



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.02.2022

CORAM

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THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

W.P (MD) .No.2833 of 2022

U.Raja Mohamed

.. Petitioner

Vs.

1.The Director of Geology and Mining,
O/o. The Director of Geology and Mining,
Alandur Road,
Guindy Industrial Estate,
Guindy, Chennai - 32.

2.The District Collector,
Madurai District, Madurai.

3.The Assistant Director of Geology and Mining,
O/o. The Assistant Director of Geology and Mining,
Collectorate Campus,
Madurai.

4.The Revenue Divisional Officer,
O/o. The Revenue Divisional Officer,
Madurai, Madurai District.

5.The Tahsildar,
Vadipatti Taluk,
Madurai District.

6.U.Chelladurai

7.R.Elavarasan

.. Respondents

PRAYER: Writ Petition is filed under Article 226 of Constitution of India for issuance of Writ of Certiorari, calling for the records relating to the impugned order passed by the 4th respondent in his proceedings in Na.Ka.No.261/2021/A, dated 10.01.2022 and quash the same as illegal.

For Petitioner : Mr.M.Ajmal Khan Senior Counsel for
M/s.Ajmal Associates

For Respondents: Mr.P.Tilak Kumar for R1 to R5
Government Pleader



ORDER

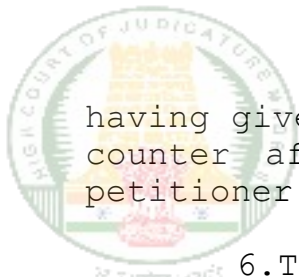
This writ petition has been filed challenging the order dated 10.01.2022, passed by the fourth respondent, under which, penalty has been imposed on the petitioner as well as the 6th respondent under Rule 36-A of the Tamil Nadu Minor Mineral Concession Rules, 1959. The petitioner as well as the 6th respondent have been directed to pay totally a sum of Rs.2,77,53,400/- (Rupees Two Crore Seventy Seven Lakhs Fifty Three Thousand and Four Hundred only) (Rs.1,38,76,700/- Rupees One Crore Thirty Eight Lakhs Seventy Six Thousand and Seven Hundred each) as penalty for the illegal mining committed by them. Aggrieved by the same, this writ petition has been filed.

2.Heard Mr.M.Ajmal Khan, learned Senior counsel appearing for the petitioner and Mr.P.Tilak Kumar, learned Government Pleader, who accepts notice on behalf of the respondents 1 to 5.

3.The main contention of the writ petition is that principles of natural justice has been violated by the fourth respondent before passing the impugned order. According to him, a detailed explanation was given on 10.12.2021 with regard to the penalty claim made by the fourth respondent for the alleged illegal quarrying. But according to the petitioner, under the impugned order, the explanation given by the petitioner has not been considered and by a non speaking order, the impugned order has been passed against the petitioner levying a huge penalty of Rs.1,38,76,700/- (Rupees One Crore Thirty Eight Lakhs Seventy Six Thousand and Seven Hundred only) under Section 36-A of the Tamil Nadu Minor Mineral Concession Rules, 1959.

4.The learned Senior Counsel for the petitioner Mr.M.Ajmal Khan, drew the attention of this Court to the impugned order, dated 10.01.2022, passed by the fourth respondent and after referring to the same would point out that a categorical stand has been taken by the petitioner that he is no way involved in the illegal quarrying as it is only the 6th respondent, who is having a mining licence.

5.The learned Senior Counsel after referring to the impugned order would submit that by a non speaking order, the impugned order has been passed imposing a huge penalty of Rs.1,38,76,700/- (Rupees One Crore Thirty Eight Lakhs Seventy Six Thousand and Seven Hundred only) on the petitioner. He also drew the attention of this Court to the order dated 20.09.2021, passed by this Court in W.P.(MD). No.11658 of 2021, which is the basis of the investigation conducted by the official respondents with regard to the illegal mining and would submit that even in the said writ petition, the petitioner herein, who was the 7th respondent therein had filed a counter affidavit denying his involvement in the illegal mining over the subject property. According to him, under the impugned order none of the defences raised by the petitioner were considered, despite



having given a detailed explanation and despite the fact that in the counter affidavit filed in W.P.(MD).No.11658 of 2021, also, the petitioner had denied his involvement in any illegal quarrying.

6.This Court has perused and examined the impugned order passed by the fourth respondent dated 10.01.2022. As rightly pointed out by the learned Senior Counsel for the petitioner, even though a detailed explanation was given by the petitioner on 10.12.2021, the said explanation has not been considered in the impugned order dated 10.01.2022, passed by the fourth respondent. By a non speaking order, a huge penalty has been imposed under Rule 36-A of the Tamil Nadu Minor Mineral Concession Rules, 1959 against the petitioner as well as the 6th respondent. It is also contended before this Court though it is not stated in the affidavit that the petitioner is not in talking terms with the 6th respondent, who is his brother.

7.After giving due consideration to the aforementioned factors and after coming to the conclusion that the impugned order dated 10.01.2022, is a non speaking order, this Court is of the considered view that the petitioner's explanation ought to have been considered and therefore, since it was not considered, this Court will have to necessarily quash the same and remand the matter back to the 4th respondent for fresh consideration on merits and in accordance with law.

8.As seen from the impugned order, principles of natural justice has been violated by the fourth respondent. Therefore, the impugned order dated 10.01.2022, levying penalty of a total sum of Rs.2,77,53,400/- (Rupees Two Crore Seventy Seven Lakhs Fifty Three Thousand and Four Hundred only) on the petitioner as well as the sixth respondent, under Rule 36-A of the Tamil Nadu Minor Mineral Concession Rules 1959, is hereby quashed and the matter is remanded back to the fourth respondent for fresh consideration on merits and in accordance with law. The fourth respondent is directed to issue notice to the petitioner as well as the sixth respondent and after affording them a fair hearing and also affording them personal hearing, shall pass appropriate orders in the penalty proceedings on merits and in accordance with law.

9.With the aforesaid directions, this writ petition is disposed of. No costs.

Sd/-

Assistant Registrar (CSI)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)



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 Director of Geology and Mining,
O/o. The Director of Geology and Mining,
Alandur Road,
Guindy Industrial Estate,
Guindy, Chennai - 32.
 - 2.The District Collector,
Madurai District, Madurai.
 - 3.The Assistant Director of Geology and Mining,
O/o. The Assistant Director of Geology and Mining,
Collectorate Campus,
Madurai.
 - 4.The Revenue Divisional Officer,
O/o. The Revenue Divisional Officer,
Madurai, Madurai District.
 - 5.The Tahsildar,
Vadipatti Taluk,
Madurai District.
- +1 CC to M/s.AJMAL ASSOCIATES, Advocate (SR-5865[F]dated 14/02/2022)

ORDER MADE IN
W.P (MD) .No.2833 of 2022
11.02.2022

PKP/25.02.2022/4P/7C