



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date of Reserving the Order	Date of Pronouncing the Order
09.06.2022	14.06.2022

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CORAM:

THE HONOURABLE MR.JUSTICE P.N.PRAKASH
and
THE HONOURABLE MRS.JUSTICE S.ANANTHI

W.P. (MD) No.11019 of 2022
and
W.M.P. (MD) No.7931 of 2022

M.Rajendran

... Petitioner

-VS-

- 1.The Director of Legal Metrology
Department of Consumer Affairs
Room No.461-A, Krishi Bhavan
New Delhi-110 001
- 2.The Additional Chief Secretary
to Government of Tamil Nadu
Secretariat
Fort St.George, Chennai-600 009
- 3.The Principal Secretary
Public Works Department
Fort St.George, Chennai-600 009
- 4.The Controller of Legal Metrology
(Weights and Measures)
Government of Tamil Nadu
DMS Compound
Teynampet, Chennai-6
- 5.The Engineer-in-Chief and
Chief Engineer (General)
Water Resources Department
Chepauk, Chennai-5
- 6.The Project Director
Sand Quarry Operation
PWD/WRD Campus
Subramaniamapuram
Trichy-620 020



7.The Executive Engineer
PWD/WRD
Mining and Monitoring Division
Thanjavur

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of mandamus directing the respondents to trade the river sand by adopting the Standard measure (Device) which is duly certified and stamped by the authority competent under the Legal Metrology Act, 2009 and after fixing the sand price based on that Standard Measure as prescribed in the Legal Metrology (Enforcement) Rules, 2011 and Tamil Nadu Legal Metrology (Enforcement) Rules, 2011 and consequently set aside the G.O.(Ms) No.4, Water Resources (1.Spl-2) Department, dated 06.01.2022.

For Petitioner : Mr.Rajendran.M. Party-in-Person
For Respondents : Mr.Veera Kathiravan
Additional Advocate General
assisted by Mr.P.Thilak Kumar
Government Pleader for R2 to R7

O R D E R

P.N.PRAKASH, J.

Earlier, the petitioner herein filed two Public Interest Litigations in W.P.(MD) Nos.13504 of 2013 and 17502 of 2015 for somewhat similar reliefs as in the present case. When these Public Interest Litigations were taken up for final hearing, the petitioner was not present in the Court and therefore, a Division Bench of this Court went into the records, heard the learned Advocate General and passed the following order on 20.10.2017:

"2. Today, when the matter is taken up for hearing, there is no representation for the petitioner. Learned Senior Central Government Standing Counsel appearing for the 1st respondent/Director of Legal Metrology, produced a communication dated 10.10.2017 of the Legal Metrology Division, Government of India addressed to the Additional Secretary, Government of Tamil Nadu, Labour and Employment Department as regards Amendment to Schedule I of the Legal Metrology Act, 2009 under Rule 10 of the Tamil Nadu Legal Metrology (Enforcement) Rules, 2011 and the same reads as under:

"The undersigned is directed to refer to your D.O. Letter No.11539/M1/2017-4, dated 17.08.2017 and Letter No.N1/27494/13, dated 06.10.2017



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on the above mentioned subject and to state that there appears to be no requirement for amendment of the Schedule-I under Rule 10 of the Tamil Nadu Legal Metrology (Enforcement) Rules, 2011 for addition of item No.27 for the commodities Sand, Gravel, Blue metal, Rough stone, Granite, etc. with the declaration to be expressed in terms of weight or measure, in the light of Rule 10(d) of the said Rules, if -

(i) Sand, Gravel, Blue metal, Rough stone, Granite, etc. is sold in cubic measure and (ii) such cubic measure is verified and stamped by the authority competent under the Legal Metrology Act."

3. According to the learned Senior Central Government Standing Counsel appearing for the 1st respondent, there is no need for amendment to Schedule I, as Rule 10(d) of the Tamil Nadu Legal Metrology (Enforcement) Rules, 2011 is very clear that 'cubic measure' is to be construed as 'cubic metre'.

4. For better appreciation, Rule 10(d) of the Tamil Nadu Legal Metrology (Enforcement) Rules, 2011, is extracted hereunder:

"10. Use of weights only or measures only or number only in certain cases:

...

(d) volume, if the commodity is liquid or is sold by cubic measure;"

5. Learned Advocate General appearing for the respondents/State, submitted that the State Government wanted to amend Schedule I of the Legal Metrology Act, 2009, but, in view of the clarification given by the Central Government, for the present, they have decided not to amend Schedule-I. He also stated that the word 'measure' falling under Rule 10(d) of the Rules, is to be taken as 'metre' and that the commodities are no longer disposed of in units and that they will take into account 'cubic metre' for the volumes that are being considered in terms of the Act and Rules.

6. In view of the submissions made by the learned counsel on either side, this Court makes



it clear that the word 'measure' in terms of Rule 10(d) of the Rules is to be construed as 'metre'. Hence, no further adjudication is necessary in this matter. Accordingly, these Writ Petitions are disposed of. No costs. Consequently, connected M.P.(MD) No.1 of 2013 in W.P.(MD) No.13504 of 2013 and M.P.(MD) No.1 of 2015 in W.P.(MD) No.17502 of 2015 are closed."

