



W.P.(MD).Nos.18819 and batch of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved on	23.08.2022
Pronounced on	07.09.2022

CORAM

THE HON'BLE MR.JUSTICE G.R.SWAMINATHAN

**W.P.(MD).Nos.18819, 18820,
18821, 18822 and 18823 of 2022**

and

**W.M.P(MD)Nos.13717, 13718, 13719,
13720, 13721, 13725, 13723, 13727, 13730,
13722, 13724, 13729, 13726, 13728 and 13731 of 2022**

W.P(MD)No.18819 of 2022

K.Ganesan

: Petitioner

Vs

1. The Director / Commissioner,
Department of Geology and Mining,
Thiruvika Industrial Estate,
Guindy,
Chennai 32.

2. The District Collector,
Tirunelveli District, Tirunelveli.

3. The Joint Director of Geology and Mining,
O/o. the Joint Director of Geology and Mining,
Tirunelveli.



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4. The Assistant Director of Geology and Mining,
O/o. the Assistant Director of Geology and Mining,
Collectorate Campus,
Tirunelveli District

: Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the Impugned Order in Na.Ka.No.M2/25826-49/2022/Kanimam dated 06.07.2022, on the file of the second respondent and quash the same as illegal and consequently directing the first respondent to permit the petitioner to carry out mining in S.No.438 measuring an extent of 1.74 Hectare situated at Madhavakuruchi Village, Manoor Taluk, Tirunelveli District and issue the seigniorage pass to the petitioner quarry within the time frame stipulated by this Court.

W.P(MD)No.18820 of 2022

M.Murugiah

: Petitioner

Vs

1. The Director / Commissioner,
Department of Geology and Mining,
Thiruvika Industrial Estate, Guindy, Chennai 32.

2. The District Collector,
Tirunelveli District, Tirunelveli.

3. The Joint Director of Geology and Mining,
O/o. the Joint Director of Geology and Mining,
Tirunelveli.



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4. The Assistant Director of Geology and Mining,
O/o. the Assistant Director of Geology and Mining,
Collectorate Campus,
Tirunelveli District.

: Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the Impugned Order in Na.Ka.No.M2/25826-39/2022/Kanimam dated 06.07.2022 on the file of the second respondent and quash the same as illegal and consequently directing the first respondent to permit the petitioner to carry out mining in S.No.27/7B1A measuring an extent of 1.27.5 Hectare situated at Melathidiyur Village, Palayamkottai Taluk, Tirunelveli District and issue the seigniorage pass to the petitioner quarry within the time frame stipulated by this Court.

W.P(MD)No.18821 of 2022

S.Ahmed Meeran

: Petitioner

Vs

1. The Director / Commissioner,
Department of Geology and Mining,
Thiruvika Industrial Estate,
Guindy, Chennai 32.

2. The District Collector,
Tirunelveli District, Tirunelveli.

3. The Joint Director of Geology and Mining,
O/o. the Joint Director of Geology and Mining,
Tirunelveli.



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4. The Assistant Director of Geology and Mining,
O/o. the Assistant Director of Geology and Mining,
Collectorate Campus,
Tirunelveli District.

: Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the Impugned Order in Na.Ka.No.M2/25826-4/2022/Kanimam dated 06.07.2022 on the file of the second respondent and quash the same as illegal and consequently directing the first respondent to permit the petitioner to carry out mining in S.No.1665/1B measuring an extent of 2.10.5 Hectare situated at Gangaikondan Part 2 Village, Tirunelveli Taluk, Tirunelveli District and issue the seigniorage pass to the petitioner quarry within the time frame stipulated by this Court.

W.P(MD)No.18822 of 2022

Durgambika Bule Metals,
Rep by its proprietor,
S.Subash Chandra Bose.

: Petitioner

Vs

1. The Director / Commissioner,
Department of Geology and Mining,
Thiruvika Industrial Estate,
Guindy, Chennai 32.

2. The District Collector,
Tirunelveli District, Tirunelveli.



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Tirunelveli.

4. The Assistant Director of Geology and Mining,
O/o. the Assistant Director of Geology and Mining,
Collectorate Campus,
Tirunelveli District

: Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the Impugned Order in Na.Ka.No.M2/25826-43/2022/Kanimam dated 06.07.2022 on the file of the second respondent and quash the same as illegal and consequently directing the first respondent to permit the petitioner to carryout mining in S.No.570 measuring an extent of 1.38.5 Hectare situated Tharuvai village Palayamkottai Taluk, Tirunelveli District. and issue the seigniorage pass to the petitioner quarry within the time frame stipulated by this Court.

