



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.04.2022

CORAM:

THE HONOURABLE **MR. JUSTICE ABDUL QUDDHOSE**

W.P.[MD]No.7897 of 2022

and

W.M.P.[MD]No.5919 of 2022

WEB COPY

P.Xavier

... Petitioner

/Vs./

The District Collector,
Tiruchirapalli District,
Tiruchirapalli-620 001.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the respondent to consider the representation of the petitioner dated 01.04.2022 made to the respondent and to grant an extension of lease to the petitioner in the quarry site situated at Survey No.629 (West) for 1.25.0 hectares situated at Aniyappur Village, Manapparai Taluk, Tiruchirappalli District for a period of 5 ½ years from 04.06.2022 to 08.11.2027 considering the period in which the quarry was not in operation for no fault of the petitioner.

For Petitioner : Mr.Naveen Kumar Murthi
For Respondent : Mr.P.Thilak Kumar,
Government Pleader.

ORDER

This writ petition has been filed for a Mandamus seeking for a direction to the respondent to consider the representation of the petitioner dated 01.04.2022 to grant an extension of lease to the petitioner in the quarry site situated at Survey No.629 (West) for 1.25.0 hectares situated at Aniyappur Village, Manapparai Taluk, Tiruchirappalli District for a period of 5 ½ years from 04.06.2022 to 08.11.2027, in which the quarry was not in operation for no fault of the petitioner, within a time frame to be fixed by this Court.

2.The case of the petitioner is that his father is granted quarry lease in respect of the aforementioned property for a period of ten years from 04.06.2012 to 03.06.2022. According to the petitioner, his father died on 12.04.2020 and thereafter, as legal heir of the petitioner, he is the lessee under the respondent. According to the petitioner, due to the mandatory requirement of Environmental Clearance to be obtained, which came into force in the year 2017 by virtue of the National Green Tribunal order, the petitioner's operation of quarry lease was suspended. According to



the petitioner, due to no fault of his, he has been unable to quarry in the licensed property for a period of 5 ½ years from 04.06.2022 to 08.11.2027.

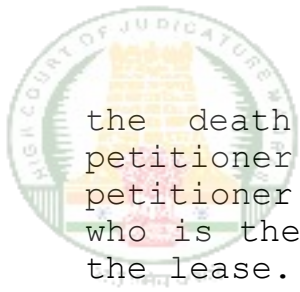
3. It is also the case of the petitioner that he has applied seeking for approval from the State Environment Impact Assessment Authority (hereinafter referred to as "SEIAA") as early as in the year 2016 and the application is still under consideration. This writ petition has been filed to consider the petitioner's representation dated 01.04.2022 to the first respondent to grant extension of quarry lease for a period of 5 ½ years from 04.06.2022 to 08.11.2027, due to non-operative period on account of the requirement of Environmental Clearance, which came into force only after the petitioner's father had entered into lease. Therefore, according to the petitioner, the petitioner should not suffer loss for requirement of Environmental Clearance, which came into force subsequent to the commencement of the lease.

4. Heard Mr. Naveen Kumar Murthi, learned Counsel for the writ petitioner and Mr. P. Thilak Kumar, learned Government Pleader, who accepts notice on behalf of the respondent.

5. The learned counsel appearing for the petitioner drew the attention of this Court to a decision rendered by me on 09.11.2020 in WP.(MD) Nos. 9133 and 9137 of 2020 in the case of **T. Vijay vs. The District Collector, Thoothukudi District**, involving an identical issue. In that decision also, the lessee of a quarry lease sought for extension of lease for further period for non-operative period, due to the requirement of the mandatory Environmental Clearance, which came into force only after the petitioners therein had entered into lease. This Court, after following the Division Bench Judgment, had permitted the respective petitioners therein to conduct quarrying operation over their respective leases for a period of two years and 10 months, which was non-operative period in their cases.

