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W.P.Nos.29244 of 2023...etc.(batch of cases)

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.11.2023

CORAM:

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

**W.P.Nos.29244, 29252, 29261, 29273, 29282, 29836,
29841, 29990, 29993, 29994, 29997,
29998, 30002, 30248, 30249, 30461,
30465, 30462, 30683, 30685, 30693,
30697 and 30698 of 2023**

W.P.No.29244 of 2023:

M.Koteeshwaramuthu

... Petitioner

Vs.

1. The Chairman
Tamil Nadu Pollution Control Board,
No.76, Mount Salai, Guindy,
Chennai 600032
2. State Environmental Impact Assessment Authority,
No,9, Jeenis Road,
Saidapet, Chennai 15
3. The District Collector,
Salem District,
Salem.
4. The Deputy Director,
Department of Geology and Mining,
Salem.

... Respondents in all W.P.s



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PRAYER in W.P.No.29244 of 2023: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the 4th respondent to permit the petitioner herein to carry on quarrying operation in the land measuring 1.00.00Hec. comprised in Survey No.219/1A(Part 3) of Kadambur Village, Salem Taluk and 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~DIA/TN/MIN/15301/2018~SLM~E.C.No.35/2018 dated 05.12.2018 i.e. 17.02.2024 without insisting environmental clearance appraised by SEIAA and consequently direct the 2nd respondent to reappraise the Environmental clearance granted by DEIAA.

In all writ petitions:

For Petitioners : Mr.V.P. Senguttuvel, Senior Counsel
For Mr.P.S.Prabu
For R-1 : Mrs.Shanmugavalli Sekar
Standing Counsel
For R-2 : Mr.K.Srinivasamoorthy,
Central Government Standing Counsel
For R-3 : Mr.Stalin Abimanyu,
Additional Government Pleader

COMMON ORDER

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

The above Writ Petitions are listed today under the caption “to recall the order”.

2. The petitioners, in the cases above-listed, have entered into Lease



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Agreements with the third respondent on various dates for a period of five / ten

years and Environmental Clearances (EC) were granted by the District Level

Environment Impact Assessment Authority. The details are as follows:-

Sl. No.	W.P. No.	Lease period entered into by the petitioners & term.		Tenure of Lease period	EC granted date	Valid upto
		From	To			
1.	W.P.29244/2023	17.02.2019	16.02.2029	10 years	05.12.2018	16.02.2024
2.	W.P.29252/2023	26.02.2019	25.02.2024	5 years	07.12.2018	25.02.2024
3.	W.P.29261/2023	26.02.2019	25.02.2029	10 years	05.12.2018	25.02.2024
4.	W.P.29273/2023	10.02.2019	09.02.2024	5 years	05.12.2018	09.02.2024
5.	W.P.29282/2023	09.01.2019	08.01.2024	5 years	07.12.2018	08.01.2024
6.	W.P.29836/2023	09.01.2019	08.01.2024	5 years	07.12.2018	08.01.2024
7.	W.P.29841/2023	09.01.2019	08.01.2024	5 years	07.12.2018	08.01.2024
8.	W.P.29990/2023	05.03.2019	04.03.2029	10 years	05.12.2018	04.03.2024
9.	W.P.29994/2023	27.01.2021	26.01.2031	10 years	05.12.2018	26.01.2026
10.	W.P.30002/2023	02.03.2019	09.03.2029	10 years	05.12.2018	01.03.2024
11.	W.P.29998/2023	08.03.2019	07.03.2024	5 years	07.12.2018	07.03.2024
12.	W.P.29993/2023	07.03.2019	06.03.2029	10 years	07.12.2018	06.03.2024
13.	W.P.29997/2023	07.03.2019	06.03.2029	10 years	05.12.2018	06.03.2024
14.	W.P.30248/2023	28.07.2020	27.07.2030	10 years	07.12.2018	27.07.2025
15.	W.P.30249/2023	09.03.2019	08.03.2029	10 years	05.12.2018	08.03.2024
16.	W.P.30461/2023	09.03.2019	08.03.2024	5 years	05.12.2018	08.03.2024
17.	W.P.30462/2023	08.03.2019	07.03.2029	10 years	05.12.2018	07.03.2024
18.	W.P.30465/2023	08.03.2019	07.03.2029	10 years	07.12.2018	07.03.2024
19.	W.P.30683/2023	29.05.2020	28.05.2030	10 years	05.12.2018	28.05.2025
20.	W.P.30685/2023	13.07.2019	12.07.2029	10 years	05.12.2018	12.07.2024
21.	W.P.30697/2023	23.07.2019	22.07.2029	10 years	07.12.2018	22.07.2024
22.	W.P.30693/2023	20.07.2019	19.07.2024	5 years	07.12.2018	19.07.2024
23.	W.P.30698/2023	20.07.2019	19.07.2029	10 years	05.12.2018	19.07.2024



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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 paragraph no.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 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,



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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. In addition to the above, the facts necessary for the disposal of the present writ petitions are as follows:-

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 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 & Climate Change and another*** had



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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 granted by DEIAA in view of amendment notification, dated 15.01.2016 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



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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 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



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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 also directed 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 above 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 the concerned SEIAA.

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



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11. In all the present cases on hand, admittedly lease commenced in the year 2019, whereas Environmental Clearance was granted on 05.12.2018 and 07.12.2018 with validity for 5 years and therefore, when the lease itself commenced from the year 2019, necessarily, the petitioners have to get Environment Clearance only from SEIAA.

12. In view of the order passed by this Court on 03.11.2023 in W.P.Nos.31593, 31597 and 31601 of 2023, the order passed in the above Writ Petitions shall stand recalled and the writ petitions are dismissed. No costs. Consequently, connected miscellaneous petitions stand closed.

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

Index : Yes / No
Internet : Yes / No
Speaking order/Non-speaking order
Neutral Citation : Yes / No
nvsri/vsi

To:

1. The Chairman
Tamil Nadu Pollution Control Board,
No.76, Mount Salai, Guindy,
Chennai 600032



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J. NISHA BANU, J.

and

N.MALA, J.

nvsri

2. State Environmental Impact Assessment Authority,
No,9, Jeenis Road,
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3. The District Collector,
Salem District, Salem.
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Common order in
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