solapalayam Panchayat,
Pollachi – 642 003.

7.B.Kumararaj

8.S.Sivaramakrishnan

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Mandamus, to direct the first respondent to pass orders as per Section 202 of the Tamil Nadu Panchayats Act and cancel the approval No.62/2006 dated 18.09.2006 granted by the fifth respondent in favour of the seventh respondent and building approval No.10/2018 dated 09.03.2018 granted by the sixth respondent in favour of the eighth respondent and demolish the unapproved/unauthorised superstructures put up in Survey Nos.64/1 & 64/2 and 78/1A & 81/1C4 by the seventh and eighth respondents.

For Petitioner : Mr.K.J.Parthasarathy

For R1 & R2 : Mrs.C.Meera Arumugam
Additional Government Pleader

For R5 & R6 : Mr.B.Vijay
Additional Government Pleader



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ORDER

The Writ Petition has been filed for the issuance of a Writ of Mandamus to direct the first respondent to pass orders as per Section 202 of the Tamil Nadu Panchayats Act, 1994 and to cancel the Approval No.62 of 2006 dated 18.09.2006 granted by the fifth respondent to the seventh respondent and the Approval No.10 of 2018 dated 09.03.2018 granted by the sixth respondent to the eighth respondent and demolish the unapproved/unauthorised superstructure put up in Survey No.64/1 & 64/2 and 78/1A & 81/1C4 by the seventh and eighth respondents.

2. The petitioner had obtained Mining License from the first respondent, the District Collector, Coimbatore, which was in force from 25.08.1988. The Mining License has been renewed from time to time though for an intermittent period there was no renewal.

3. The admitted facts of the case indicate that the license was granted to the petitioner under the Provisions of the Mines and Minerals (Development and Regulation) Act, 1957 read with Tamil Nadu Mines and



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Minerals Concession Rules, 1959. The said license has been renewed from time to time.

4. It is the specific case of the petitioner that the fifth and sixth respondents have granted permissions to the seventh and eighth respondent for putting up the construction vide Approval No.62 of 2006 dated 18.09.2006 and Approval No.10 of 2018 dated 09.03.2018. It is submitted that these approvals are contrary to Rule 36(c) of the Tamil Nadu Minor Mineral Concession Rules, 1959, framed under the provisions of the Mines and Minerals (Development and Regulation) Act, 1957.

5. It is therefore submitted that the first respondent who exercises the power under Section 202 of the Tamil Nadu Panchayats Act, 1994 should take effective steps to cancel the permissions granted to the seventh and eighth respondents by the fifth and sixth respondents on 18.09.2006 and 09.03.2018.



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6. The learned counsel for the petitioner submits that the petitioner was unaware of these permissions as no development was made by the seventh and eighth respondents till 2018 and therefore, the petitioner on coming to know about the same had sent representations to the first respondent to exercise power under Section 202 of the Tamil Nadu Panchayats Act, 1994.

7. The learned counsel for the petitioner submits that the seventh and eighth respondents herein along with three others had filed a Public Interest Litigation (PIL) in W.P.No.26579 of 2019 pretending to espouse the public cause of the public for the following relief:-

"For issuance of a Writ of Certiorarified Mandamus, to call for the records relating to (i) the order bearing Na.Ka.No.347-16/Mines/2018 dated 25.01.2019 (ii) Proceedings bearing RC.No.753/Mines/2014 dated 28.07.2016 and (iii) Proceedings bearing RC.No.Pa.240/MMI/2014 dated 28.07.2016 on the file of the second respondent and quash the same and consequently, forbearing the first to eighth respondents from granting lease/licence/permit to carry on quarrying operations in the lands bearing S.F.Nos.68/1, 69/2A, 81A/1A1, 81A/1A2, 90/3Pt and 94/1D in violation of the provisions contained in the Tamil Nadu Minor Minerals Concession rules, 1959 and the G.Os,



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Letters, Circulars etc., issued from time to time relating to the same in any manner."

8. It is submitted that initially, the Hon'ble Division Bench of this Court also granted interim stay which was later revoked vide order dated 26.02.2020. It is further submitted that despite notice to the seventh and eighth respondents herein who were the first and second petitioners in W.P.No.26579 of 2019 along with three others have put up construction.

