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W.P.No.21061 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.09.2023

CORAM : JUSTICE N.SESHASAYEE

W.P.No.21061 of 2023  
and WMP.Nos.20448 & 20449 of 2023

M/s.Sairam Trading Company  
Rep by its Sole Proprietor A.Ramesh Kumar  
Door No.8/162A, Rakkiannan Koil Street  
Kurumbapalayam  
Madukkarai Village & Post  
Coimbatore District - 641 105.

... Petitioner

Vs

- 1.The Director / Commissioner  
Department of Geology and Mining  
Industrial Estate  
Guindy, Chennai - 600 032.
- 2.The District Collector  
Coimbatore District  
Coimbatore.
- 3.The Deputy Director / Assistant Director  
Department of Geology and Mining  
Coimbatore District.

.... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned notice dated 05.07.2023, issued by the third



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respondent and quash the same as illegal and consequently direct the third respondent to continue to issue transit passes to transport the flotation rejects weighing 45,000 tonnes stocked in the land comprised in S.F.No.1139/2(P) of Madukkarai Village, Coimbatore District.

For Petitioner : Mr.C.Ravichandran

For Respondents : Mr.C.Kathiravan  
Special Government Pleader [R1 to R3]

### ORDER

The petitioner herein submits that it is one of the purchasers of limestone flotation rejects from M/s Associated Cement Company Limited (M/s.ACC Limited) at Madukkarai Village, Coimbatore, and it supplies the same to tiles, adhesives and fertilizers manufacturing units. The petitioner had obtained necessary certification from the 2<sup>nd</sup> respondent for consuming, storing, trading and selling the flotation rejects as early as 13.01.2023, which would expire only on 12.01.2028. Be that as it may, based on the telephonic instruction from the Director/Commissioner, Department of Geology and Mining, the first respondent herein, the Deputy Director / Assistant Director, Department of Geology and Mining, Coimbatore District, the 3<sup>rd</sup> respondent stopped issuing the transit slips to the petitioner, vide his impugned



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proceedings dated 05.07.2023. This is now under challenge.

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2. The respondents 1 and 2 have filed their counter. It is admitted in the counter that the stoppage notice was issued to the petitioner-company on 05.07.2023, pursuant to the telephonic instructions of Director of Geology and Mining, Chennai. It is contended that the petitioner has been stocking the limestone floating rejects which it purchased from M/s.ACC Limited without obtaining necessary licence for stocking it in S.F.No.1139/2(P). Madukkarai Village. It is also contended that till date the lessee company (ACC Ltd.) has not registered itself as dealers with the Indian Bureau of Mines under Rule 23C of the Mines and Minerals Development and Regulation Act, nor has it obtained any permission from the Department of Geology and Mining for the transportation of flotation rejects from the leasehold and non-leasehold areas. This apart, ACC has dumped the rejects in the adjacent patta lands belonging to private individuals. It is also alleged that ACC Limited have not paid the royalty, and that the environmental clearance charges and payment of annual compensation demands are also pending against ACC Limited. Therefore, the issuance of transport permit was suspended in anticipation of the outcome of an enquiry to be conducted



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with regard to the storage of floating rejects outside the leasehold area and non-registration of ACC Ltd., under the Tamil Nadu Prevention of Illegal Mining Transportation and Storage of Minerals and Mineral Dealers Rule, 2022.

3. The learned counsel for the petitioner drew the attention of this Court to the proceedings of the District Collector, Coimbatore, the second respondent herein, dated 13.01.2023, whereunder, the second respondent had granted him necessary licence for stocking the limestone flotation rejects in S.F.No.1139/2(P) of Madukkarai Village, on certain conditions.

4. The learned counsel for the respondents submitted that the transport permit was temporarily stopped to the petitioner on 05.07.2023, and whereas this writ petition was filed within 9 days of issuance of stoppage notice i.e., on 13.07.2023. However, pursuant to the interim order granted by this Court on 18.07.2023, the transport permit was resumed on 01.08.2023.

5. It is very apparent that the 3<sup>rd</sup> respondent has not applied his mind to the issue before him. It would have been appreciable and appropriate if the 3<sup>rd</sup>



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respondent had issued a notice to the petitioner and invited him to offer an explanation regarding his belief that the petitioner was stocking the limestone flotation rejects without any licence to stock the same. Merely because a telephonic instruction is received from the Director/Commissioner, Department of Geology and Mining, Chennai, it does not imply that a lower rung officer should not apply his mind to the issue, and instantly abide by the instructions issued. The Deputy Director / Assistant Director of Mining, the third respondent herein are required to be informed that they have a duty to perform, which duty he shall perform at all times as per law, and not based on instructions from his higher authorities. This Court does not indicate that the officer concerned has to disobey the instructions of his higher authorities, but where the instructions so received go contrary to the true state of affairs on ground, it is his duty and obligation to inform the superior authority about the correct state of affairs.

6. To conclude this Court is constrained to allow this petition, and sets aside the impugned proceedings of the third respondent dated 05.07.2023, and allows the writ petition. It is however, underscored that the respondents are at liberty to issue any show cause notice on the petitioner, and to hold any



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enquiry as per law. No costs. Consequently, connected miscellaneous petitions are closed.

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Index : Yes / No  
Speaking order / Non-speaking orders

To:

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Coimbatore.
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N.SESHASAYEE.J.,

ds

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