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WP No.1076 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.04.2023

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THE HONOURABLE MR. JUSTICE M. DHANDAPANI

W.P. Nos.1076 and 1078 of 2023

M.Balamurugan

... Petitioner in both cases

Versus

1.District Collector/

Asst. Director of Geology and Mining,
Coimbatore,
7/1, State Bank Road,
Gopalapuram, Coimbatore – 641 018.

2.The District Environmental Engineer,
Tamil Nadu Pollution Control Board
(Coimbatore North),
No.5, Ramasamy Nagar,
Kavundampalayam, Coimbatore – 641 030.

... Respondents in both cases

Prayer in W.P. No.1076 of 2023: Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus calling for the records relating to the order passed by the first respondent vide Na.Ka.No.717/Geology/2021 dated 25.10.2022, quash the same and consequently direct the first respondent to grant renewal of licence to the petitioner to quarry brick earth from his ancestral patta land bearing S.F. No.482/1A and 482/2, located in Pannimadai Village, Coimbatore North, Coimbatore.

Prayer in W.P. No.1078 of 2023: Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus directing the second respondent to grant the consent to operate to the petitioner, within a time fixed by this Court, without insisting on the licence to quarry brick earth from the petitioner.



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For Petitioner in both cases : Mr.Niranjana Rajagopalan for
Mr.M.Marudhachalam

For Respondents in both cases : Mr.U.Baranidharan,
Additional Government Pleader for R1

Mr.Shanmugavalli Sekar,
Standing Counsel for R2

COMMON ORDER

Both the writ petitions are disposed of by way of common order since the issues involved in both the cases and facts are one and the same.

2. W.P.No.1076 of 2023 has been filed seeking to quash the order passed by the first respondent dated 25.10.2022 and consequently, direct the first respondent to grant renewal of licence to the petitioner to quarry brick earth from his ancestral patta land bearing S.F. No.482/1A and 482/2, located in Pannimadai Village, Coimbatore North, Coimbatore.

3. W.P. No.1078 of 2023 has been filed seeking a direction to the second respondent to grant the consent to operate to the petitioner, within a time fixed by this Court, without insisting on the licence to quarry brick earth from the petitioner.

4. It is the case of the petitioner that he is the owner of the proprietor of



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the Brick Kiln being operated in the name and style of PSM Chamber Bricks, which is situated at S.F.No.482/1A, 482/2 Pannimadai Village, Coimbatore North having an extent of 0.48.00 hectares. The Brick Kiln is situated in the petitioner's private patta land and his father obtained the license and registration certificate to run the brick kiln in the year 2003 from the Department of Geology and Mining.

5. Such being the situation, the first respondent, without giving any prior notice, closed down the petitioner's Brick Kiln, vide order dated 17.03.2021. The petitioner came to know that there were two writ petitions in W.P.no.27356 and 28475 of 2019 pending before this Court, filed by one Rajendran to close down the illegal Brick Kilns. This Court, vide order dated 10.02.2021 passed an interim order directing the respondents to close down the illegally functioning Brick Kilns. Pursuant to which, the petitioners Brick Kiln was closed by the first respondent. In this regard, the petitioner made a representation to the respondents 1 & 2 on 07.09.2021 for granting consent to operate the Brick Kiln and the same was not considered. Therefore, the petitioner herein has filed a writ petition before this Court in W.P.No.911 of 2022 to consider the petitioner's representation. After hearing the arguments of the counsel on either side, this Court, disposed of the writ petition, vide order



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dated 27.01.2022, directing the respondents to consider the petitioners representation and dispose of the same within a period of twelve weeks from the date of receipt of a copy of this order. Pursuant to which, the first respondent has rejected the petitioner's representation vide order dated 25.10.2022. Challenging the said order dated 25.10.2022, the petitioner has filed a writ petition in W.P.No.1076 of 2023.

6. During pendency of the writ petitioner in W.P.No.1076 of 2023, the petitioner has filed another writ petition in W.P.No.1078 of 2023 seeking a direction to the second respondent to grant consent to the petitioner, without insisting on the license to quarry brick earth from the petitioner.

7. When the matters was taken up for hearing today, the learned counsel for the petitioner submitted that during pendency of these writ petitions, the Commissioner, Department of Geology and Mining, Guindy, Chennai, has passed a general order dated 29.12.2022 to permit the Brick Kiln owners to take soil from the permitted lands with certain conditions. The learned counsel therefore submitted that this Court, without going into the merits of the case, may permit the petitioner to make a fresh representation in terms of the order dated 29.12.2022 before the appropriate authorities to obtain



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permission to operate the Brick Kiln.

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8. Considering the facts and circumstances of the case and in view of the limited relief sought for by the petitioner, this Court, without going into the merits of the case and without inferring with the impugned order, permit the petitioner to make a fresh representation before the competent authority along with necessary documents, within a period of two weeks from the date of receipt of a copy of this order. Upon receipt of such representation, the concerned officer shall consider the same and pass appropriate orders in terms of the common order dated 29.12.2022 passed by the Commissioner, Department of Geology and Mining, Guindy, Chennai, within a period of four weeks, thereafter.

9. With the above directions, W.P.No.1076 of 2023 is disposed of. In view of the earlier order dated 07.09.2021 in W.P.No.911 of 2022, no further order is required in this writ petition. Accordingly, W.P.No.1078 of 2023 is dismissed as infructuous. No costs.

24.04.2023

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M. DHANDAPANI, J

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To

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