W.P.(MD)No.18823 of 2022

M.Marimuthu

: Petitioner

Vs

1. The Director / Commissioner,
Department of Geology and Mining,
Thiruvika Industrial Estate,
Guindy, Chennai 32.

2. The District Collector,
Tirunelveli District, Tirunelveli.



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3. The Joint Director of Geology and Mining,
O/o. the Joint Director of Geology and Mining,
Tirunelveli.

4. The Assistant Director of Geology and Mining,
O/o. the Assistant Director of Geology and Mining,
Collectorate Campus,
Tirunelveli District

: Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, call for the records pertaining to the Impugned Order in Na.Ka.No.M2/25826-40/2022/Kanimam dated 06.07.2022 on the file of the second respondents and quash the same as illegal and consequently directing the first respondent to permit the petitioner to carry out mining in S.No.522/1, 522/2, 534 and 535 measuring an extent of 4.73.5 Hectare situated at Tharuvai Village, Palayamkottai Taluk, Tirunelveli District and issue the seigniorage pass to the petitioner quarry within the time frame stipulated by this Court.

For Petitioners : Mr.Lajapathi Roy.T
(For all Writ Petitions)

For Respondents : Mr.Veerakathiravan
Additional Advocate General
Assisted by
Mr.P.Thilak Kumar
Government Pleader
(For all Writ Petitions)



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COMMON ORDER

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2.The learned Counsel appearing for the writ petitioners reiterated the contentions set out in the affidavits filed in support of the writ petitions and argued that the impugned show cause notices are vitiated by the vice of pre-determination. It was submitted that similar show cause notices were already quashed by this Court with liberty to the authorities to proceed afresh on merits and in accordance with law. It was also submitted that the inspections were conducted without giving prior notice and that therefore, they should not be relied upon.

3.*Per contra*, the learned Additional Advocate General submitted that no interference is called for at this stage.



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4.I carefully considered the rival contentions and went through the materials on record. It is true that I had quashed the show cause notices issued to some of the lease holders in the recent past. But, those cases are clearly distinguishable. I interfered only because in the show cause notices the penalty amount had also been quantified. In the cases on hand, the penalty amount had not at all been quantified. The authority had only enclosed the inspection reports and called upon the petitioners to show cause.

5.It is well settled that Writ Courts must be loath to interfere at the show cause notice stage. This is because at the stage of show cause, the rights of the parties are not really affected or infringed. The noticee is given an opportunity to place his case. Thus there is a clear compliance with the principles of natural justice. Of course, if the mind of the authority had already been foreclosed and the same is evident from the show cause notice, the Court will be justified in interfering in favour of the noticee. But that is not the case here. The authority had only enclosed the inspection report and called upon the noticee to respond to the allegations. I do not find any merit in the contentions of the writ petitioners' Counsel that the inspection was conducted behind the back of the noticee. If before inspection, notice has to be given, certainly the



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purpose will not be served. If illegalities had been committed, the noticee will have sufficient time to cover his or her tracks and that is why surprise inspections are conducted to unearth the facts. Therefore, there is nothing wrong on the part of the Inspection Team in having conducted surprise inspections. But such a report will not be binding on the noticee. The noticee will have to be given the fullest opportunity by the District Collector. Since the consequences for the noticee can be fairly severe, a proper enquiry will have to be conducted. The noticee is at liberty to demonstrate that the inspection report contains incorrect particulars; the noticee can very well establish that he had carried on the quarry operations without committing any violation or breach of the lease conditions.

6. In this case, the impugned notices merely summarize the conclusions of the inspection report and then call upon the petitioner to show cause as to why the quarry licence should not be cancelled. The licensing authority is very much having the statutory power to issue such a notice. None of the grounds set out in the affidavits filed in support of the writ petitions persuade me to interfere with the impugned show cause notices. Leaving open all the rights and remedies of the writ petitioners, these writ petitions are dismissed. No costs. Since the writ petitioners have not offered their explanation, they are



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given three more weeks from today to offer their explanation. Consequently, connected miscellaneous petitions are closed.

07.09.2022

Index : Yes / No
Internet : Yes/ No
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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 / Commissioner,
Department of Geology and Mining,
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Guindy, Chennai 32.

2. The District Collector,
Tirunelveli District, Tirunelveli.

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G.R.SWAMINATHAN, J.

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07.09.2022