9. The learned counsel for the petitioner has placed reliance on the counter affidavit filed by the first respondent, wherein, in paragraph 7, it has been categorically stated as follows:-

"7. It is further submitted that, clearance of the Director of Geology and Mining, Chennai has not been obtained by the 7th and 8th respondents for a new layout and building plans falling within 300 meters from the above lease granted area. The 7th and 8th respondents has obtained building approval from the local body without obtaining clearance from the Director of Geology and Mining as stipulate under Rule 36(c) of the Tamil Nadu Minor Mineral Concession Rules, 1959. It is needless to state that any new layout or building approval cannot be granted within 300 meters of quarry without the prior permission of Director of Geology and Mining."



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10. A reference was made to the counter affidavit filed by the fifth respondent, wherein, it has been stated that the petitioner has an alternate remedy under Rule 29 of the Tamil Nadu Panchayat Building Rules, 1997.

11. The learned counsel for the petitioner would submit that the aforesaid provision is not applicable as it applies only against the refusal to grant approval and not a person who was aggrieved by the approvals purported under Rule 36(c) of the Tamil Nadu Minor Mineral Concession Rules, 1959.

12. The learned counsel for the petitioner has placed reliance on the decision of this Court in **Kodanthur Village Panchayat and others Vs. M/s.Supreme Poultry Private Limited and others**, 2012 (1) L.W. 505.

13. The Writ Petition is stoutly contested by the fifth and sixth respondents by stating that the permissions granted under the provisions of the erstwhile Tamil Nadu Panchayat Building Rules, 1997 are not



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subservient to the permission / approval granted to the petitioner under the provisions of the Tamil Nadu Minor Minerals Concessional Rules, 1959 framed under the provisions of the Mines and Minerals (Development and Regulations) Act, 1957.

14. It is further submitted that the aforesaid Rule also contemplates a further appeal to the Government under Sub Rule 3 to Rule 29 of the Tamil Nadu Panchayat Building Rules, 1997.

15. That apart, the learned counsel for the fifth and sixth respondents submits that in the sequence of the Sub Clauses in Rule 36 of the Tamil Nadu Minor Mineral Concession Rules, Sub Rule (1-A) states that no lease shall be granted for quarrying stone within 300 meters (three hundred meters) from any inhabited site.

16. It is submitted that the question of fact is whether the permission that was granted earlier to the petitioner itself was in violation of the aforesaid Rules. In any event, there is also doubt as to whether the permissions granted to the seventh and eighth respondents on 18.09.2006



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and 09.03.2018 fall within 300 meters as is contemplated in Rule 36(c) of the aforesaid Rules.

17. The learned counsel for the fifth and sixth respondents further submits that without challenging the permissions granted on 18.09.2006 and 09.03.2018 by the fifth and sixth respondents to the seventh and eighth respondents, it is not open for the petitioner to seek for cancellation of permissions granted under the provisions of the erstwhile Tamil Nadu Panchayat Building Rules, 1997 indirectly.

18. It is further submitted that in terms of Rule 74(3) of the Tamil Nadu Combined Development and Building Rules, 2019, there is a saving clause and therefore, on this count also, the permission / approval granted earlier in the year 18.09.2006 and 09.03.2018 cannot be canceled indirectly by way of this Writ Petition.

19. It is further submitted that the petitioner cannot expect this Court to direct the first respondent to exercise the power vested under Section 202 of the Tamil Nadu Panchayats Act, 1994.



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20. It is further submitted that the activities relating to agriculture, i.e. Poultry Farm and Breeding, Hatcheries, Feed Production facilities and such other activities in agricultural land, do not fall within the ambit of Tamil Nadu Town and Country Planning Act, 1971 as clarified by the Secretary of Housing and Urban Development Department vide Letter No.9985 / UD4 [3] 2018-3, (1) of Section 2 of the Tamil Nadu Town and Country Planning Act, 1971.

21. The first respondent in his counter has however stated as follows:

“7. It is further submitted that, clearance of the Director of Geology and Mining, Chennai has not been obtained by the 7th and 8th respondents for a new layout and building plans falling within 300 meters from the above lease granted area. The 7th and 8th respondents has obtained building approval from the local body without obtaining clearance from the Director of Geology and Mining as stipulate under Rule 36 (c) of Tamil Nadu Minor Mineral Concession Rules, 1959. It is needless to state that any new layout or building approval cannot be granted within 300 meters of quarry without the prior permission of Director of Geology and Mining.”



