



W.P.No.29267 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

WEB COPY

Dated : 17.11.2023

CORAM

**THE HON'BLE MRS. JUSTICE J.NISHA BANU
AND
THE HON'BLE MRS. JUSTICE N.MALA**

**W.P.No.29267 of 2023
and WMP.No.28882 of 2023**

R.Ganesan

... Petitioner

.Vs.

- 1.The Chairman
Tamil Nadu Pollution Control Board
No.76, Mount Salai, Guindy, Chennai-600 032.
- 2.State Environment Impact Assessment Authority
No.9, Jeenu Road
Saidapet, Chennai-15
- 3.The District Collector
Namakkal District, Namakkal.
- 4.The Assistant Director
Department of Geology and Mining
Namakkal.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, praying for issuance of Writ of Mandamus directing the 4th respondent to permit the petitioner to carry on quarrying operation in the land measuring 2.88.0 Hec comprised in Survey No.297/1B (Part) of Akkalampatti Village, Tiruchengode Taluk, Namakkal District, by issuing necessary transport permits until the date of expiry of environmental clearance obtained from the District Level



W.P.No.29267 of 2023

Environment Impact Assessment Authority vide Lr.No.DEIAA-NMK-TN/F.No.259/Mines/02/E.C.No.13/2017 dated 24.11.2017 i.e. 20.02.2024, without insisting environmental clearance appraised by SEIAA and consequently direct the 2nd respondent to reappraise the Environmental Clearance granted by DEIAA.

For Petitioner : Mr.V.P.Sengottuvel
Senior counsel for Ms.K.Indupriya

For respondents : Mrs.Shanmugavalli Sekar
Standing counsel for R1
Mr.K.Srinivasamurthy for R2
Mrs.Mythreye Chandru, Spl.G.P.for R3 and R4.

ORDER

(Order of the Court was made by J.NISHA BANU, J.)

This Writ Petition is listed today under the caption “to recall the order dated 06.10.2023. “

The prayer in the writ petition is to issue a Writ of Mandamus to direct the 4th respondent to permit the petitioner to carry on quarrying operation in the land measuring 2.88.0 Hec comprised in Survey No.297/1B (Part) of Akkalampatti Village, Tiruchengode Taluk, Namakkal District, by issuing necessary transport permits until the date of expiry of environmental clearance obtained from the District Level Environment Impact Assessment Authority vide Lr.No.DEIAA-NMK-TN/F.No.259/Mines/02/E.C.No.13/2017 dated



W.P.No.29267 of 2023

24.11.2017 i.e. 20.02.2024, without insisting environmental clearance appraised by SEIAA and consequently direct the 2nd respondent to reappraise the Environmental Clearance granted by DEIAA.

2. A perusal of records would go to show that the petitioner was granted Environmental clearance by proceedings dated 24.11.2017 and the application for Environmental clearance was on 05.10.2017. However, the petitioner entered into quarry lease on 21.02.2019 and the same was granted for a period of five (5) years from 21.02.2019 to 20.02.2024.

3. This court, by order dated 03.11.2023, in W.P.Nos.31466, 31475 & 31505 of 2023, posted the matters for clarification and held in paragraphs 13 onwards as follows:-

“Due to the clarification that arose regarding the cut-off dates mentioned in the Official Memorandum, dated 28.04.2023, these writ petitions are once again posted under the caption “for clarification”.

14. The Official Memorandum dated 28.04.2023 holds that all concerned SEAC's shall re-appraise the EC's issued by the DEIAA's between 15.01.2016 and 13.09.2018 (including both dates) and all fresh EC's applied after 13.09.2018 shall be granted only by SEIAA's. This fact was not brought to the notice of this Court. When a specific question was put to the learned Government Advocate, the learned Government



WEB COPY

Advocate stated that since orders were passed in the admission stage, they were unable to bring to the notice of this Court as to the details of the cut-off dates mentioned in the above Official Memorandum.

15. In our opinion, even after passing of such order, the learned Government Advocate could have brought to the notice of this Court about the cut-off dates. Since the same was not brought to the notice of this Court, we have passed orders, wherein directions were issued to the respondents to grant transport permits till April 2024.

16. As per the Official Memorandum dated 28.04.2023, fresh EC's applied after 13.09.2018 can be issued only by SEIAA's and therefore, without getting EC's from SEIAA, the persons who have got EC's from the DEIAA after 13.09.2018 cannot be re-appraised and therefore, the order granting transport permits in those orders passed by this Court stand recalled.

17. In view of the above facts and circumstances, the prayer sought for in these writ petitions fails and accordingly, the Writ Petitions stand dismissed.”

4. The Government of India, Ministry of Environment, Forest and Climate Change issued an Office Memorandum, dated 28.04.2023 directing the second respondent to re-appraise the EC granted by DEIAA from



W.P.No.29267 of 2023

15.01.2016 to 13.09.2018 within one year and a direction to DEIAA to forward all the EC granted by them to the second respondent.