2. Ventilating the same grievance, the petitioner has filed the present writ petition with the above prayer.

3. According to the petitioner, the State Government, vide G.O.(Ms) No.4, Water Resources (I.Spl.-2) Department, dated 06.01.2022, have decided to increase the cost of river sand from Rs.400/- per unit to Rs.1000/- per unit and the usage of the term "Unit" in the said Government Order is in violation of the Legal Metrology Act, 2009. According to the petitioner, sand should be measured in terms of "Kilograms" and not in terms of "Units".

4. In response to the said allegation, Mr.E.Kalyanasundaram, Executive Engineer, WRD (Mining and Monitoring Division), Thanjavur, has filed an affidavit, dated 08.06.2022, wherein, he has stated as follows:

"4. I respectfully submit that the Writ Petitioner has primarily challenged the usage of 'Unit' in Sand Quarrying Operation. It is submitted that as per convention and the customary practice, the Sand cost and other building materials such as Jalli, gravel etc as measured in volume and termed in Units from time immemorial. But it is to be taken into account that as per the computation 2.83 Cubic Metres of Sand equals 1 Unit (i.e 1 Unit = 2.83 m³).

5. I respectfully submit that this Department does not use any prohibited measure and strictly adheres to the standard practices including the usage of the cubic metres for volume. But since the 'Unit' is used in the common parlance for building materials, the rate for every unit is fixed and clarified to the general public for better understanding. But the same is clearly clarified as every Unit measures 2.83 m³ in the Government Proceedings etc. Even in the Proceedings of the Engineer-in-Chief & Chief Engineer (GI), Water Resources Department, Chennai-600005 (ie the 5th Respondent herein) in Proc. No. HDO/ Sr.DO-1 /22955 /2022 dated 01.03.2022 which was issued on the basis of the



impugned 6.0 (Ms) No.4 Water Resources (1.Spl-2) Department dated 06.01.2022, it has been made clear that the 1 Unit stand for the volume measurement equal to the standard measurement of 2.83 m³.

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In view of the above circumstances, it is most respectfully prayed that this Hon'ble Court may be pleased to record the Unit computation measurement which is based on the standard SI Unit of 2.83 m³ as stated in the affidavit and pass such further or other orders as this Hon'ble Court may deem fit and proper in the circumstances of the case and thus render justice."

5. Mr.Veera Kathiravan, learned Additional Advocate General, appearing for the respondents 2 to 7, brought to the notice of this Court the proceedings of the Engineer-in-Chief & Chief Engineer (G1), Water Resources Department, dated 01.03.2022, wherein the cost of sand has been fixed in terms of "Cubic Metres". For instance, in Annexure-I of the said proceedings, the following finds a place:

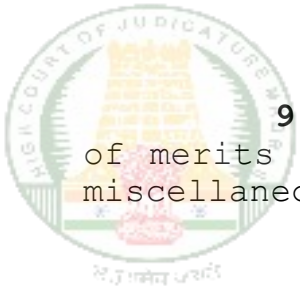
COST OF SAND FOR CART LOAD AT QUARRY

			Amount in Rs.
I	Basic Cost of Sand - (per unit i.e., 2.83 m ³)	:	1000.00

6. Not satisfied with the above, the petitioner contended that sand should not be measured in "Cubic Metres", but should be measured in "Kilograms".

7. In response to the above contention, Mr.Veera Kathiravan, learned Additional Advocate General, brought to the notice of this Court Appendix-II of the Tamil Nadu Minor Mineral Concession Rules, 1959, framed under Section 15 of Mines and Minerals (Development and Regulation) Act, 1957 (Central Act LXVII of 1957), wherein the seigniorage fee for sand has been fixed in terms of "Cubic Metres". Therefore, the learned Additional Advocate General contended that unless there is a challenge to the said Rules, the mandamus as prayed for by the petitioner cannot be granted.

8. There appears to be sufficient force in the aforesaid submission of the learned Additional Advocate General.



9. In the result, the Public Interest Litigation is devoid of merits and it is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

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Sd/-

Assistant Registrar (RTI)

// True Copy //

/06/2022

Sub Assistant Registrar(CS)

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To:

- 1.The Director of Legal Metrology,
Department of Consumer Affairs,
Room No.461-A, Krishi Bhavan,
New Delhi-110 001.
- 2.The Additional Chief Secretary,
to Government of Tamil Nadu,
Secretariat,
Fort St.George, Chennai-600 009.
- 3.The Principal Secretary,
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- 4.The Controller of Legal Metrology,
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- 5.The Engineer-in-Chief and
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Chepauk, Chennai-5.
- 6.The Project Director,
Sand Quarry Operation,
PWD/WRD Campus,
Subramaniamapuram,
Trichy-620 020.



7.The Executive Engineer,
PWD/WRD,
Mining and Monitoring Division,
Thanjavur.

+3 CC to M/s.M. RAJENDRAN-PARTY IN PERSON, Advocate (SR-25853[F]
dated 15/06/2022)

+1 CC to M/s.SPL.GP (SR-25783[F] dated 15/06/2022)

ORDER IN
W.P. (MD) No.11019 of 2022
and
W.M.P. (MD) No.7931 of 2022
14.06.2022

IM(CO)
GC(23.06.2022) 7P 12C