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22. In the counter, it has also been stated that the Mining License granted to the petitioner has been in force right from 1988 though for a brief interval period in between there was a gap in renewals in favour of the petitioner. The details of the permissions granted under the Provisions as under:-

Sl. No.	S.F. Nos	Classif- cation	Extent (Hects)	Name of the Ex- lessee	Lease grant order	Lease Period
1.	69/1A	Patta Land	1.00.5	Tmt.A.Lakshmi, W/o.Appukutti	-	25.08.1988 to 24.08.1993
2.	69/1A, 81A/1A1	Patta Land	1.34.5	Tmt.A.Lakshmi, W/o.Appukutti	120957/93/ X 9 dated 21.02.1994	0.03.1994 to 02.03.1999
3.	68/1, 69/1A, 81A/1A1, 81A/1A2	Patta Land	1.78.0	Tmt.A.Lakshmi, W/o.Appukutti	297/99 MM4 X 9 dated 06.05.1999	07.05.1999 to 06.05.2004
4.	68/1 69/2A, 81A/1A1 81A/1A2	Patta Land	1.06.0	Tmt.A.Lakshmi, W/o.Appukutti	819/2004 M M1 dated 04.06.2004	27.06.2004 to 26.06.2009
5.	68/1 69/2A, 81A/1A1 81A/1A2	Patta Land	1.06.0	Tmt.A.Lakshmi, W/o.Appukutti	Pro.No.547/ 2009/MM2 dated 20.01.2010	20.01.2010 to 19.01.2015
6.	68/1, 69/2A, 81A/1A1, 81A/1A2	Patta Land	1.06.0	Tmt.A.Lakshmi, W/o.Appukutti	Rc.No.753/20 4/Mines, dated 28.07.2016	28.07.2016 to 27.07.2021



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23. By way of rejoinder, the learned counsel for the petitioner submits that the writ petitioner is entitled for the relief sought for in as much as the permissions granted to the seventh and eighth respondents are *ex facie* illegal without considering the provisions of the Tamil Nadu Minor Minerals Concessional Rules, 1959.

24. In connection with the jurisdiction of this Court, a reference was made to the decision of the Hon'ble Supreme Court in **Bangalore Development Authority Vs. Vijaya Leasing Limited and Ors.**, (2013) 14 SCC 737. The relevant portion from the said order reads as under:

“13. To appreciate the legal position we only wish to refer to two of the decisions of this Court reported in Dwarka Nath v. ITO [AIR 1966 SC 81 : (1965) 2 SCJ 296] and Gujarat Steel Tubes Ltd. v. Mazdoor Sabha [(1980) 2 SCC 593 : 1980 SCC (L&S) 197] . In Dwarka Nath case [AIR 1966 SC 81 : (1965) 2 SCJ 296] the Supreme Court stated as under: (AIR pp. 84-85, para 4)

“4. ... This article is couched in comprehensive phraseology and it ex facie confers a wide power on the High Courts to reach injustice wherever it is found. The Constitution designedly used a wide language in describing the nature of the power, the



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purpose for which and the person or authority against whom it can be exercised. It can issue writs in the nature of prerogative writs as understood in England; but the scope of those writs also is widened by the use of the expression 'nature', for the said expression does not equate the writs that can be issued in India with those in England, but only draws an analogy from them. That apart, High Courts can also issue directions, orders or writs other than the prerogative writs. It enables the High Courts to mould the reliefs to meet the peculiar and complicated requirements of this country. Any attempt to equate the scope of the power of the High Court under Article 226 of the Constitution with that of the English courts to issue prerogative writs is to introduce the unnecessary procedural restrictions grown over the years in a comparatively small country like England with a unitary form of Government to a vast country like India functioning under a federal structure. Such a construction defeats the purpose of the article itself."

