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W.P.No.30685 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 20.10.2023

CORAM

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

**W.P.No.30685 of 2023
and WMP.No.30343 of 2023**

Gowrishankar
S/o.Sivalingam

... 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, Jeenis Road
Saidapet, Chennai-15
- 3.The District Collector
Salem District, Salem
- 4.The Deputy Director
Department of Geology and Mining
Salem

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, praying for issuance of Writ of Mandamus to direct the 4th respondent to permit the petitioner to carry on quarrying operation in the land measuring 1.00.00 Hec comprised in Survey No.108(Part-2) Vaniyambadi Village, Valapady Taluk,



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Salem 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/18523/2018-SLM-E.C.No.46/2018 dated 05.12.2018 ie 12.07.2024, without insisting environmental clearance appraised by SEIAA as the environmental clearance granted by DEIAA is valid and good until 12.07.2024 as per the Official Memorandum dated 28.04.2023.

For Petitioner : Mr.V.P.Sengottuvel
Senior counsel for Mr.P.S.Prabu.

For respondents : Mrs.Shanmugavalli Sekar
Standing counsel for R1
Mr.V.Chandrasekaran
Senior Panel counsel 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 has been filed to issue a Writ of Mandamus to direct the 4th respondent to permit the petitioner to carry on quarrying operation in the land measuring 1.00.00 Hec comprised in Survey No.108(Part-2) Vaniyambadi Village, Valapady Taluk, Salem District, by issuing necessary transport permits until the date of expiry of environmental clearance obtained from the District Level Environment Impact Assessment Authority vide



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Lr.No.DEIAA-DIA/TN/MIN/18523/2018-SLM-E.C.No.46/2018 dated

05.12.2018 ie 12.07.2024, without insisting environmental clearance appraised by SEIAA as the environmental clearance granted by DEIAA is valid and good until 12.07.2024 as per the Official Memorandum dated 28.04.2023.

2. The petitioner was granted quarry lease on 13.07.2019 and the same was granted for a period of ten (10) years from 13.07.2019 to 12.07.2029. The Environmental clearance for the said project was granted by the District Level Environment Impact Assessment Authority (DEIAA) for a period of 5 years from the date of execution of the Quarry Lease Agreement. Therefore, the clearance granted to the petitioner is valid upto 12.07.2024.

3. The petitioner submitted his application for Consent to Operate under The Air (Prevention and Control of Pollution) Act, 1981 and The Water (Prevention and Control of Pollution) Act, 1974 and the same came to be granted by the 1st respondent vide Proceedings dated 30.12.2022 and the same is valid till 12.07.2024. In the meantime, an order was passed by the National Green Tribunal in O.A.No.142 of 2022 directing all clearances given by DEIAA to be re~appraised by SEAC/SEIAA. This order was passed on



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07.12.2022. The Government of India, Ministry of Environment, Forest and Climate Change (Impact Assessment Division) vide its Office Memorandum dated 28.04.2023, issued instructions to the 2nd respondent that the Environmental Clearances granted by DEIAA has to be re-apprised by the 2nd respondent-SEIAA within a time frame.

4. On account of the fact that re~appraisal was not done by the SEIAA, clearance was not given. The petitioner applied before SEIAA through on-line for reappraisal of EC granted by DEIAA. Hence, the present Writ Petition.

5. On the above submissions, Mr.V.Chandrasekaran, learned Senior Panel counsel for the SEIAA submits that it will take minimum period of three (3) weeks for re-appraisal. The petitioner have applied before SEIAA for reappraisal of Environmental Clearance granted by DEIAA, however, without necessary documents, therefore, a direction may be given to the petitioner to apply for reappraisal by SEIAA along with all necessary documents.

6. The Ministry of Environment and Forest has also filed an Affidavit before the Hon'ble National Green Tribunal in Original Application No.142 of 2022, wherein, it has been stated that during the pendency of process of



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reappraisal by SEIAA, the mining activity can be carried on and the EC granted by DEIAA will continue to be valid for a period of one year as per the Office Memorandum dated 28.04.2023 i.e. 12.07.2024.

7. The Official Memorandum dated 28.04.2023 would read that the National Green Tribunal directed that mining projects with lease areas of 0 to 5 ha are to be evaluated by the State Level Expert Appraisal Committee (SEAC) for recommendation and grant of Environmental Clearance (EC) by State Level Environment Impact Assessment Authority (SEIAA) instead of District Level Environment Impact Assessment Authority (DEIAA). The OM also directed that such reappraisal exercise shall be completed within a time period of one year from the date of issue of the OM and all fresh ECs in this regard shall be granted only by SEIAAs based on such appraisal. In paragraph 5 of the OM, it was stated that to have a uniform approach across the country for such appraisal, SEIAA shall scrutiny and appraise the proposals based on the checklist provided therein. It was further stated that the provisions of the OM shall be operational subject to the outcome of ***Civil Appeal No.3799-3800 of 2019 titled Union of India Vs Rajiv Suri*** filed by Ministry before the Honourable Supreme Court of India.



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8. Admittedly, the lease period starts from 13th July 2019 and ends on 12th July 2029. The validity of environmental clearance is granted for a period of five years from the date of execution of the quarrying lease period. The Office Memorandum dated 28.04.2023 provides for reappraisal of EC granted by DEIAA within a period of one year from the date of Office Memorandum.

9. Taking into consideration the fact that the EC granted by DEIAA is valid until 12.07.2024 within which period the EC of the petitioner would be reappraised, in the interest of justice, this court deems it fit to permit the petitioner to carry on the mining activity and that the EC granted by DEIAA will continue to be valid for a period of one year as per the Office Memorandum dated 28.04.2023 i.e., until 12.07.2024 and until 12.07.2024, transport permit can be granted to the petitioner.

10. Further, this court directs the petitioner to apply before SEIAA for reappraisal of EC granted by DEIAA with all necessary documents within a period of three weeks from the date of receipt of a copy of this order. We make it clear that all the conditions stipulated by the Pollution Control Board and DEIAA must be strictly complied with. If the petitioner applies for extension of lease, this order will not enure in his favour. The petitioner will



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not be entitled to quarry after 12.07.2024 without clearance from the Pollution Control Board and SEIAA.

11. This writ petition is disposed of on the above terms. No costs.
Consequently, connected miscellaneous petition is closed.

(J.N.B, J.) (N.M., J.)
20.10.2023

vsi/nvsri

To

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J. NISHA BANU, J.

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N.MALA,J.

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