



W.P.(MD)Nos.23010 to 23014 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 30.09.2022

CORAM

THE HONOURABLE Mrs. JUSTICE V.BHAVANI SUBBAROYAN

Writ Petition (MD) Nos.23010 to 23014 of 2022

and

W.M.P.(MD)Nos.17131 & 17135, 17134 & 17136, 17140 & 17141, 17129 &
17130 and 17127 & 17128 of 2022

W.P.(MD)No.23010/2022:-

1.N.Prakash

2.Rajangam

3.Ariyamala

4.Sri Selva Vinayagar Kalludaipor Magalir Nalasangam,
Rep. by its President,
Mrs.Perumaayee
No.5/3, Maalaipatti Street,
Prathukanpatti,
Thirumangalam Panchayat,
Andipatti,
Theni District.

.. Petitioners

Versus

1.The Revenue Divisional Officer,
Office of the Revenue Divisional Officer,
Periyakulam,
Theni District.

2.The Assistant Director (Geology and Mining),
District Collectorate Complex,
Theni District.

.. Respondents



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Prayer :- Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari, calling for the records pertaining to the impugned notices issued by the first respondent, vide his proceedings in Na.Ka.No.3935/2022/A5, dated 05.08.2022, and quash the same as illegal.

For Petitioners in all the W.Ps.	:	Mr.B.Saravanan for Mr.C.Jeganathan
For Respondents in all the W.Ps.	:	Mr.R.Ragavendran Government Advocate

COMMON ORDER

Since the issue involved in all these Writ Petitions is one and the same, they are heard together and disposed of by way of this common order.

2.The petitioners have challenged the impugned orders passed by the first respondent, dated 05.08.2022, 01.07.2022 and 08.08.2022.

3.The case of the petitioners is that they have been granted lease for carrying of quarry operations and transporting the same as per Rule 19(1) of the Tamil Nadu Minor and Mineral Concession Rules, 1959 [hereinafter referred to as "the Rules"] for a period of five years on various durations. After fulfilling all the conditions, they have been carrying on quarrying operations in their respective allotted lands in different survey numbers and they are not quarrying beyond the leased out areas. While so, the District Collector, Theni,



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had issued a show cause notice dated 16.03.2022, alleging that the petitioners have carried out quarrying operations on the adjacent lands. It is also alleged that the survey land is a non-leased area. On the basis of the said allegation, the District Collector had conducted a Drone survey with the help of Anna University. The said survey was conducted without notice to the petitioners. At this juncture, the petitioners have filed Writ Petitions before this Court in W.P.(MD)Nos.6295 to 6310 of 2022, in which, this Court has passed an order on 22.04.2022, directing the petitioners to submit their explanation within a period of two weeks and to raise whatever contentions that have been raised in the writ petitions. It is also further directed if any adverse order is being passed by the District Collector, Theni District, the same shall be kept in abeyance for a period of one month, to enable the petitioners to challenge the same.

4. Aggrieved by the same, the District Collector, Theni District, has filed Writ Appeals in W.A.(MD)Nos.949 to 961 of 2022 and same were disposed of on 01.09.2022, deleting the observation that if any adverse order is being passed by the District Collector, the same shall be kept in abeyance for a period of one month. Based on the said order, the petitioners have submitted detailed representations, raising all the objections raised before this Court. On receipt of the same, the District Collector without considering the same,



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passed a non-speaking order, advising the petitioners to file a statutory appeal before the Director of Geology and Mines, Chennai. Accordingly, the petitioners have filed appeals before the appellate authority and the same are pending. In the meantime, the first respondent has issued the impugned notices, calling upon the petitioners to attend the enquiry on the respective dates mentioned in the show cause notices, based on the report submitted by the second respondent, wherein it has been alleged that the petitioners have carried out illegal quarrying. The petitioners have also attended the enquiry and sought time to furnish their explanations. Thereafter, the petitioners have filed these Writ Petitions challenging the show cause notices, dated 05.08.2022, 01.07.2022 and 08.08.2022.

