



W.P.No.776 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **31.01.2023**

CORAM:

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P.No. 776 of 2020
and
W.M.P.No. 4500 of 2020

Ashok Kumar ... Petitioner
versus

1. Government of Tamil Nadu
Represented by Home Secretary,
Secretariat, Fort St. George, Chennai.
2. The Commissioner of Geology and Mining
Guindy Institutional Area, SICO Industrial Estate,
Guindy, Chennai – 32.
3. The Joint Director,
Department of Geology and Mining
2nd Floor, New Building,
Collectorate Campus,
Coimbatore – 641 018.
4. The Director
Directorate of Town and Country Planning Authority
Opposite to LIC, Chengalvarayan Building,
Fourth Floor, 807 Anna Salai, Chennai – 600 003.
5. The Member Secretary
Coimbatore Local Planning Authority
First Floor, Raju Naidu Street,
Corporation Commercial Complex,
Sivananda Colony,
Coimbatore – 641 012.



W.P.No.776 of 2020

6. The Principal Secretary
Health and Family Welfare Department,
Secretariat, Fort St. George, Chennai.
7. Directorate of Fire and Rescue Services
Represented by its Director
No. 17 Rukmani Lakshmipathi Road
Egmore, Chennai – 8
8. The Principal Secretary
Housing and Urban Development Department,
Secretariat, Fort St. George, Chennai – 600 005.
9. The District Collector,
District Collector Office
Coimbatore.
10. The Tahsildar,
Sulur Taluk,
Sulur.
11. The Superintendent of Police,
O/o. The Superintendent of Police,
Coimbatore – 641 018.
12. The Inspector of Police,
Sulur Police Station,
Sulur, Coimbatore.
13. M. Gopalakrishnan
14. Tamil Nadu Pollution Control Board,
E- 55A, SIDCO Industrial Estate, Pollachi Main Road,
Kuruchi, Coimbatore – 641 021.
15. Block Development Officer,
Sulthanpet, Sulur, Coimbatore



W.P.No.776 of 2020

(R14 and R15 impleaded vide order dated
12.03.2020 made in W.M.P.No. 6984 of 2020
in W.P.No. 776 of 2020 by KRCBJ)

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, for the issuance of a Writ of Mandamus directing the Respondents 1 to 12 to take prohibitory and preventive action against respondent 13, forbearing respondent 13 from installing, and operating stone crusher unit at S.F. 317/5, Edayarpalayam Village, Sulur, Coimbatore.

For the Petitioner : Dr. S.R. Sundaram

For the Respondents : Mr. U. Baranidharan,
Additional Government Pleader
for R1 to R12
Mr. P. Ponraj for R13
Mr. Gokul Krishnan
Additional Government Pleader
for Shanmugavalli
Standing Counsel for TNPCB
for R14



W.P.No.776 of 2020

ORDER

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The writ petition has been filed in the nature of mandamus seeking a direction to the respondents 1 to 12 to take a prohibitory and preventive action as against the 13th respondent and consequently forbear the 13th respondent from installing, operating stone crusher unit at S.F.No. 317/5, Edayarpalayam Village, Sulur, Coimbatore.

2. In the affidavit filed in support of the writ petition, the writ petitioner I. Ashok kumar, resident of No. 21/27, Savari Muthu Lay Out Puliyakulam, Coimbatore – 641045, had stated that he had developed an approved layout in the name and style of Mahamuthra City at Coimbatore. He also claims that the layout has been approved in Layout No. 545/2018. He further stated that the 13th respondent, M.Gopalakrishnan, resident of 4/238A. Chinna Kuili, Kallapalayam, Sulur Taluk at Coimbatore was trying to set up a Stone Crusher Unit at S.F.No. 317/5, Edayarpalayam Village, Sulur in Coimbatore and his grievance is that if it is so set up it would be adjacent to his approved layout and also to the residential plots and residential houses in the said layout.



