



WP(MD)No.2533 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 07.06.2023

CORAM:

THE HONOURABLE MR.JUSTICE **B.PUGALENDHI**

WP(MD)No.2533 of 2019
and
WMP(MD)No.1936 of 2019

R.Moorthy

: Petitioner

Vs.

1.The District Collector,
Ramanathapuram District.

2.The Sub Collector,
Paramakudi Taluk,
Ramanathapuram District.

3.The Assistant Director,
Geology and Mining,
Ramanathapuram District.

4.The Tahsildar,
Kamudi Taluk,
Ramanathapuram District.

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a Writ of Certiorari calling for the records relating to the order passed by the second respondent in Na.Ka.B2/4245/2018, dated 29.01.2019 and quash the same.



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For Petitioner : Mr.R.Suriya Narayanan

For Respondents : Mr.M.Sarangan,
Addl. Government Pleader

ORDER

The petitioner is running a brick-kiln in Achankulam Village in the name “Suganya Chambers” and the second respondent / Sub Collector, Paramakudi Taluk, by the order impugned dated 29.01.2019, has suspended the license of Suganya Chambers temporarily and also recommended to the District Collector, Ramanathapuram, to take appropriate action as against the petitioner. Aggrieved over the same, the petitioner has moved this writ petition.

2.Learned Counsel for the petitioner submitted that the second respondent has no jurisdiction to pass the impugned order suspending the license for brick-kiln and there is also violation of principles of natural justice. The second respondent has suspended the license of this petitioner stating that the petitioner has stored more and above the permitted quantity of soil in the chambers, recommended for action by the District Collector and suspended the operation of the brick-kiln, without affording an opportunity of hearing to the petitioner.



3.He further submitted that there is no restriction in the license with regard to the quantity of soil which the petitioner can store in the brick-kiln. He has also relied upon the following decisions in support of his case:-

i.***D.Raja v. District Collector, Tiruvannamalai***, reported in ***2011 (1) CWC 861***; and

ii.***S.S.Enterprises and Another v. District Collector, Erode***, reported in ***2011 (1) CWC 304***.

4.Learned Additional Government Pleader, by relying upon the counter affidavit filed by the second respondent, submitted that on receipt of complaints from the villagers of Seyyamangalam Village, Kamuthi Taluk that the petitioner has been illegally transporting sand from Kamuthi and Mudukulathur Taluks, the second respondent / Sub Collector has conducted an inspection in the petitioner's chambers on 24.01.2019 and found that the petitioner has stored 38,666 units of soil, which is more and above the permitted quantity.

5.According to the learned Additional Government Pleader, the first respondent / District Collector has granted quarry permit to the petitioner vide ROC.No.1659/G&M.1/2017 dated 19.03.2018, as per Rule 19(1) & 20 of the



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Tamil Nadu Minor Mineral Concession Rules, for a period of one year from 19.02.2018 to 18.03.2019 to quarry savudu soil to an extent of 10,000 units from 3 hectares of dry land and upto one metre depth in that land. However, the petitioner has violated this condition and has stored around 38,666 units of soil in his chambers.

6.He further submitted that for the illegal quarry conducted by the petitioner in S.Nos.341/7, 341/9B, already action was contemplated as against him in the year 2018, based on the inspection report of the Tahsildar dated 26.04.2018 and the second respondent has imposed a penalty of Rs.79,13,080/-, vide proceedings in Na.Ka.No.B2/4666/2018, dated 18.12.2018. This proceedings, according to the learned Additional Government Pleader, was not challenged by the petitioner. Moreover, the petitioner's wife has also indulged in illegal quarrying activities and her vehicles bearing registration nos.TN59AV1022 (Tipper), TN99AA0461 (Tipper), TN59AR1915 (JCB) and TN60P9153 were seized by the authorities and four criminal cases are also pending.

7.This Court paid it's anxious consideration to the rival submissions made by the respective Counsel and also perused the available materials.



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8.By the order impugned in this writ petition, the Sub Collector has suspended the license of Suganya Chambers, which belong to this petitioner. The second respondent / Sub Collector is not the authority who granted the license to the petitioner and he is not the authority to cancel the same. The second respondent has initiated this action based on the inspection conducted in the petitioner's chambers and that huge quantity of sand over and above the permitted level was found in the chambers.

9.It appears that for the alleged illegal quarry conducted by this petitioner, the second respondent has already initiated action under Rule 36 of the Tamil Nadu Minor Mineral Concession Rules and also imposed a penalty as against the petitioner and also recommended for cancelling the license. When the statute does not prescribe any authority to take action as against the grant of license of the brick-kiln on the second respondent, the interim order of suspension passed by the second respondent cannot be sustained, as it is without any jurisdiction.

10.Therefore, this Court is inclined to interfere with the order impugned. Accordingly, the impugned order dated 29.01.2019 passed by the second



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respondent suspending the license of the petitioner's chambers is set aside.

However, the first respondent / District Collector shall proceed with the recommendations made by the second respondent, conduct an enquiry by providing due opportunity of hearing to the petitioner and thereafter, pass appropriate orders in accordance with law, within a reasonable time.

The writ petition stands allowed in the above terms. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Index : Yes / No

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NCC : Yes / No

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B.PUGALENDHI, J.

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