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W.P.Nos.31466, 31475 & 31505 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.11.2023

CORAM

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

**W.P.Nos.31466, 31475 & 31505 of 2023
and W.M.P.Nos.31086, 31096 & 31137 of 2023**

E.Devi	... Petitioner in W.P.No.31466 of 2023
S.Saravanan	... Petitioner in W.P.No.31475 of 2023
V.Ramesh Kumar	... Petitioner in W.P.No.31505 of 2023

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.



W.P.Nos.31466, 31475 & 31505 of 2023

4. The Deputy Director,
Department of Geology and Mining,
Salem.

... Respondents in all W.P.s

PRAYER in W.P.No.31466 of 2023: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the fourth respondent to permit the petitioner herein to carry on quarrying operation in the land measuring 1.00.00 Hectare, comprised in Survey No.577(Part), Kadayampatti North Village, Kadayampatti 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 Lr.No.DEIAA-DIA/TN/MIN/18642/2018 SLM-E.C.No.49/2018 dated 05.12.2018 i.e. 08.03.2024 without insisting environmental clearance appraised by SEIAA.

PRAYER in W.P.No.31475 of 2023: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the fourth respondent to permit the petitioner herein to carry on quarrying operation in the land measuring 1.00.00 Hectare, comprised in Survey No.3(Part), Santhiyur 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/1951/2018-SLM-E.C.No.75/2018 dated 07.12.2018 i.e. 04.02.2025 without insisting environmental clearance appraised by SEIAA, as the Environmental Clearance granted by DEIAA is valid and good until 27.04.2024, as per the Official Memorandum dated 28.04.2023.



W.P.Nos.31466, 31475 & 31505 of 2023

PRAYER in W.P.No.31505 of 2023: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the fourth respondent to permit the petitioner herein to carry on quarrying operation in the land measuring 1.00.00 Hectare, comprised in Survey No.232(Part-1) Bit-1, Nadupatti Village, Kadayapatti 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 Lr.No.DEIAA-DIA/TN/MIN/19055/2018-SLM-E.C.No.67/2018 dated 05.12.2018 i.e.05.03.2024 without insisting environmental clearance appraised by SEIAA.

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.V.Chandrasekaran Standing Counsel
For R-3	: Mrs.Abishekmurthy, Government Advocate

COMMON ORDER

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

These Writ Petitions have been filed to direct the fourth respondent to permit the petitioners to carry on quarrying operation in their respective lands



W.P.Nos.31466, 31475 & 31505 of 2023

by issuing necessary transport permits until the date of expiry of environmental clearance obtained from the District Level Environment Impact Assessment Authority, without insisting environmental clearance appraised by SEIAA.

2. Since the issue involved in all these writ petitions are one and the same, they are disposed of by this common order.

3. The petitioners herein are granted with quarrying Lease for their respective lands in Salem District. The Lease Agreements came to be executed by the third respondent in favour of the petitioners herein on 09.03.2019, 05.02.2020 and 6.03.2019 respectively, for a period of ten years in W.P.No.31466 of 2023 and for a period of five years in W.P.Nos.31475 & 31505 of 2023 and Environmental Clearance (hereinafter referred to as 'EC') was granted by the District Level Environment Impact Assessment Authority (hereinafter referred to as the 'DEIAA') for a period of five years, in each case, vide separate orders dated 07.12.2018, 05.12.2018 and 05.12.2018.

4. In these circumstances, the Government of India, Ministry of Environment, Forest and Climate Change issued an Office Memorandum,



W.P.Nos.31466, 31475 & 31505 of 2023

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. The grievance of the petitioners is that the second respondent has not come forward to carry out the above said exercise till date.

5. The contention of the petitioners is that without proper appreciation of the directions issued in the aforesaid Official Memorandum, the fourth respondent had arbitrarily stopped issuing transport permits to the petitioners. The petitioners have also applied before the second respondent vide separate applications on 07.08.2023, 03.08.2023 and 28.05.2023 and the same is pending consideration before the second respondent. Aggrieved against the same, the petitioners have filed the present writ petitions.

6. Heard both sides and this Court, perused all the materials placed before this Court.

7. Perusal of records show that the National Green Tribunal (Principal Bench), New Delhi, vide order dated 13.09.2018 in O.A.No.186 of 2016 in



W.P.Nos.31466, 31475 & 31505 of 2023

Satendra Pandey vs. Ministry of Environment Forest & 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.

8. 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



W.P.Nos.31466, 31475 & 31505 of 2023

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.

9. 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



W.P.Nos.31466, 31475 & 31505 of 2023

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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.

10. 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.

11. 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's.



W.P.Nos.31466, 31475 & 31505 of 2023

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12. Therefore, now, it is very 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.

13. When these writ petitions were listed for hearing on 02.11.2023, this Court had disposed of the same. Due to the clarrification 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 clarrification”.

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



W.P.Nos.31466, 31475 & 31505 of 2023

above Official Memorandum.

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W.P.Nos.31466, 31475 & 31505 of 2023

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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. No costs. Consequently, connected miscellaneous petitions stand closed.

(J.N.B, J.) (N.M, J.)
3.11.2023

Note: Registry is directed to issue order copy on **06.11.2023**



W.P.Nos.31466, 31475 & 31505 of 2023

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

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To:

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W.P.Nos.31466, 31475 & 31505 of 2023

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

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Common order made in
W.P.Nos.31466, 31475
& 31505 of 2023

Dated:
03.11.2023