14. Similarly in Gujarat Steel Tubes case [(1980) 2 SCC 593 : 1980 SCC (L&S) 197] , the relevant principles can be culled out from paras 73 and 81: (SCC pp. 624-25 & 627)

"73. While the remedy under Article 226 is extraordinary and is of Anglo-Saxon vintage, it is not a carbon copy of English processes. Article 226 is a sparing surgery but the lancet operates where injustice suppurates. While traditional restraints like availability of alternative remedy hold back the court, and judicial power should not ordinarily rush in where the other two branches fear to tread, judicial daring is not daunted where glaring injustice demands even affirmative action. The wide words of Article 226 are designed for service of the lowly



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numbers in their grievances if the subject belongs to the court's province and the remedy is appropriate to the judicial process. There is a native hue about Article 226, without being Anglophilic or Anglophobic in attitude. Viewed from this jurisprudential perspective, we have to be cautious both in not overstepping as if Article 226 were as large as an appeal and not failing to intervene where a grave error has crept in. Moreover, we sit here in appeal over the High Court's judgment. And an appellate power interferes not [Ed.: The word "not" is emphasised in original as well.] when the order appealed is not right but only when it is clearly wrong. The difference is real, though fine.

81. ... Broadly stated, the principle of law is that the jurisdiction of the High Court under Article 226 of the Constitution is limited to holding the judicial or quasi-judicial tribunals or administrative bodies exercising the quasi-judicial powers within the leading strings of legality and to see that they do not exceed their statutory jurisdiction and correctly administer the law laid down by the statute under which they act. So long as the hierarchy of officers and appellate authorities created by the statute function within their ambit the manner in which they do so can be no ground for interference."

15. We are of the view that the above principles when applied to the case on hand, it can be safely concluded that the order of the learned Single Judge in the light of the peculiar facts noted therein cannot be faulted. We also wonder as to why the Hon'ble Minister concerned should have taken upon himself the extraordinary effort of making an inspection for which no special reasons were adduced in the report. That apart none of the reasons which weighed in the



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report of the Hon'ble Minister reflected the true facts. The conclusion of the Hon'ble Minister that the possession continued to remain with the owner was contrary to what was found on records. The mahazar dated 9-12-1983 as noted by the learned Single Judge from the original file reveals that the conclusion of the Hon'ble Minister was ex facie illegal and untrue. The said conclusion obviously appeared to have been made with some ulterior motive and purpose and with a view to show some undue favour to the first respondent herein. The acquisition became final and conclusive as far back as on 15-7-1971 when Section 6 declaration came to be issued. At no point of time was there any challenge to either preliminary Notification dated 21-9-1967 or the final declaration notified on 15-7-1971. Even the award dated 21-11-1983 approved on 29-11-1983 was not the subject-matter of challenge in any proceedings.”

16. In this context, reliance placed upon by Mr Altaf Ahmad in the decision in Meera Sahni v. Lt. Governor of Delhi [(2008) 9 SCC 177] wherein this Court has held that transfer of land in respect of which acquisition proceedings had been initiated under Sections 4 and 6 would be final and not bind the Government and that a challenge to said proceedings by a subsequent purchaser was impermissible in law. The relevant part of the said decision has been set out in paras 17 and 21 which are as under: (SCC pp. 183-84)

“17. When a piece of land is sought to be acquired, a notification under Section 4 of the Land Acquisition Act is required to be issued by the State Government strictly in accordance with law. The said notification is also required to be followed by a declaration to be made



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under Section 6 of the Land Acquisition Act and with the issuance of such a notification any encumbrance created by the owner, or any transfer made after the issuance of such a notification would be deemed to be void and would not be binding on the Government. A number of decisions of this Court have recognised the aforesaid proposition of law wherein it was held that subsequent purchaser cannot challenge acquisition proceedings and also the validity of the notification or the irregularity in taking possession of the land after the declaration under Section 6 of the Act.

21. In view of the aforesaid decisions it is by now well-settled law that under the Land Acquisition Act, the subsequent purchaser cannot challenge the acquisition proceedings and that he would be only entitled to get the compensation.”

17. Therefore, while exercising the extraordinary jurisdiction under Article 226 of the Constitution, the learned Single Judge came across the above incongruities in the proceedings of the Hon'ble Minister which resulted in the issuance of denotification dated 5-10-1999. We fail to note as to how the ultimate order of the learned Single Judge in setting aside such a patent illegality can be held to be beyond the powers vested in the constitutional court. The conclusion of this Court in Gujarat Steel Tubes case [(1980) 2 SCC 593 : 1980 SCC (L&S) 197] that judicial daring is not daunted when glaring injustice demands even affirmative action and that authorities exercising their powers should not exceed the statutory jurisdiction and correctly administer the law laid down by the statute under which they act



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are all principles which are to be scrupulously followed and when a transgression of their limits is brought to the notice of the Court in the course of exercise of its powers under Article 226 of the Constitution, it cannot be held that interference in such an extraordinary situation to set right an illegality was unwarranted.

