



W.P.(MD)No.22626 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 27.09.2022

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THE HONOURABLE Mrs.JUSTICE V.BHAVANI SUBBAROYAN

Writ Petition (MD) No.22626 of 2022

and

W.M.P.(MD)Nos.16790 and 16793 of 2022

V.Isravel

.. Petitioner

Versus

- 1.The Director/Commissioner,
Department of Geology and Mining,
Thiru Vi Ka Industrial Estate,
Guindy,
Chennai – 32.
- 2.The District Collector,
Tirunelveli District,
Tirunelveli.
- 3.The Assistant Director of Geology and Mining,
Collectorate,
Tirunelveli.
- 4.The Sub-Collector,
Cheranmadevi,
Tirunelveli District.

.. Respondents

Prayer :- Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to the show cause notice issued by the fourth respondent in his proceedings in Na.Ka.No.A4/7098-(16)/2022, dated 12.09.2022, quash the same as illegal and consequently, to direct the respondents to issue transport permits and passes immediately.



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For Petitioner : Mr.T.A.Ebenezer
For Respondents : Mr.Veera.Kathiravan
Additional Advocate General
Assisted by
Mr.R.Ragavendran
Government Advocate

ORDER

The petitioner has prayed for issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to the show cause notice issued by the fourth respondent, in his proceedings in Na.Ka.No.A4/7098-(16)/2022, dated 12.09.2022, quash the same as illegal and consequently, to direct the respondents to issue transport permits and passes immediately.

2.Heard Mr.T.A.Ebenezer, learned counsel appearing for the petitioner and Mr.Veera.Kathiravan, learned Additional Advocate General, assisted by Mr.R.Ragavendran, learned Government Advocate for the respondents. By consent of learned counsel appearing for the parties, the Writ Petition is taken up for final disposal at the admission stage itself.

3.The case of the petitioner is that, he was issued with a lease for quarrying and transportation of rough stones and gravel, over an extent of 2.83.62 Hectares in S.Nos.783/5 of Ramarksihnapuram Village [0.90.50] and S.No.305/1B2 of Sadayaneri Village [5.86.88], by the order of the third



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respondent, dated 04.05.2021, for a period of five years after getting clearance from all the Departments. A land sliding happened in one of the quarries in Adaimithippankulam on 14.05.2022, in which, four workers trapped in the rocks and died after rescue. Due to the said incident, all the quarries in Tirunelveli Districts were orally closed by the authorities. Accordingly, the petitioner stopped his quarrying activities on the oral direction of the respondents. Thereafter, the then Assistant Director of Geology and Mines was suspended from service.

4.The petitioner submits that one of the Crusher Stone Operators approached this Court by way of filing W.P.(MD)No.11100 of 2022 and this Court, vide order dated 14.07.2022, has granted an order of interim injunction, observing that the oral order is bad in law. Since the oral closure of quarries was unable to be maintained by the authorities, the respondents started to initiate other actions to stop the quarries. The fourth respondent issued show cause notice to all the quarry owners in Tirunelveli District to show cause why action under Rule 36-A of the Tamil Nadu Minor Mineral Concession Rules, 1959 [hereinafter referred to as "the Rules"], could not be initiated for the additional mines quarried by them. Most of the quarries challenged the same before this Court in W.P.(MD)Nos.17906 to 17908 of 2022 etc. batch. This Court, vide order dated 11.08.2022, quashed the show cause notices with an



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observation that it is open to the authorities to issue a fresh show cause notice.

Again, the fourth respondent issued another show cause notice dated 12.09.2022 to the petitioner, directing him to show cause why penal action against him under Rule 36-A of the Rules could not be taken. Challenging the same, the petitioner has approached this Court.

5.The learned counsel appearing for the petitioner submits that in order to substitute the oral order, the fourth respondent has issued prejudged, predetermined show cause notice, which has already been quashed by this Court. The inspection report relied on by the fourth respondent, is a created one to prevent the quarrying activities. No additional mines were quarried. While inspection, the gravels and stones heaped in the quarry campus were not taken into consideration. If the same are taken into consideration, no such allegation of additional mining could be made and no transport Passes are given even after order of this Court.

6.The learned Additional Advocate General appearing for the respondents submits that earlier, in W.P.(MD)Nos.17906 to 17908 of 2022 etc. batch, this Court has passed an order on 11.08.2022, stating that the quantification of penalty amount in the show cause notice was sufficient to come to the conclusion that the entire proceedings are vitiated by the vice of



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pre-determination and hence, the show cause notices were quashed and the authorities were permitted to issue a fresh show cause notice. According to the petitioner, as much as the show cause notices have been quashed and since no adverse order has been passed by the respondents, the authorities are obliged to issue transport permit and Passes. The learned Single Judge did not agree with the contention of the learned counsel for the petitioners that only after the inspection is conducted in the presence of leaseholders, show cause notices can be issued. Thereafter, on 12.09.2022 the fourth respondent has issued a show cause notice to the petitioner, stating that during inspection, it was found that the petitioner excavated 15,303 cubic meter of gravel and 68,152 cubic meter of ordinary stones illegally and hence, as per the inspection report, the show cause notice has been issued as to why action should not be taken against him under Rule 36-A of the Rules and therefore, the petitioner may be directed to give an explanation and appropriate orders will be passed on the representation of the petitioner, within a time frame.

7.It is well settled that the challenge made to show cause notice is not maintainable inasmuch as it is only a proposal to initiate action and it has not finally determined the rights and liabilities of the parties to the writ. The petitioner ought to have submitted his objections to the show cause notice, dated 12.09.2022, and it is for the authorities to consider the same and pass



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appropriate orders. The Writ Petition has been filed hastily and the reliefs sought for need not be granted. Further, insofar as the challenge to the show cause notice issued is concerned, though generally, the High Court will be circumspect to interfere at the stage of show cause notice, the law on the point is well settled. If an order is passed, after the receipt of explanation, the same can be agitated by the petitioner and not before that, the same can be considered.

8. Insofar as issuance of Passes is concerned, already there was a total closure of business and the petitioner would have stopped the work and now, no excavated stones are available for him to transport the same. Hence, this Court is not inclined to accept the said request also. The petitioner can canvass all the points before the authorities concerned while giving explanation.

9. In view of the above, the petitioner is directed to give an explanation to the show cause notice, dated 12.09.2022, within a period of one week from the date of receipt of a copy of this order. On receipt of such explanation, the respondents are directed to consider the same and pass appropriate orders, on merits and in accordance with law, within a period four weeks thereafter.



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10.This Writ Petition stands dismissed with the above observation. No costs. Consequently, connected Miscellaneous Petitions are closed.

Index : Yes/No

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V.BHAVANI SUBBAROYAN, J.

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Order made in
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