



WP(MD)No.20183 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 26.09.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

WP(MD)No.20183 of 2022
and
WMP(MD)No.14680 of 2022

T.N.Rajkumaran

... Petitioner

v.

- 1.The District Collector,
Nagercoil,
Kanyakumari District,
Kanyakumari.
- 2.The Assistant Director,
Geology and Mining,
Nagercoil, Kanyakumari District.
- 3.The Principal Chief Conservator of Forests
and Head of Forest Force,
No.1, Jeenis Road,
Panagal Building, Saidapet,
Chennai.
- 4.Hill Area Conservation Authority,
Rep. by its Chairman and Secretary to Government of Tamil Nadu,
Housing and Urban Development Department,
Fort St.George, Chennai – 600 009.



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5. The District Forest Officer,
Kanyakumari District, Kanyakumari.

... Respondents

[R.3 to R.5 impleaded vide order dated 10.03.2023]

PRAYER: Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned order passed by the first respondent in R.C.No. 229/G&M/2017 date ..04.2018, quash the same and consequently, directing the respondents to renew the lease of the petitioner for conducting the rough stone quarry operation in the petitioner's patta land in S.F.Nos.622/3(P), 622/4 & 622/5 to an extent of 0.90.0 Hectares in Mancode Village, Vilavancode Taluk, Kanyakumari District, on the basis of the Environmental Clearance issued to the petitioner on 27.10.2015 and Hill Area Conservation Authority Clearance issued to the petitioner on 20.01.2012.

For Petitioner : Mr.K.P.Krishnadoss

For Respondents : Mr.G.V.Vairam Santhosh
Additional Government Pleader



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ORDER

The petitioner is a quarry operator. He was granted with a license to conduct a rough stone quarry in his patta land in S.F.Nos.622/3(P), 622/4 & 622/5 to an extent of 0.90.0 Hectares in Mancode Village, Vilavancode Taluk, Kanyakumari District, in the year 2012. He has also conducted the quarry for a period of five years and has submitted an application for renewal of license for a further period of five years. The respondents insisted the petitioner to get Environmental Clearance and Hill Area Conservation Authority (HACA) Clearance.

2. Therefore, the petitioner has filed a writ petition before this Court in WP(MD)No.19738 of 2017 for a mandamus directing the respondents to renew the lease for conducting the rough stone quarry operations, by considering the previous Environmental Clearance and previous HACA Clearance issued in favour of the petitioner in the years 2015 and 2012, respectively. This Court, by order dated 16.11.2017, disposed of the said writ petition with a direction to the respondents to take a decision on the



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application of the petitioner dated 04.10.2017 in respect of renewal of license by considering the previous certificates issued by the competent authorities and also the order passed to a similarly placed person dated 08.12.2015, within a stipulated time limit. In pursuance to the same, the District Collector has passed an order dated 11.04.2018, which is impugned in this writ petition.

3.The impugned order has been passed based on the clarification of the Member Secretary, Hill Area Conservation Authority, dated 19.01.2018. In the said proceedings, the Member Secretary has clarified that the clearance of HACA is valid only for the specified period of lease applied for and applicable only to such applicant and that in the end of the lease period, every applicant has to apply afresh to HACA for renewal, as per rules.

4.In view of this clarification issued by the Member Secretary of Hill Area Conservation Authority, the impugned order has been passed holding that the HACA Clearance is mandatory for each and every application for grant of license for mining and that the lessee has to obtain a fresh HACA Clearance for every quarry lease proposal. The petitioner was also directed to



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obtain a fresh HACA Clearance and fresh Environmental Clearance for the quarry lease application for quarrying and transporting the rough stone from his patta land.

5.Though sufficient opportunities were provided, neither the petitioner nor the respondents are ready with the case. The petitioner is represented through different Counsel and even today, a representation has been made that the present Counsel has entered appearance on change of vakalath. Learned Additional Government Pleader has also expressed that the Officer has not turned up to provide instructions. Therefore, this Court perused the materials placed on record and proceeded with the writ petition.

6.The petitioner is having patta lands in S.F.Nos.622/3(P), 622/4 & 622/5 of Mancode Village, Vilavancode Taluk, Kanyakumari District, which is a Hill village notified by the Government vide G.O.Ms.No.49, Housing and Urban Development Department, dated 24.03.2003. The petitioner has already obtained necessary Environmental Clearance in the year 2015 and HACA Clearance in the year 2012.



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7. Now, the petitioner is intending to renew the quarry license and requested the District Collector to renew the license, based on the Environmental Clearance and HACA Clearance already granted for his quarry site. The first respondent rejected the same based on the clarification issued by the Member Secretary of HACA.

8. Hill Area Conservation Authority is the competent authority to consider the grant of any permission for conducting quarry operation in any Hill area. The Member Secretary of HACA has clarified that HACA Clearance is mandatory for each and every application for grant of mining lease, irrespective of the fact that the proposal was cleared earlier and that the petitioner has to obtain a fresh HACA Clearance for every quarry lease proposal.

9. The Ministry of Environment and Forest, by its notification dated 13.03.2013, has clarified that no fresh Environmental Clearance shall be required for a mining project or activity at the time of renewal of mining



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lease, which has already obtained Environmental Clearance. However, the Member Secretary of HACA has clarified that a clearance is required for renewal also.

10. In view of the specific stand taken by the competent authority, ie., the Member Secretary of HACA, this Court is not inclined to pass any orders in favour of the petitioner, when there is no other material contrary to the same. The petitioner can work out his remedy before the Hill Area Conservation Authority for necessary clearance for the renewal of license. In the event if any such application is filed for HACA Clearance, the same shall be considered within a reasonable period of three months from the date of receipt of such application.

Accordingly, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Index : Yes / No
NCC : Yes / No
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B.PUGALENDHI, J.

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