5. The National Green Tribunal (Principal Bench) New Delhi, vide order dated 13.09.2018 in O.A.No.186 of 2016 in ***Satendra Pandey Vs. Ministry of Environment Forest and Climate Change and another*** had observed that, the Ministry's Notification in S.O.141(E) dated 15.01.2016 was not in consonance with the directions given by the Hon'ble Supreme Court in the matter of ***Deepak Kumar Vs. State of Haryana and others***, and directed that the mining projects are to be re-evaluated by the State Level Expert Appraisal Committee (SEAC) for recommendation and grant of Environmental Clearance by State Level Environment Impact Assessment Authority (SEIAA) instead of DEIAA.

6. In compliance with the above said directions, the Ministry issued an Official Memorandum dated 12.12.2018 directing to comply with the directions of the National Green Tribunal. Subsequently, the National Green Tribunal vide its order dated 07.12.2022 in O.A.No.142 of 2022 in the matter of Jayant Kumar Vs Ministry of Environment, Forests and Climate Change inter-alia observed that, mining leases in which environment clearance was



W.P.No.29267 of 2023

granted by DEIAA in view of amendment notification, dated 15.10.2016 are still continuing even after passing of order dated 13.09.2018 by the Tribunal in ***Satendra Pandey's case (stated supra)*** and issuance of an Official Memorandum, dated 12.12.2018 by MoEF & EC without any re-appraisal by SEIAA and appropriate remedial action on the basis of such re-appraisal. All such mining leases in which EC was granted by DEIAA need to be brought in consonance with the directions given by the Hon'ble Supreme Court in ***Deepak Kumar's case (cited supra)*** and order dated 13.09.2018 by the Tribunal in ***Satendra Pandey's case (cited supra)*** by re-appraisal by SEIAA and only such mining leases can be continued which have been on re-appraisal granted environmental clearance by SEIAA.

7. The Ministry of Environment, Forests and Climate Change was directed to take appropriate steps for compliance by issuance of requisite direction in exercise of the statutory powers under the Environment (Protection) Act, 1986. Accordingly, the Ministry examined the above issue by taking into consideration the orders passed by the Hon'ble Supreme Court in the matter of Deepak Kumar's case (cited supra) and the National Green Tribunal order dated 07.12.2022 in O.A.No.142 of 2022, and issued an Official Memorandum dated 28.04.2023 wherein it examined all the issues



W.P.No.29267 of 2023

and accordingly decided that all valid EC issued by the DEIAA shall be re-appraised through SEIAA/SEAC, in compliance to the order of the National Green Tribunal in O.A.No.142 of 2022 and directed that all concerned SEAC's shall re-appraise the EC issued by the DEIAA's between 15.01.2016 and 13.09.2018 (including both dates) and all fresh EC in this regard shall be granted only by SEIAA's based on such appraisal and also the said exercise shall be completed within a time period of one year from the date of issue of the Official Memorandum.

8. It is also directed that all DEIAA's to transfer all files, where EC's have been granted to the concerned SEIAA's within a time period of one month from the issuance of the Official Memorandum and also directed the State Government to assess the existing workload of SEIAA/SEAC's and send proposal for constitution of additional SEIAA/SEAC's for a specific period, to deal with such additional workload.

9. Accordingly, by the Official Memorandum, the EC's which have been granted between 15.01.2016 and 13.09.2018 (including both dates) alone were directed to be re-appraised by the SEIAA within a period of one year and all fresh EC's issued thereafter, i.e. after 13.09.2018, has to be granted only by



W.P.No.29267 of 2023

the concerned SEIAA's.

WEB COPY

10. Therefore, now, it is very clear that for the EC's granted between 15.01.2016 and 13.09.2018 (including both dates) shall only apply for re-appraisal by the SEIAA's and fresh EC granted after 13.09.2018 has to be granted only by the SEIAA's.

11. In the case on hand, admittedly lease was executed on 21.02.2019. But Environment clearance was granted on 24.11.2017. It is not known as to how the petitioner made his application for Environmental clearance on 05.10.2017 and got the EC on 24.11.2017 and executed the lease agreement only on 21.02.2019.

12. As per the Official Memorandum dated 28th April 2023, after 13.09.2018, all fresh EC's shall be granted only by SEIAA based on appraisal/re-appraisal. Since the lease agreement has been executed by the petitioner only on 21.02.2019, the petitioner ought to have approached SEIAA for Environmental Clearance.



W.P.No.29267 of 2023

WEB COPY 13. Though Environmental Clearance has been given on 05.10.2017, lease commenced from 21.02.2019. Therefore, the petitioner has to get re-appraisal from SEIAA as per the directions of Ministry of Environment, Forest and Climate Change (Impact Assessment Division) in the Office Memorandum dated 28th April 2023.

14. In the light of the above reasonings, this Writ Petition is dismissed
No costs. Consequently, connected miscellaneous petition is closed.

(J.N.B, J.) (N.M., J.)
17.11.2023

vsi/nvsri

To

- 1.The Chairman
Tamil Nadu Pollution Control Board
No.76, Mount Salai, Guindy, Chennai-600 032.
- 2.State Environment Impact Assessment Authority
No.9, Jeenis Road, Saidapet, Chennai-15
- 3.The District Collector
Namakkal District, Namakkal.
- 4.The Assistant Director
Department of Geology and Mining
Namakkal.



WEB COPY



W.P.No.29267 of 2023

J. NISHA BANU, J.
and
N.MALA, J.

nvsri

W.P.No.29267 of 2023

17.11.2023