*18. In our considered opinion, the Division Bench failed to take note of the above gross illegality committed by the Hon'ble Minister while directing the issuance of the denotification dated 5-10-1999 in spite of the fact that possession had already been handed over to the State as early as on 9-12-1983 and that the decree of the civil court did not in any way create any fetters on the authorities concerned to take steps for possession by resorting to appropriate legal means. At the risk of repetition, it will have to be stated that the civil court decree to that effect was dated 15-12-1981 and that the possession was taken by taking necessary steps under the provisions of the Land Acquisition Act under the mahazar dated 9-12-1983 which was never challenged by any party much less the first respondent herein. The Division Bench unfortunately completely omitted to take note of the relevant facts while interfering with the order of the learned Single Judge. The appeals, therefore, stand allowed. The order of the Division Bench [ILR 2005 KAR 2539 : (2006) 4 Kant LJ 126] is set aside and the order of the learned Single Judge dated 26-8-2002 passed in *Vijaya Leasing Ltd. v. State of Karnataka* [*Vijaya Leasing Ltd. v. State of Karnataka*, WP No. 2565 of 2001, decided on 26-8-2002 (KAR)] stands restored by this common judgment.”*

25. I have considered the arguments advanced by



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Mr.K.J.Parthasarathy, the learned counsel for the petitioner and Mrs.C.Meera Arumugam, the learned Additional Government Pleader for the first and second respondents and Mr.B.Vijay, the learned Additional Government Pleader for the fifth and sixth respondents. I have perused the affidavit filed in support of the present Writ Petition and the counter filed by the first respondent, the District Collector, Coimbatore District and the counter filed by the fifth respondent, the President of Solapalayam Village.

26. This Writ Petition filed by the petitioner to direct the first respondent to invoke the power under Section 202 of the Tamil Nadu Panchayats Act, 1994, is belated inasmuch as the permits were granted to the seventh and eighth respondents by the fifth and sixth respondents on 18.09.2006 and on 09.03.2018 respectively when the provisions of the Tamil Nadu Panchayat Building Rules, 1997 as notified by G.O.Ms.No.255, Rural Development (C2), dated 18.08.1997 was in force. The permission granted to the seventh and eighth respondents by the fifth and sixth respondents respectively would be in accordance with the provisions of Section 160 of the Tamil Nadu Panchayats Act, 1994. Section 160 of the Tamil Nadu Panchayats Act, 1994 reads as under:-



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160. Permission for construction of factories and the installation of machinery.

No person shall, without the permission of the panchayat union council in panchayat villages and except in accordance with the conditions specified in such permission,-

(a) construct or establish any factory, workshop or workplace in which it is proposed to employ steam power, water power or other mechanical power or electrical power, or

(b) install in any premises any machinery or manufacturing plant driven by any power as aforesaid, not being machinery or manufacturing plant exempted by the rules.

27. The Tamil Nadu Panchayat Building Rules, 1977 has now been replaced by the Tamil Nadu Combined Development Building Rules, 2019 as notified by G.O. (Ms) No.18, Municipal Administration and Water Supply (MA.I) Department, dated 04.02.2019 issued with the concurrence of the Housing and Urban Development Department vide its U.O.No.2167/UD4(3)/2019, dated 01.02.2019.

28. The Tamil Nadu Combined Development Building Rules, 2019 has been framed under the powers vested with the Government under



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various enactments including the powers vested under Section 242 of the Tamil Nadu Panchayats Act, 1994.

29. As per Rule 74 of the Tamil Nadu Combined Development Building Rules, 2019, there is repeal of existing bye-laws and saving of orders already passed. Those orders which are in conflict or inconsistent with the provisions of the Tamil Nadu Combined Development Building Rules, 2019, stands repealed or modified. Rule 74 of the Tamil Nadu Combined Development Building Rules, 2019 reads as under:-

74. Repeal and Savings.—

(1) All existing rules, regulations, bye-laws, orders, that are in conflict, and inconsistent with these rules shall stand repealed or modified to the extent of the provisions of these rules.

(2) The following rules are repealed.

