



W.P.Nos.30561, 30562, 30563 & 30564 of 2012

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 04.01.2023

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THE HONOURABLE **DR. JUSTICE ANITA SUMANTH**

W.P.Nos.30561, 30562, 30563 & 30564 of 2012

&

W.M.P.No.1 of 2012(4 Nos.)

State of Tamil Nadu
represented by the
Principal Secretary to
Government,
Industries Department,
Fort St.George,
Chennai – 600 009.

... Petitioner in all W.P.'s

Vs

1.Tvl.Dalmia Cement (B) Ltd.,
Dalmiapuram,
Trichirapalli.

2.Secretary to Government,
Ministry of Mines,
Union of India,
New Delhi.

... Respondents in W.P.Nos.30561 & 30563 of 2012

1.Tvl.India Cements Ltd.,
Dalavoi, Sendurai Taluk,
Ariyalur District.

2.Secretary to Government,



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Ministry of Mines,
Union of India,
New Delhi.

... Respondents in W.P.Nos.30562 & 30567 of 2012

Prayer in W.P.No.30561 of 2012: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Certiorari, calling for the relevant records relating to the order passed in final order No.659/2011 dated 20.10.2011 and quash the same.

Prayer in W.P.No.30562 of 2012: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Certiorari, calling for the relevant records relating to the order passed in final order No.660/2011 dated 20.10.2011 and quash the same.

Prayer in W.P.No.30563 of 2012: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Certiorari, calling for the relevant records relating to the order passed in final order No.661/2011 dated 20.10.2011 and quash the same.

Prayer in W.P.No.30564 of 2012: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Certiorari, calling for the relevant records relating to the order passed in final order No.663/2011 dated 20.10.2011 and quash the same.

For Petitioner
in all W.P.'s : Mr.B.Vijay
Additional Government Pleader

For Respondents
in all W.P.'s : Mr.Rahul Balaji - R1
Mr.T.L.Thirumalaisamy - R2



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COMMON ORDER

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The State of Tamil Nadu has challenged orders passed by Secretary to Government, Ministry of Mines / R2 in all W.P.s in terms of Rule 72 of the Mineral Concession Rules, 1960. This issue has been decided in a batch of writ petitions wherein also the petitioner is the State of Tamil Nadu, by order of this Court in W.P.No.4373 of 2000 and Batch on 20.11.2019, in favour of the State.

2.At para 29 of the order, the learned Single Judge states as follows:

“29. The Revisional Authority, whose order is questioned in some of the writ petitions, has concluded that what is sought to be protected by framing the Rules is the surface right of a private land holder has to be compensated as such land owner might be deprived of putting such land for any other alternative purpose. I am unable to accept such a conclusion arrived at by the Revisional Authority. When the private land of an individual, which was leased out, will be subjected to damage warranting payment of compensation for depriving the land owner to put it to any other alternative use, the same yardstick has to be equally applied to the lands which are classified as government poromboke lands. Equally, the Government also will be deprived of using the land for any other alternative use due to intense mining of the land. Therefore, reasoning assigned by the revisional authority that by reason of damage caused to the surface of the government poromboke land, no third party will be prejudicially affected cannot be sustained. Therefore, the order passed by the Revisional Authority, which are impugned in the writ petitions filed by the State are not sustainable and they are liable to be set aside.”



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3. Consequent upon the order passed by the Secretary to Government, demands had also been raised on several license holders which have come to be challenged by them by way of writ petitions. In one such writ petition filed by *Madras Cements Limited* in W.P.No.28975 of 2011, the ratio of order dated 20.11.2019 has been applied, and the demand was confirmed. The license holders are stated to be before the Division Bench by way of writ appeal. Hence, impugned order dated 20.10.2011 is quashed and these writ petitions are allowed. No costs. Consequently, connected miscellaneous petitions are closed.

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04.01.2023

Index : Yes / No
Speaking Order

To

1. The Secretary to Government,
Ministry of Mines,
Union of India,
New Delhi.



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Dr.ANITA SUMANTH, J.

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