



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.01.2022

CORAM:

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P. (MD) Nos.136, 147 and 148 of 2022

and

W.M.P (MD) Nos.101, 106 and 107 of 2022

WEB COPY

1.S.Ramaiah ... Petitioner
in W.P. (MD) Nos.136 and 147 of 2022

2.K.Ramaiah ... Petitioner
in W.P. (MD) No.148 of 2022

vs.

1.The District Collector,
Pudukottai District, Pudukottai.

2.The Revenue Divisional Officer,
Pudukottai District,
Pudukottai.

3.The Assistant Director,
Geology and Mining,
Collectorate,
Pudukottai District,
Pudukottai.

... Respondents in all petitions

PRAYER in W.P. (MD) No.136 of 2022: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, to call for the records relating to the impugned enquiry notice issued by the first respondent in his proceedings in Na.Ka.No.91/2021 (Pu.Ma.Su)-2, dated 29.12.2021 and to quash the same as illegal, arbitrary and in violation of principles of natural justice.

PRAYER in W.P. (MD) No.147 of 2022: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, to call for the records relating to the impugned enquiry notice issued by the first respondent in his proceedings in Na.Ka.No.91/2021 (Pu.Ma.Su)-3, dated 29.12.2021 and to quash the same as illegal, arbitrary and in violation of principles of natural justice.

PRAYER in W.P. (MD) No.148 of 2022: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, to call for the records relating to the impugned enquiry notice issued by the first respondent in his proceedings in Na.Ka.No.91/2021 (Pu.Ma.Su)-1, dated 29.12.2021 and to quash the same as illegal, arbitrary and in violation of principles of natural justice.



In all petitions:

For Petitioner : Mr.B.Saravanan

For Respondents : Mr.D.Ghandiraj
Special Government Pleader

COMMON ORDER

These writ petitions have been filed questioning a show cause notice, dated 29.12.2021 issued by the first respondent calling upon the petitioners to attend an enquiry on 03.01.2022.

2.The petitioners question the issuance of the show cause notice primarily on the ground that a reading of the show cause notice, according to the petitioners, reflects that the first respondent had already predetermined the nature of the order to be passed pursuant to any enquiry. It is therefore, contended that the enquiry would be conducted for the sake of conducting an enquiry and no reasonable consideration would be afforded to the petitioners herein.

3.The facts indicate that ***W.P. (MD) No.8421 of 2021 [Kumaravelu Vs. The Principal Secretary to Government and others]***, had been filed before a Division Bench of this Court as a Public Interest Litigation seeking a direction to direct the official respondents including the respondents herein to take appropriate action against the present writ petitioners, who were alleged to be doing illegal quarrying operation in Valayanvayal Village, Thirumayam Taluk, Pudukottia District. The Division Bench, after hearing the matter, had directed a survey to be conducted. The operative portion of the order, dated 26.04.2021, is extracted below:-

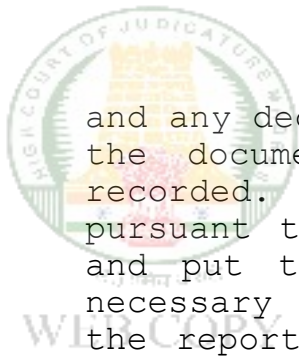
"...5.It appears that the President of the Village Panchayat is the wife of the tenth respondent. In any event, the authority should conduct and conclude the survey within a period of two weeks from the date of receipt of a copy of this order and thereafter, proceed in accordance with law. During the survey, the respondents 9 to 11, as well as the President of the Thulaiyanur Village Panchayat, shall also be present. The survey team shall take photographs or videographs. The entire survey shall be conducted using latest equipments."

Pursuant to such direction, the respondents herein had conducted a survey.

4.It is stated by Mr.D.Ghandiraj, learned Special Government Pleader, who appears for the respondents that complaining no effective action had been taken, the petitioner therein, had also filed a contempt application and the same is listed in the course of the day, today before the First Bench of this Court.

5.The learned counsel for the petitioners raised a grievance that the first respondent had already predetermined the issue.

6.A direction is issued to the first respondent that he should take an independent decision on the show cause notice issued by him



and any decision taken by him pursuant to enquiry should be based on the documents presented during the enquiry and the statements recorded. The report regarding the survey which was conducted pursuant to directions of the Division Bench may also be referred and put to the petitioners herein and the petitioners may give necessary explanations. Any decision should be based not only on the report, documents and statements but also on the explanations given by the petitioner herein. That is the only safeguard which can be given to the petitioners. But it is incumbent on the part of the petitioners to attend the enquiry. The first respondent may give an appropriate time period to the petitioners herein.

7. Giving those observations, these Writ Petitions stand dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (AE)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

sjj

Note:

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1. The District Collector,
Pudukottai District, Pudukottai.
2. The Revenue Divisional Officer,
Pudukottai District, Pudukottai.
3. The Assistant Director,
Geology and Mining,
Collectorate, Pudukottai District, Pudukottai.

+1 CC to M/s.SPL.GP (SR-754[F], SR-755[F] SR-756[F] dated 07/01/2022)

+3 CC to M/s.B.SARAVANAN, Advocate (SR-650[F], SR-651[F] & SR-652[F] dated 06/01/2022)

W.P. (MD) Nos.136, 147 and 148 of 2022
and

W.M.P (MD) Nos.101, 106 and 107 of 2022
06.01.2022