

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.08.2023

CORAM

**THE HON'BLE MR.JUSTICE G.R.SWAMINATHAN
and
THE HON'BLE MR.JUSTICE B.PUGALENDHI**

W.P(MD)No.6407 of 2023

and

W.M.P(MD)Nos.6065, 6067 & 6068 of 2023

Thonukaalkulam Neerinaipayanpaduthuvor
Sangam,
Rep.by its President,
S.Karuthapandian S/o.Sangaiya,
South Street, Irumankulam,
Vadakkupudhur,
Sankarankovil,
Tenkasi District.

... Petitioner

Vs.

- 1.The District Collector,
Tenkasi District, Tenkasi.
- 2.The Assistant Director,
Geology and Mining,
Tenkasi District, Tenkasi.
- 3.State Level Environment,
Impact Assessment Authority,
3rd Floor, Panagal Maaligai,
No.1, Jennis Road, Saidapet,
Chennai – 600 015.
- 4.The Revenue Divisional Officer,
T.V.Salai, Sankarankovil,
Tenkasi District.

5.Premkumar

6.Rajasekar

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order in RC.No. M1/36678/2017 dated 07.09.2020 on the file of the second respondent and quash the same as illegal and consequently direct the first respondent to take necessary action against the 5th and 6th respondents on basis of the petitioner's petition dated 09.11.2022.

For Petitioner : Mr.T.Lajapathi Roy, Senior Counsel

For Respondents : Mr.R.Baskaran
Additional Advocate General
Assisted by Mr.K.Balasubramani
Special Government Pleader
for R.1, R.2 & R.4

Mr.N.Dilipkumar for R.3

Mr.V.Raghavachari, Senior Counsel
for Mr.S.Ramesh for R.5 & R.6

ORDER

Heard the learned Senior Counsel on either side.

2. The writ petitioner is a registered Water Users Association. They challenge the proceedings dated 07.09.2020 issued by the Assistant Director of Geology and Mining, Tenkasi granting quarry lease in favour of the fifth respondent in respect of the petition-mentioned survey numbers. It is not in dispute that the quarry lease is in respect of patta lands.

3. The ground of attack is two fold : a) the existence of a channel (Odai) on the southern side of the quarry area has been suppressed and b) the quarry operations affect the natural flow of water into the Odai.

4. It is true that there has been a misdescription of the boundaries. This has been strongly highlighted in Paragraph 17 of the affidavit filed in support of this writ petition. That there has been a misdescription is conceded in Paragraph 5 of the counter affidavit filed by the District Collector, Tenkasi District. It is undertaken that the mistake in the village accounts as well as FMB will be rectified. Be that as it may, the impugned order dated 07.09.2020 has taken into account the actual topographical features. It notes that a Odai is passing on the southern side of the lease applied area. Rule 19(2)(c)

(iv) of the Tamil Nadu Minor Mineral Concession Rules, 1959 stipulates that a safety distance of ten meters from a stream course shall be left and maintained. Considering the topography of the area, we called upon the leaseholder to file an affidavit which will address the concerns expressed by the villagers. In the undertaking affidavit, the fifth respondent had stated that he would maintain the safety distance of 50 meters from the outer toe of the bank of the Odai. From the status report filed by the officials, it is seen that the quarry operator has completely fenced the quarry area on the side facing the Odai. The learned Additional Advocate General on instructions confirms that the safety distance of 50 meters is being maintained. Taking note of the fact that water flows from the nearby hills into the Odai, the fifth respondent has given a further undertaking that on account of the quarrying operations, the natural water flow into and in the Odai will not be impeded in any manner. The undertaking given by the fifth respondent is placed on record.

5. We direct the officials to ensure that this undertaking is honoured in letter and spirit. In the event of there being any breach of this undertaking, the officials shall take prompt action in accordance with law.

6. It has not been shown that the process of granting quarry license in favour of the fifth respondent has been otherwise vitiated. Since no statutory violation has been brought to our notice, we decline to quash the impugned proceedings.

7. This writ petition is disposed of accordingly. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

[G.R.S., J.] & [B.P., J.]
09.08.2023

NCC : Yes / No
Internet : Yes / No
Index : Yes / No
Mga/Skm

To

- 1.The District Collector, Tenkasi District, Tenkasi.
- 2.The Assistant Director, Geology and Mining, Tenkasi District, Tenkasi.
- 3.State Level Environment, Impact Assessment Authority,
3rd Floor, Panagal Maaligai, No.1, Jennis Road, Saidapet, Chennai – 600 015.
- 4.The Revenue Divisional Officer, T.V.Salai, Sankarankovil, Tenkasi District.

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