



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.04.2022

CORAM

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P. (MD)Nos.6295 to 6310 of 2022

and

W.M.P. (MD)Nos.4908, 4910, 4913, 4912, 4914, 4916, 4919, 4920, 4911, 4922, 4925, 4915, 4927, 4928, 4933, 4934, 4936, 4917, 4923, 4924, 4918, 4921, 4931, 4932, 4935, 4926, 4929, 4930, 4939, 4940, 4938, 4941 and 4942 of 2022

S.Sunderaj ... Petitioner in WP(MD). 6295/ 2022
Prakash.N ... Petitioner in WP(MD). 6296/ 2022
Rajmohan.D ... Petitioner in WP(MD). 6297/ 2022
Santhosh.M.S.J ... Petitioner in WP(MD). 6298/ 2022
Subburaj.R ... Petitioner in WP(MD). 6299/ 2022
Ariyamalai.T ... Petitioner in WP(MD). 6300/ 2022
Senthilkumar.L ... Petitioner in WP(MD). 6301/ 2022
Ganesan.L ... Petitioner in WP(MD). 6302/ 2022
Ariyamalai.T ... Petitioner in WP(MD). 6303/ 2022
Periyakaruppan.T.L ...Petitioner in WP(MD). 6304/ 2022
Rajangam.M ... Petitioner in WP(MD). 6305/ 2022

Tvl. Nagaratchi Lathipa Mahalir Suyavudhavikuzhu,
Allinagaram, Theni Taluk, Theni District,
Rep. by its Director,
M.Muminaparveen ... Petitioner in WP(MD). 6306/ 2022

Tvl. Sri Selva Vinayagar Kaludaippor Mahalir Nalasangam,
No.5/3, Maalaipatti Theru,
Pirathukaranpatti,
Tirumalapuram Panchayat, Andipatty Taluk,
Theni District.
Rep by its President,
K.Perumayi ... Petitioner in WP(MD). 6307/ 2022

Karuppadevan. J ... Petitioner in WP(MD). 6308/ 2022
Senthilmurugan.B ... Petitioner in WP(MD). 6309/ 2022
Govindasamy.N ... Petitioner in WP(MD). 6310/ 2022



- Vs. -

1.The District Collector,
Office of the District Collector,
Theni District.

2.The Assistant Director,
Geology and Mining,
Office of the District Collector,
Theni District.

... Respondents
in all the petitions

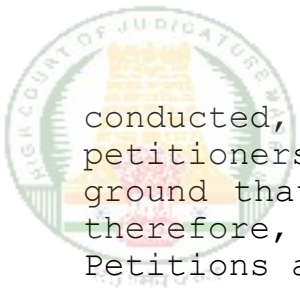
COMMON PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, to call for the records pertaining to the impugned show cause notice issued by the first respondent in his proceedings in RC No.212/Mines/2022 dated 16.03.2022, RC No.205/Mines/2022 dated 16.03.2022, RC No.214/Mines/2022 dated 16.03.2022, RC No.215/Mines/2022 dated 16.03.2022, RC No.210/Mines/2022 dated 16.03.2022, RC No.208/Mines/2022 dated 16.03.2022, RC No.203/Mines/2022 dated 16.03.2022, RC No.219/Mines/2022 dated 16.03.2022, RC No.207/Mines/2022 dated 16.03.2022, RC No.209/Mines/2022 dated 16.03.2022, RC No.213/Mines/2022 dated 16.03.2022, RC No.223/Mines/2022 dated 16.03.2022, RC No.220/Mines/2022 dated 16.03.2022, RC No.216/Mines/2022 dated 16.03.2022, RC No.218/Mines/2022 dated 16.03.2022, RC No.217/Mines/2022 dated 16.03.2022 and to quash the same as illegal and unconstitutional.

For Petitioner :Mr.M.Sricharan Rangarajan
for Mr.C.Jeganathan
For Respondents :Mr.P.Thilak Kumar
Government Pleader

C O M M O N O R D E R

These Writ Petitions have been filed challenging the show cause notice, dated 16.03.2022, issued by the first respondent, calling upon the petitioners to submit a reply with regard to the alleged illegal quarrying said to have been committed by the petitioners pursuant to an aerial survey conducted by the second respondent.

2.The said aerial survey was done pursuant to a direction given by a Division Bench of this Court in a Public Interest Litigation in W.P.(MD).No.16194 of 2020, on 18.11.2020. According to the petitioners, under the show cause notice, the first respondent has predetermined the issue and without giving any opportunity to the petitioners to study the alleged inspection report pursuant to the aerial survey, the show cause notice has been issued. It is also the contention of the petitioners that when the aerial survey was



conducted, they were not put on notice by the second respondent. The petitioners have challenged the impugned show cause notice on the ground that the same has been issued in a predetermined manner and therefore, this Court is having the powers to entertain these Writ Petitions and quash the same.