(i) Tamil Nadu Panchayat Building Rules, 1997

(ii) Tamil Nadu District Municipalities Building Rules, 1972

(iii) The Multi Storied Building & Public Building Rules, 1973

(iv) Tamil Nadu Cyclone Prone Area Special Building Rule, 1982

(v) Special Rules for relating the construction and maintenance and facility civil aero dram, 1970

(vi) Chennai City Corporation Building Rules, 1975



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(vii) *Special Rules for the Multi Storied Building & Public Buildings Rule, 1974*

(viii) *Development Regulations approved in G.O.Ms.No.190, 191, Housing and Urban Development Department as part of second master plan of Chennai Metropolitan Area.*

(ix) *Development Control Regulations vide G.O.Ms.No.130, Housing and Urban Development Department, dated.14.6.2010*

(x) *The building rules framed / followed under the Municipal corporation act of Madurai, Coimbatore, Trichy, Tirunelveli, Thoothukudi, Thanjavur, Dindigul, Salem, Erode, Tiruppur, Vellore*

(3) Anything done or any action taken including action against unauthorized or deviated constructions, with reference to the earlier Development Regulations and Building Rules shall be deemed to have been done or taken with reference to the corresponding provisions of these Combined Development and Building Rules and continue in force accordingly, unless and until superseded by anything done or any action taken with reference to these Rules.

(4) These rules shall not apply to the constructions in progress as per the valid approved plans on the date of coming into force of these rules provisions (i.e. 4th day of February 2019) and the exemption is applicable till the expiry of the Planning Permit or Building Permit with renewal period for the above such constructions in progress. It shall also not apply in cases of buildings constructed already as per the approved plan and completion certificate is awaited from the competent authority.



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30. As per Sub Clause 3 to Section 74 of the Tamil Nadu Combined Development Building Rules, 2019, anything done or any action taken including action against unauthorized or deviated constructions, with reference to the earlier Development Regulations and Building Rules shall be deemed to have been done or taken with reference to the corresponding provisions of these Combined Development and Building Rules and continue in force accordingly, unless and until superseded by anything done or any action taken with reference to these Rules.

31. Section 202 of the Tamil Nadu Panchayats Act, 1994 reads as under:-

202.Power to suspend or cancel resolution, etc.

(1) The Inspector may, by order in writing,-

(i) suspend or cancel any resolution passed, order issued, or licence or permission granted, or

(ii) prohibit the doing of any act which is about to be done or is being done, in pursuance or under colour of this Act, if in his opinion,

(a) such resolution, order, licence, permission or act has not been legally passed, issued, granted or authorised, or

(b) such resolution, order, licence, permission or



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act is in excess of the powers conferred by this Act or any other law or an abuse of such powers or is considered by the Inspector to be otherwise undesirable, or

(c) the execution of such resolution or order, or the continuance in force of such licence or permission or the doing of such act is likely to cause danger to human life, health or safety, or is likely to lead to a riot or an affray:

Provided that nothing in this sub-section shall enable the Inspector to set aside any election which has been held.

(2) The Inspector shall, before taking action on any of the grounds referred to in clauses (a) and (b) of sub-section (1), give the authority or person concerned an opportunity for explanation.

(3) The power conferred on the Inspector under clause (c) of sub-section (1) may be exercised by the Collector in accordance with the provisions of that clause.

32. The documents filed by the petitioner in the typed set indicate that permits were granted to the seventh on 18.09.2006 for construction of Mill and Godown RCC Shed and RCC Office and Power Room and Toilet Block in S.F.No.64/2 within the period between 19.09.2006 and 18.09.2007 and to the eighth respondent on 09.03.2018 for construction of Zinc Sheet roof poultry shed building in 78/1A within the period between 09.03.2018 and 08.03.2019.



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33. Quarries of the petitioner, for which, mining licences have been issued are in S.F.No.68/1, 69/1A, 69/2A, 81A/1A1, 81A/1A2, 95/2(P) and 95/3(P) in Solapalayam Village, Pollachi Taluk, Coimbatore District. Though the first respondent, in his counter, has stated that in terms of Rule 36(c) of the Tamil Nadu Minor Mineral Concession Rules, 1959, “no new layout, building plans falling within 300 metres from any quarry should be given approval by any agency unless prior clearance of the Director of Geology and Mining is obtained. On receipt of proposals for according clearance, the Director of Geology and Mining has to decide upon the continuance or closure, as the case may be of any quarry which is situated within 300 metres from the now layout, building sought for such 'clearance'. No steps have been taken by the petitioner to cancel the permits granted to the seventh and eighth respondents on 18.09.2006 and on 09.03.2018 by the fifth and sixth respondents respectively.

