



W.P.(MD) Nos.10242, 9905, 10103 & 10106 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.06.2023

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

W.P.(MD) Nos.10242, 9905, 10103 and 10106 of 2020

and

W.M.P.(MD) Nos.9132, 9135, 8867, 8868,
8992, 8998, 8993 and 8996 of 2020

and

W.M.P.(MD) Nos.9696, 9698, 9699 and 9700 of 2021

Tvl.Stanco Traders,
Rep., by its Partner,
Mr.Yennarkey R.Rajaratnam,
No.1/3, Thiruthangal Road,
Sivakasi Taluk,
Virudhunagar District.

.. Petitioner
in all W.Ps

Vs.

- 1.The State of Tamil Nadu,
Rep., by its Secretary to Government,
Industries (MMB 2) Department,
Fort St. George, Chennai-600 009.
- 2.The Director,
Geology and Mining Department,
Guindy, Chennai-600 032.
- 3.The District Collector,
Virudhunagar District.



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4. The Deputy Director,
Geology and Mining Department,
Virudhunagar.

.. Respondents
in all W.Ps.

Prayer in W.P.(MD) No.10242 of 2020: Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus calling for the records relating to the order dated 05.08.2020 of the third respondent in Na.Ka.K.VI/564/2018 and quash the same and direct respondents 2 to 5 to consider and grant approval on the application of the petitioner for the scheme of Mining for the period 2016 to 2017 to 2020 to 2021 in respect of the lands of the petitioner of an extent of 1.93.0 hectares in Survey Nos. 1320/1A, 1320/1B1, 1320/1B2, 1322/1A, 1322/1C, 1322/1B, 1325/3A, 1325/3B, 1325/2B4, 1325/2B5 and 1325/2B6 of Thiruthangal Village, Sivakasi Taluk, Virudhunagar District.

Prayer in W.P.(MD) No.9905 of 2020: Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus calling for the records relating to the order dated 05.08.2020 of the third respondent in Na.Ka.K.VI/563/2019 and quash the same and direct respondents 2 to 5 to consider and grant approval on the application of the petitioner for the scheme of Mining for the period 2014-2015 to 2019-2020 in respect of the lands of the petitioner of an extent of 1.21.5 hectares in Survey Nos.1323/1A and 1302/2 of Thiruthangal Village, Sivakasi Taluk, Virudhunagar District.



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Prayer in W.P.(MD) No.10103 of 2020: Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus calling for the records relating to the order dated 05.08.2020 of the third respondent in Na.Ka.K.VI/563/2019 and quash the same and direct respondents 2 to 4 to consider and grant approval on the application of the petitioner for the scheme of Mining for the period 2018-2019 to 2022-2023 in respect of the lands of the petitioner of an extent of 3.29.0 hectares in Survey Nos.1325/5A1, 1325/5A2, 1325/5A3, 1325/5A4, 1325/5b1, 1325/4B, 1325/5B2, 1325/5A6, 1325/5A5, 1323/1B1, 1323/1B1, 1323/1B2 and 1320/2A of Thiruthangal Village, Sivakasi Taluk, Virudhunagar District.

Prayer in W.P.(MD) No.10106 of 2020: Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus calling for the records relating to the order dated 05.08.2020 of the third respondent in Na.Ka.K.VI/138/2017 and quash the same and direct respondents 2 to 4 to consider and grant approval on the application of the petitioner for the scheme of Mining for the period 2018-2019 to 2022-2023 in respect of the lands of the petitioner of an extent of 4.41.0 hectares in Survey Nos.1332/1, 1332/2A, 1332/2B, 1324/1, 1325/1, 1327/2A, 1327/2B1 and 1327/2B2 of Thiruthangal Village, Sivakasi Taluk, Virudhunagar District.



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In all W.Ps.

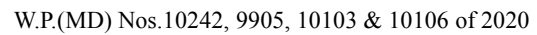
For Petitioner : Mr.T.Lajapathi Roy
Senior Counsel
assisted by
Mr.P.Athimoolapandian

For Respondents : Mr.K.S.Selvaganesan
Additional Government Pleader

COMMON ORDER

These writ petitions are filed to quash the orders of the third respondent dated 05.08.2020 and direct respondents 2 to 4 to consider and grant approval on the applications of the petitioner for the scheme of Mining for the period 2016 to 2017 to 2020 to 2021, 2014-2015 to 2019-2020, 2018-2019 to 2022-2023 and 2018-2019 to 2022-2023 in respect of the petition mentioned lands in Thiruthangal Village, Sivakasi Taluk, Virudhunagar District.

2. The common contention in all the writ petitions is that the petitioner is the owner of the lands in which quarrying operations were



4. It is the case of the petitioner that although the permission to quarry was given for a period of 30 years and the Mining Plan was subject to renewal every five years, when it came to the extension for the period mentioned above, the second respondent had demanded



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Environmental Clearance, which was also provided. However, the third respondent appears to have issued the impugned notices stating that the petitioner has transported granite over and above the permitted quantities as well as the quantity permissible under the Environmental Clearance and had transported the same without this clearance for the period mentioned above. He also imposed a penalty on the petitioner towards cost of the mineral over and above the permissible quantity. It is these orders that are subject matter of challenge before this Court.

5. The challenge is mainly on the ground that the third respondent had not followed the principles of natural justice while issuing notices to the petitioner and that the third respondent had passed orders without hearing the petitioner and consequently, the petitioner has submitted their second Mining Plan for an enhanced quantity and that the petitioner has been paying the requisite seniorage fee and charges etc., for the amounts quarried by them. The petitioner would submit that had they been afforded a personal hearing, they would have explained the same to the third respondent.



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6. When the matter had come up on 24.03.2023, learned counsel for the respondents had submitted that the lease period itself had come to an end and therefore, nothing survives for consideration. However, when the matter was subsequently listed, it was informed that the lease was originally for a period of 30 years with periodic extensions. The respondents were also directed to produce the files to show service of notice on the petitioner, since the main contention of the petitioner is that they have not received notice from the third respondent.

7. Today when the matter was taken up, learned counsel for the respondent would fairly concede based on records that no notice was issued to the petitioner. Therefore, the orders passed are violative of the principles of natural justice and have to be set aside. Accordingly, they are set aside. The third respondent shall consider afresh the request for approval/extension giving an opportunity of a hearing to the petitioner.

8. As regards the second limb of the relief, that is, for grant of approval, the same shall be granted subject to the petitioner obtaining



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clearance under the amended rules. The same shall be granted taking into consideration the amended rules. The said exercise of granting approval shall be completed within a period of eight weeks from the date on which the petitioner submits the clearance.

9. In the result, all the Writ Petitions are allowed. No costs. Consequently, connected miscellaneous petitions are closed.

06.06.2023

NCC : Yes/No
Index : Yes/No
Internet : Yes

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To

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The State of Tamil Nadu,
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- 2.The Director,
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- 4.The Deputy Director,
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Virudhunagar.



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P.T.ASHA, J.

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