6. The learned counsel appearing for the petitioner would submit that the petitioner herein is also a similarly placed person. As according to him, only due to the necessity of the Environmental Clearance, which was not there, when the petitioner's father had entered into lease, the petitioner has been unable to operate quarry for a period of 5 ½ years from 15.11.2016 till date, i.e., almost 5 ½ years. He would further submit that even though the petitioner had submitted his application seeking for Environmental Clearance from the SEIAA as early as in the year 2016, the same is still pending.

7. The learned counsel appearing for the petitioner would further submit that once Environmental Clearance is given, the petitioner must be granted extension of lease for a further period of 5 ½ years as per his representation dated 01.04.2022. Insofar as



the death of the original lessee, who is the father of the petitioner is concerned, the learned counsel appearing for the petitioner would submit that as per the lease deed, the petitioner, who is the legal heir of the deceased is entitled to continue with the lease.

WEB COPY

8. Per contra, the learned Government Pleader appearing for the respondent would submit that unless and until Environmental Clearance is obtained by the petitioner, he cannot be permitted to operate quarry lease. He would further submit that it is the responsibility of the petitioner to obtain Environmental Clearance. Further, he would submit that the petitioner's father was the original lessee and therefore, as per the Administrative Rules, once the original lessee dies, the lease automatically gets terminated. The same is disputed by the learned counsel appearing for the petitioner.

9. The learned counsel appearing for the petitioner would further submit that as per the latest decision of the Hon'ble Supreme Court in the case of **Electrosteel Steels Limited vs. Union of India and others** reported in **2021 SCC OnLine SC 1247** and **Pahwa Plastics Pvt. Ltd. And Another vs. Dastak NGO and others** reported in **2022 SCC OnLine SC 362**, the 1986 Act does not prohibit ex post facto Environmental Clearance. According to him, in appropriate cases, depending upon the nature of project and requirements, the petitioner can continue to operate the quarry lease.

10. No prejudice would be caused to the respondent, if the petitioner's representation dated 01.04.2022 seeking for extension of quarry lease from 04.06.2022 to 08.11.2027, due to the non-operative period on account of mandatory necessity for Environmental Clearance, is considered on merits and in accordance with law, after affording a fair hearing to the petitioner, in the light of the decision of this Court, dated 09.11.2020 in WP.(MD)Nos.9133 and 9137 of 2020 in the case of **T.Vijay vs. The District Collector, Thoothukudi District**, as well as the decisions of the Hon'ble Supreme Court in the cases of **Electrosteel Steels Limited vs. Union of India and others** reported in **2021 SCC OnLine SC 1247** and **Pahwa Plastics Pvt. Ltd. And Another vs. Dastak NGO and others** reported in **2022 SCC OnLine SC 362**, after the petitioner obtains Environmental Clearance from the SEIAA, within a time frame to be fixed by this Court.

11. For the foregoing reasons, this Court directs the respondent to consider the representation of the petitioner dated 01.04.2022 and pass final orders, once the petitioner obtains Environment Clearance from the SEIAA, after affording a fair hearing to the petitioner including granting him the right of personal hearing, in the light of the following decision of this Court dated 09.11.2020 in WP.(MD)Nos.9133 and 9137 of 2020 in the case of **T.Vijay**



vs. The District Collector, Thoothukudi District, and in the light of the decisions of the Hon'ble Supreme Court in the cases of **Electrosteel Steels Limited vs. Union of India and others reported in 2021 SCC OnLine SC 1247 and Pahwa Plastics Pvt. Ltd. And Another vs. Dastak NGO and others reported in 2022 SCC OnLine SC 362,** within a period of ten (10) weeks from the date of receipt of a copy of this order.

12. With the above direction, this Writ Petition stands disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

sm

To

The District Collector,
Tiruchirapalli District,
Tiruchirapalli-620 001.

+1 CC to M/s.NAVEENKUMAR MURTHI, Advocate (SR-21575[F] dated 27/04/2022)

+1 CC to M/s.SPL GP. (SR-21289[F] dated 26/04/2022)

W.P. [MD]No.7897 of 2022

26.04.2022

MGJ(03.06.2022) 4P 4C