34. Further, it is not clear as to whether the permits granted to the seventh and eighth respondents are within 300 mts. from quarry of the petitioner. Further, it is noticed that initially, the lease for quarrying rough



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stone and gravel over an extent of 1.50.0 hectares in Patta land in S.F.Nos.95/2(P) and 95/3(P) in Solapalayam Village, Pollachi Taluk, Coimbatore, was granted to the petitioner in the year 1988 and subsequently, the further lease was granted to the petitioner from time to time. Finally, the petitioner appears to have obtained lease vide Proceedings Rc.No.541/Mines/2019 dated 02.07.2021 for a period of 5 years from 02.07.2021 to 01.07.2026. The last approval is long after the planning permissions were granted to the seventh and eighth respondent by the fifth and sixth respondents respectively.

35. Though the power is vested with the first respondent to cancel the permit, it has to be within a reasonable time and within the limitation prescribed. The petitioner has woken up too late in the day to cancel the aforesaid permits granted to the seventh and eighth respondents on 18.09.2006 and on 09.03.2018 respectively. That apart, validities of these permits for putting up the constructions were for a period of one year between 19.09.2006 and 18.09.2007 in terms the permission order dated 18.09.2006 granted to the seventh respondent and between 09.03.2018 and 08.03.2019 in terms of the permission order dated 09.03.2018 granted to



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the eighth respondent. It appears that these constructions have also been completed by these respondents.

36. That apart, the appellate remedy was available to the petitioner under Rule 29(2) of the Tamil Nadu Panchayats Building Rules, 1997. Rule 29 of the Tamil Nadu Panchayats Building Rules, 1997 which read as under:-

29. Grant of approval by Executive Authority: (1) All approvals granted under these rules in the Panchayat shall be placed in the next Panchayat meeting for information.

(2) Any appeal against the orders of the Executive Authority under sub-rule (1) shall be made to the Collector of Revenue District concerned within thirty days from the date of receipt of the such orders.

(3) Any appeal against the orders of the Collector of the Revenue District, under sub-rule (2) shall be made to the Government within sixty days from the date of receipt of such orders. The orders of the Government on such appeal shall be final.

37. That apart, the restriction contained under Rule 36(c) of the Tamil Nadu Minor Mineral Concession Rules, 1959, does not apply to any



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agricultural activity. The Secretary, Housing and Urban Development Department, vide Letter No.9985/UD4(3) 2018-3, has declared that obtaining of permission for constructions of shed / building for the use of poultry under the Tamil Nadu Town and Country Planning Act, 1971, is no necessary.

38. In my view, the power vested under the provisions of Section 202 of the the Tamil Nadu Panchayats Act, 1994 cannot be invoked at this distant point of time to enforce Rule 36(c) of the Tamil Nadu Minor Mineral Concession Rules, 1959. It reads as under:-

36. General restrictions in respect of quarrying operations:-

- (1)
- (2)
- (3) *No new layout, building plans falling within 300 metres from any quarry should be given approval by any agency unless prior clearance of the Director of Geology and Mining is obtained. On receipt of proposals for according clearance, the Director of Geology and Mining shall decide upon the continuance or closure, as the case may be of any quarry which is situated within 300 metres from the now layout, building sought for such “clearance”.*

39. Therefore, this Writ Petition stands dismissed with the above



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observations. No cost. Consequently, connected Miscellaneous Petition is closed.

10.10.2022

Internet : Yes/No

Index : Yes / No

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To

- 1.The District Collector,
District Collector Office,
Coimbatore District – 641 018.
- 2.The Director,
Directorate of Geology and Mining,
Industrial Estate,
Guindy, Chennai – 600 032.
- 3.The Block Development Officer,
Pollachi Panchayat Union South,
Pollachi.
- 4.The Executive Engineer,
TANGEDCO, Udumalai Road,
Pollachi – 642 001.
- 5.Solapalayam Village President / Administrative Officer,
Solapalayam, Pollachi South,
Pollachi – 642 003.
- 6.The Special Officer,
Solapalayam Panchayat,
Pollachi – 642 003.



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C.SARAVANAN, J.

Jen

Pre-Delivery Order
in
W.P.No.25504 of 2021 and
W.M.P.No.26933 of 2021

10.10.2022