5.The learned counsel appearing for the petitioners submits that the first respondent has issued notices under Rule 36-A of the Rules without furnishing full details and therefore, the said notices are bereft of necessary particulars. In the said notices, there is no clear mention as to under what provision *i.e.*, whether under Rule 36(A)(1) or (3) or (5) of the Rules the said notice is issued. Hence, in the absence of such vital particulars, the petitioners cannot furnish their explanations in the manner known to law.



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6.The learned counsel appearing for the petitioners further submits that the show cause notices have been issued only based on the recommendations already made by the second respondent with instructions to impose penalty against the petitioners. Hence, the outcome of the show cause notices is pre-determined and thus, the petitioners apprehend that the first respondent would follow the said recommendations given by the second respondent and impose the penalty.

7.The learned counsel appearing for the petitioners further submits that the drone survey conducted by the authorities is contrary to the statutory provisions under Rule 36(5)(D) of the Rules and the same has also been conducted behind the back of the petitioners. Further, the first respondent failed to furnish a copy of the report of the second respondent to the petitioners to defend their case and submit detailed explanation and therefore, prayed for allowing the Writ Petitions.

8.The learned Government Advocate appearing for the respondents submits that only show cause notices have been issued and after enquiry only, appropriate orders would be passed.



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9.The learned counsel appearing for the petitioners raised an issue that how the land survey can be conducted. In the show cause notices, it has been stated that pursuant to the order passed in W.P.(MD)No.16194 of 2020, the said action was taken by the authorities and an Expert, namely, Anna University had surveyed the said lands and after their report only, the present show cause notices have been issued to the parties concerned.

10.The submission made by the learned counsel for the petitioners cannot be accepted and the same is rejected on the ground that in Theni District, there were 49 stone quarries and crusher units in operation and a Writ Petition in W.P.(MD)No.16194 of 2020 was filed by one Pethuran, directing the respondents therein to monitor the stone quarry operations in the said 49 stone quarries and crusher units in Theni District and to take appropriate action against the violators in accordance with Rule 36 of the Rules. In the said Writ Petition, based on the status report filed by the second respondent that in a couple of months, all the 52 stone quarries in Government Poromboke lands and quarries in Patta lands will be measured by unnamed Aerial Vehicles [Drone] by the designated agency, Anna University and by calculating the volume of rough stone quarried and removed, appropriate actions under Rule 36-A(1) and (3) of the Rules will be taken on the concerned, if found guilty.

Therefore, the Division Bench of this Court directed the respondents therein to



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conduct aerial survey by using drones and action will be taken against those persons, who are functioning against the conditions stipulated or in violation of the statutory provisions. Only based on the said order of this Court, dated 07.07.2021, the authorities have proceeded further and survey was taken by using drones and filed a report. After receiving the said report, the first respondent, in continuation of the said report, issued show cause notices to the petitioners asking them to appear before office of the Sub-Collector along with all the relevant documents for giving explanation as to why an action under Rule 36-A of the Rules cannot be taken against them. The show cause notices have been issued to various persons.

11. In the show cause notices in W.P.(MD)Nos.23010 to 23012 of 2022, the first respondent has directed one Prabhu, quarry owner to appear for enquiry. However, the show cause notices have been sent to all the petitioners. There is a typographical error. In the said show cause notices, the petitioners were directed to appear on various dates for enquiry. The said dates have already elapsed. Hence, this Court directs the first respondent to issue a notice regarding the enquiry date fixed as 14.10.2022 to the petitioners and after issuance of such notice, the petitioners are directed to appear before the authorities for enquiry on 14.10.2022. It is made clear that the persons, those who have approached this Court and not participated in the earlier



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enquiry alone will be permitted to give explanation to the show cause notices.

On receipt of their explanations, the respondents are directed to pass appropriate orders on merits and in accordance with law after giving an opportunity of hearing to all concerned.

12.The Writ Petitions stand dismissed with the above observations. No costs. Consequently, connected Miscellaneous Petitions are closed.

Index : Yes/No
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30.09.2022

To

- 1.The Revenue Divisional Officer,
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Theni District.
- 2.The Assistant Director (Geology and Mining),
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V.BHAVANI SUBBAROYAN, J.

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Common order made in
W.P.(MD)Nos.23010 to 23014 of 2022

30.09.2022