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3. Heard Mr.M.Sricharan Rengarajan, learned counsel appearing for the petitioner and Mr.P.Thilak Kumar, learned Government Pleader, who accepts notice on behalf of the respondents.

4. Admittedly, the inspection was done by the second respondent in respect of the petitioners' quarry lease as well as others pursuant to a direction given by the Division Bench of this Court in a Public Interest Litigation in W.P.(MD).No.16194 of 2020, on 18.11.2020. The contention of the petitioners in these Writ Petitions is that they were not parties to the aforementioned Public Interest Litigation. According to the petitioners, though the show cause notice refers to a report pursuant to the aerial survey, the same was also not furnished to the petitioners. The petitioners were also not present at the time of aerial survey. Only under the aforementioned circumstances, the petitioners have challenged the impugned show cause notice, as according to them, the first respondent has already predetermined the issue and in all possibility, an adverse order will be passed against them, even if their explanation is submitted by them to the show cause notice.

5. It is settled law that a show cause notice can be challenged only when it has been issued without jurisdiction and without authority under law. In the case on hand, the first respondent is having the authority under law to issue the impugned show cause notice on the ground of the alleged illegal quarrying said to have been committed by the petitioners. The only contention raised by the petitioners in these Writ Petitions is that as according to them, as seen from the impugned show cause notice, the first respondent has predetermined the issue as the inspection report is the basis for the impugned show cause notice and the said inspection report was not furnished to the petitioners. Therefore, according to the petitioners, the first respondent has already decided that adverse orders will be passed against the petitioners. Under the impugned show cause notice, the first respondent has informed the petitioners that they have been doing quarrying operations in non-leasing areas, but no survey numbers where they have been doing quarrying operations, have not been disclosed. Since the aerial survey was done only pursuant to the directions given by the Division Bench of this Court in a Public Interest Litigation in W.P.(MD).No.16194 of 2020, on 18.11.2020, the scope for challenge with regard to the show cause notice pursuant to the directions issued by the Division Bench, is further restricted for the petitioners. The impugned show cause notice, though refers to the aerial survey, does not, on a prima facie consideration by this Court, clearly indicate that the



first respondent has predetermined the issue against the petitioners.

6.This Court is of the considered view that the petitioners will also not be prejudiced, if a reply is sent to the show cause notice stating their objections and also raising whatever contentions that they have raised in these Writ Petitions. However, before sending any reply, they have approached this Court prematurely. However, since the petitioners have raised the contention that they were not present at the time of the aerial survey and were not furnished with the copy of the report based on the aerial survey, this Court is of the considered view that the petitioners' interest will have to be protected, in case, any adverse orders are passed against them pursuant to the impugned show cause notice for a particular period till the petitioners are able to challenge the same in the manner known to them under law. Excepting for this direction, the challenge of the impugned show cause notice is unsustainable in view of the aforementioned reasons given by this Court, that too, when the survey was done only pursuant to the directions given by the Division Bench of this Court in a Public Interest Litigation in W.P.(MD).No.16194 of 2020, on 18.11.2020.

7.For the foregoing reasons, these Writ Petitions are disposed of, by directing the petitioners to submit a reply to the impugned show cause notice within a period of two weeks from the date of receipt of a copy of this order. On receipt of the said reply, the first respondent shall pass final orders within a period of two weeks thereafter. In order to protect the interest of the petitioners, in case, any adverse orders are passed against them, the first respondent shall keep the adverse order, if any, in abeyance for a period of one month from the date of final order to enable the petitioners to challenge the same, if so advised, in the manner known to them under law. Till final orders are passed pursuant to the directions given by this Court today, the petitioners shall carry on quarrying operations in respect of the lease area alone without any hindrance. In case any adverse orders are passed, then the petitioners shall cease the quarrying operations. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

cmr

<https://hcservices.ecourts.gov.in/hcservices/>



To

1.The District Collector,
Office of the District Collector,
Theni District.

2.The Assistant Director,
Geology and Mining,
Office of the District Collector,
Theni District.

+1 CC to M/s.SPL.GP (SR-20876[F] dated 25/04/2022)

Order made in
W.P. (MD) Nos.6295 to 6310 of 2022
22.04.2022

SB(CO)

GC(06.05.2022) 5P 4C