



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED **06.02.2023**

CORAM

THE HONOURABLE MR. JUSTICE C.V.KARTHIKEYAN

W.P.No. 6364 of 2020

K.C.Palanisamy

... Petitioner

..Vs..

1. The District Collector
Dharmapuri District.
2. The Director of Geology and Mining
Guindy, Chennai – 600 032.
3. Government of Tamil Nadu, rep.
by Secretary, Industries Department
Fort St. George, Chennai -600 009.
4. The Secretary
Public Works Department
Fort St. George, Chennai – 600 009.

... Respondents

PRAYER: Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Mandamus directing the respondents more particularly the first respondent to permit the petitioner to carry on the sand quarrying operations with all provisions of selling permit, transport permit and stock yard as per existing provisions for the remaining period of 152



days in an extent of 0.47.5 hectares of land comprised in Survey Nos. 201/1, 2, 3, 4B and S.No. 7 and S.No. 202/4 and 5 in Chenna Goundanahalli Village, Palacode Taluk, Dharmapuri District, following the representations of the petitioner dated 08.07.2017 followed by another representation dated 03.09.2019.

For Petitioner :: Mr. S.Sadasharam

For Respondents :: Mr. U.Baranitharan
Additional Government Pleader

ORDER

This Writ Petition has been filed in the nature of Mandamus seeking a direction to the first respondent / District Collector, Dharmapuri District, to carry out sand quarrying operations with all provisions of selling permit, transport permit and stock yard as per existing provisions for the remaining period of 152 days in land measuring an extent of 0.47.5 hectares in S.No. 201/1, 2, 3, 4B and S.No. 7 and S.No. 202/4 and 5 in Chenna Goundanahalli Village, Palacode Taluk, Dharmapuri District. The petitioner had given a representation dated 03.09.2019 and seeks a Mandamus to examine of those representation and to pass orders.



2. The petitioner claims that he was one of the successful bidders in the year 2001 nearly about 22 years back for quarrying sand in land measuring an extent of 0.47.5 hectares in S.No. 201/1, 2, 3, 4B and S.No. 7 and S.No. 202/4 and 5 in Chenna Goundanahalli Village, Palacode Taluk, Dharmapuri District. Lease was granted for a period of three years with effect from 16.04.2001 to 16.04.2004 by the first respondent by an order dated 22.02.2001 in Na.Ka.No. 23/2001.

3. Thereafter, the Government of Tamil Nadu had amended Rule 38 of the Tamil Nadu Minor Mineral Concession Rules, 1959 and had introduced Rule 38-A. By that particular amendment, the sand quarrying work was directed to be undertaken only by the Public Works Department. The lease holders therefore challenged the said amendment and the introduction of Rule 38-A. The matter travelled up to the Division Bench of this Court and by an order dated 11.05.2004, the amendment and the Rule were struck down. The order was challenged and the Government went on a further appeal to the Supreme Court and the Civil Appeals were allowed and the Government Orders were upheld. In effect it would mean that the petitioner cannot claim as a matter of right to quarry sand from the lands



aforementioned on the basis of the lease granted to him. His rights came to be restricted.

4. By the order dated 24.03.2006, whereby the Hon'ble Supreme Court had upheld introduction of Rule 38-A of the Tamil Nadu Minor Mineral Concession Rules, 1959, simultaneously orders were also passed that relief should be granted to individual lessees and accordingly, the petitioner was granted a further period of six months to carry out sand quarrying operations. The said six months was from 18.01.2007 till 17.07.2007. To quarry sand, the petitioner requires permissions. More importantly, he also has to apply for transport permit. This is required to transport the quarried sand to the place of destination. That is a responsibility of the petitioner herein. If he does not apply for transport permit then, he cannot expect the respondent or any officials of the Government to give him free transport permit for every vehicle to transport the quarry materials.

5. In the counter affidavit after affirming the aforementioned facts, the first respondent / District Collector, Dharmapuri District, had



stated that between the period 18.01.2007 and 10.02.2007, the petitioner had applied for four transport permits alone for transporting 700 units of sand only and thereafter did not apply for transport permit. If the petitioner is not interested in applying for transport permit, there is no reason why this Court should expect the District Collector to come over and hand over transport permits to the petitioner herein. It is stated that even prior to that, owing to detection of illegal quarrying of sand in /S.F.No. 202/2 which was not in the lease mentioned area, the petitioner was imposed with a penalty of Rs.1,02,000/- by the Revenue Divisional Officer at Krishnagiri by an order dated 31.10.2003. It is thus seen that the conduct of the petitioner in quarrying the sand had been called into question.

6. Though he had been granted permission to quarry sand in S.F.No. 0.47.5 hectares of land, he had violated that permission and had moved over to quarry the sand in another piece of land in S.No. 202/2 which was not covered under the lease. This was illegal sand quarrying.

7. Naturally, the petitioner should not expect that the rule should be bent for him. The rule cannot and should not be bent and I do appreciate



the imposition of penalty on the petitioner by the Revenue Divisional Officer at Krishnagiri.

8. Thereafter, the petitioner had not taken any steps whatsoever seeking permission to quarry for the further period of time.

9. In the year 2017, he had sent a representation. Thereafter again, he had kept quiet till the year 2019, when he had sent another representation. The learned counsel for the petitioner stated that from the year 2007 onwards, the petitioner had given oral representations. I doubt on that particular statement. Everybody would get frustrated if consistent oral representations went unheard. Naturally, within a reasonable period of time, any prudent person would exercise his rights and give a representation in writing. That time cannot be stretched to a decade.

10. The nature of the land would have changed. The availability of sand is questionable. The conditions under which sand quarrying is permitted now will have to be examined. The petitioner cannot walk in and walk out with an order. The petitioner should have been vigilant. He



should have applied to continue with the sand quarrying operations. He had not even applied for transport permit within the reasonable period. The petitioner had not come forward to quarry the land. He had taken a conscious decision not to apply for transport permit. He had taken a conscious decision not to give representation within a reasonable period of time. He had taken a conscious decision to give a representation after a period of 10 years and he now blames the District Collector at Dharmapuri District.

11. I would find fault only with the petitioner. The Writ Petition stands dismissed. No order as to costs.

06.02.2023

vsg

Index: Yes/No

Internet: Yes/No

Speaking / Non Speaking Order

To

1. The District Collector
Dharmapuri District.
2. The Director of Geology and Mining
Guindy, Chennai – 600 032.

C.V.KARTHIKEYAN, J.,



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