

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.09.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD).Nos.18951 and 20002 of 2022

and

W.M.P(MD)Nos.13821 and 14560 of 2022

W.P(MD)No.18951 of 2022

N.Chelladurai

: Petitioner

Vs

1. The Director of Geology and Mining,
Guindy, Chennai 600 032.

2. The District Collector,
Tirunelveli District,
Tirunelveli

3. The Assistant Director of Geology and Mining,
Collectorate,
Tirunelveli District,
Tirunelveli

4. The Sub Collector,
Cheranmahadevi,
Tirunelveli District

: Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records relating to the impugned notice issued by the third respondent ந.க.எம்2/25826/2022, நாள் 28.07.2022 along with inspection report dated 08.06.2022, quash the same as illegal.

W.P(MD)No.20002 of 2022

S.A.V Manilal Blue Metals,
Represented by Proprietor,
M.Sudeshlal

: Petitioner

Vs

1. The Director of Geology and Mining,
Guindy, Chennai 600 032.

2. The District Collector,
Tirunelveli District,
Tirunelveli

3. The Assistant Director of Geology and Mining,
Collectorate,
Tirunelveli District,
Tirunelveli

4. The Sub Collector,
Cheranmahadevi,
Tirunelveli District

: Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records relating to the impugned notice issued by the third respondent

ந.க.எண். M2/25826-36/2022/கனிமம், நாள் 06.07.2022 along with inspection report dated 08.06.2022, and quash the same as illegal.

For Petitioners : Mr.V.Sanjeevi

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

COMMON ORDER

The writ petitioners were granted quarry licenses. An accident took place in one of the quarry sites in Tirunelveli on 14.05.2022 resulting in loss of human lives. An Inspection Committee was appointed and it inspected several quarry sites including that of the writ petitioners. The inspection report alleged that there was excess quarrying and also commission of various illegalities. Based on the inspection report, the impugned show cause notices were issued to the writ petitioners. Challenging the same, these writ petitions have been filed.

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.

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

01.09.2022

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

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G.R.SWAMINATHAN, J.

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