W.P.No.776 of 2020

3. He claims that the Stone Crusher Unit had been established in defiance of the rules that such a stone crusher unit should be set up only beyond 500 meters from any residential plot. Claiming that the said rule had been violated and that the respondent have not taken any action, the writ petition had been filed in the nature of mandamus seeking such action as against the third respondent or functioning of the 13th respondent.

4. Pending the writ petition, the Tamil Nadu Pollution Control Board and the Block Development Officer had been impleaded as the 14th and 15th respondents in the writ petition.

5. Taking into consideration the averments made that the 13th respondent was taking steps to put up a Stone Crusher Unit which would directly affect the peace of the residents in the area and particularly that it was said to be put up within 500 meters from residential plots and residential houses, my predecessor had granted an interim injunction against the 13th respondent but with much prudence had also directed a joint inspection to be conducted by the Revenue Authorities along with the Pollution Control Officials.



W.P.No.776 of 2020

6. Quite parallelly an Advocate Commissioner Mrs. R. Hemalatha, Advocate was also appointed as a fact finding official to determine the distance of the stone crusher unit from the residential plots. Reports had been filed both by the Advocate Commissioner also by the Joint Committee which had been formed for this particular purpose.

7. The 13th respondent had also filed W.M.P.No. 4500 of 2020 seeking to vacate the order of interim injunction.

8. Heard the learned counsels and perused the records.

9. Learned counsel for the Pollution Control Board had also filed a status report on behalf of the 14th respondent, the Tamil Nadu Pollution Control Board.

10. The learned Additional Government Pleader on behalf of the Revenue Authorities had independently filed a report and also filed for the easy reference of this Court a detailed map showing the locations of the stone crusher unit proposed to be put up by the 13th respondent also the houses where the petitioner resides.



W.P.No.776 of 2020

11. Even before examining the merits of the claims of the petitioner, it has to be stated that the petitioner in his affidavit has stated that he is putting up an approved layout called Mahamuthra City phase 2. But however the reports now presented before this Court very clearly point out that the houses of the petitioner are situated in an unapproved layout.

12. It is also very clearly stated out that all the residential houses and plots are situated beyond the statutory limit of 500 meters from the proposed stone crusher unit of the 13th respondent.

13. It is stated that the petitioner's houses which are unapproved, are within the 500 meter range. It is therefore stated that the petitioner has a personal axe to grind and has filed the petition as if he is projecting a larger cause but actually he is only trying to protect and regularize those two houses which are as on date built on unapproved plots.

14. I am confident that the authorities would take necessary action for putting up such houses in an unapproved plot.



W.P.No.776 of 2020

15. So far as the actual approved plots and residential houses are concerned, they are situated beyond the zone of 500 meters. This fact is made clear in the status report filed by the Pollution Control Authorities and also in the report of the Advocate Commissioner and also in the report of the Tahsildar.

16. These facts establish that it is obvious that the order of injunction had been obtained by not presenting the correct facts before this Court. The correct facts are that the two houses of the petitioner are within the 500 meter zone but they are not in an approved plot. They are in an unapproved plot. The petitioner has therefore constructed the two houses unlawfully and will necessarily have to suffer the consequences thereof. So far as the residential plots and houses are concerned in the approved layout, they are beyond 500 meter zone.

17. In view of these facts which cannot be either denied or disputed and it is based on the reports of the Joint Inspector Committee and also of the Advocate Commissioner, I would vacate the order of interim injunction and dismiss the writ petition. W.M.P.No.



W.P.No.776 of 2020

4500 of 2020 is therefore allowed and W.P. No. 776 of 2020 is dismissed. No order as to costs. Consequently, connected W.M.P.No. 15246 of 2021 is closed.

31.01.2023

Index: Yes/no
mrn

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9/11



W.P.No.776 of 2020

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C.V.KARTHIKEYAN, J.
(mrn)

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