IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10-03-2023

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

WP No.107 of 2011

M/s.Dalmia Cement (Bharat) Limited,
Dalmiapuram,
Trichy District Represented by its
Senior General Manager-Legal .. Petitioner

vs.

1.State of Tamil Nadu,
Represented by the Secretary to Government,
Industries Department,
Secretariat,
Fort St. George,
Chennai-600 002.

2.The Commissioner and Director of Geology
and Mining,
Guindy,
Chennai-600 032.

3.The District Collector,
Ariyalur District,
Ariyalur.

4.The District Registrar,
Registration Department,
Ariyalur.

5.The Union of India,
Represented by the Secretary to Government,
Ministry of Mines,
Shastri Bhavan,
New Delhi. .. Respondents

Writ Petition is filed under Article 226 of the Constitution of India, for the issuance of Writ of Certiorarified Mandamus, calling for the records of the first respondent comprised in G.O.Ms.No.146, Industries (MMA.2) Department, dated 13.10.2010 in so far as it rejected the petitioner's request for reduction in the mining lease period in respect of the mining lease for limestone in Ariyalur District, Periathirukonam and Alanthuraiyarkattalai villages of an extent of 44.70.5 hectares, from 30 years to 25 years as arbitrary and illegal and consequently issue a Mandamus, directing the first respondent to issue necessary approval for reduction in the mining lease period from 30 years as originally granted in proceedings bearing Rc.No.14812/MM4/2003 dated 25.05.2005 to 25 years in terms of its request as set out in its letter dated 18.06.2009 and directing the fourth respondent to execute the mining lease deed for a period of 25 years with effect from the date of the lease.

For Petitioner	:	Mr.Rahul Balaji
For Respondents-1 to 4	:	Mr.T.Arunkumar, Additional Government Pleader.
For Respondent-5	:	Mr.A.Murughan, Central Government Standing Counsel.

ORDER

The writ on hand has been instituted questioning the validity of G.O.Ms.No.146, Industries (MMA.2) Department, dated 13.10.2010 in so far as it rejected the petitioner's request for reduction in the mining lease period in respect of the mining lease for limestone in Ariyalur District, Periathirukonam and Alanthuraiyarkattalai villages of an extent of 44.70.5 hectares, from 30 years to 25 years as arbitrary and illegal and consequently issue a Mandamus, directing the first respondent to issue necessary approval for reduction in the mining lease period from 30 years as originally granted in proceedings bearing Rc.No.14812/MM4/2003 dated 25.05.2005 to 25 years in terms of its request as set out in its letter dated 18.06.2009 and directing the fourth respondent to execute the mining lease deed for a period of 25 years with effect from the date of the lease.

2. The petitioner states that their Company has been engaged in the manufacturing of cement. The petitioner-Company requires limestone for the purpose of manufacturing cement, which is mineral as defined in the Mines and Minerals (Development and Regulation) Act, 1957.

3. The petitioner required to take mining lease as per the provisions of the Mines and Minerals Act, for extracting limestone from the the limestone bearing land and the fifth respondent, who is the Controlling Authority, has to regulate the mines and development of the mineral in the State.

4. The grievance of the writ petitioner is that the lease period is

to be determined in between 20 years and 30 years and in the case of the petitioner, the lease was admittedly granted for 30 years. For 30 years lease period, 4% stamp duty has to be paid. If the lease period is below 30 years, then 1% stamp duty alone is to be paid.

5. The period of lease is to be determined based on the availability of limestone in the particular locality and the learned counsel for the petitioner states that the assessment made by the respondents are improper and they have erroneously granted the lease period as 30 years to the writ petitioner. Therefore, the petitioners had approached the Authorities to reduce the lease period from 30 years to 25 years, which was rejected and thus the petitioner is constrained to move the present writ petition.

6. The order impugned passed by the Government reveals that the stamp duty is not computed based on the royalty for the entire quantity of anticipated known reserves of the mineral i.e., either geological reserve or inferred reserves and that the stamp duty is variable with regard to the

period of lease only i.e., 1% on the total amount of rent, premium, fine etc., in the case of mining leases granted for a period of less than 30 years and 4% in the case of mining leases granted for a period of 30 years as per Article 35(a) and 35(b) of the Indian Stamp (Tamil Nadu Amendment) Act, 2004.

7. Thus the Government has taken the revenue to be generated for the welfare of the State and not considered the request made by the petitioner-Company to reduce the lease period from 30 years to 25 years. Whereas the lease period is granted for 30 years, the reduction sought for by the petitioner-Company was found not justifiable and thus, the Government rejected the said request of the petitioner-Company.

8. The learned Additional Government Pleader, appearing on behalf of respondents 1 to 4, made a submission that the general provisions 9 of Part IX of Form K of Mineral Concession Rules, 1960 stipulates that for the purpose of stamp duty, the anticipated royalty from the demised land has

to be taken. In respect of patta lands, the surface rights are vested with the pattadars and the mineral rights are vested with the Government and therefore, royalty is payable at the rate fixed in the Second Schedule of Mines and Minerals (Development and Regulations) Act, 1957.

9. In the present case, the lease was executed for a period of 30 years, which was agreed between the parties. More-so, 12 years lapsed from the date of lease agreement and thus, this Court do not find any reason to consider the relief for the purpose of reduction of lease period at this length of time.

10. The learned counsel for the petitioner contended that there is discrimination in the matter of fixing the lease period between some Companies across the State and the Authorities are fixing the lease period in an arbitrary manner without properly assessing the quantum of minerals available in the particular locality.

11. In this regard, the respondents are directed to ensure that the measurements, inspections, assessment of availability of minerals are properly made and accordingly the lease period is fixed in accordance with the provisions of the Act and the Rules, so as to avoid any discrimination or otherwise in the matter of fixing the lease period and considering the public interest involved.

12. With the abovesaid observations, the writ petition stands dismissed. However, there shall be no order as to costs.

10-03-2023

Speaking Order/Non-Speaking Order.
Neutral Citation : Yes/No.
Internet : Yes/No.
Index: Yes/No.
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S.M.SUBRAMANIAM, J.

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