



WP (MD) No.21350 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 25.09.2023

WEB COPY

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

**WP(MD)No.21350 of 2023
and
WMP(MD)No.17757 of 2023**

M.Ramasamy

...Petitioner

Vs.

- 1.The District Collector,
Office of the District Collector,
Karur District.
- 2.The Revenue Divisional Officer,
Sub Collector,
N.Pradhaksanam Road,
Madavilagam,
Karur.
- 3.The Assistant Director,
Geology and Mining Department,
Karur.
- 4.The Tahsildar,
Pugalur,
Karur District.
- 5.TSP.Kannappan

...Respondents



WP (MD) No. 21350 of 2023

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorari to call for the records relating to the impugned order passed by the 2nd respondent in Na.Ka.No.A1/4972/2023, dated 12.07.2023 is illegal and quash the same.

For Petitioner : Mr.Ajmal Khan,
Senior Counsel
for Mr.J.Senthil Kumaraiah
For Respondent : Mr.Veera Kathiravan,
Nos.1 to 4 Additional Advocate General
assisted by
Mr.M.Sarangan,
Additional Government Pleader

ORDER

This petitioner has been imposed with a penalty to the tune of Rs.15.5 crores by order dated 12.07.2023 that this petitioner had quarried 3,16,280 cubic metres of rough stone and 86,620 cubic metres of gravel stone in excess and without paying the necessary seigniorage fee. This petitioner was originally granted with quarry lease for quarrying rough stone quarry in the year 2011 upto the year 2016 and it was extended upto the year 2021. The petitioner then sold his patta lands where the quarry permit was granted to him, to the 5th respondent on 25.10.2021 and 01.11.2021 by way of two registered sale deeds. He also made a request to cancel the lease agreement granted in his favour and



WP (MD) No. 21350 of 2023

the same was duly considered by the District Collector that there is no violation and the lease was canceled on 24.12.2021. After the cancellation of the petitioner's quarry lease the 2nd respondent has now issued the impugned order that this petitioner has conducted illegal quarrying when the petitioner has also sold the leasehold area to the 5th respondent in the month of November 2021 itself.

2.The learned Senior Counsel attacked the impugned order that there is a violation of the principles of natural justice. A penalty of Rs.15,55,66,691/- has been imposed on the petitioner, that too after the lease period was over and after the cancellation of the lease and also without issuing any show cause notice to this petitioner. By referring the Judgment of the Hon'ble Supreme Court in ***Siemens Limited Vs State of Maharastra and Others*** reported in ***(2006) 12 SCC 33*** and the orders of this Court in ***G.Selvaraj and another Vs The District Collector, Villupuram*** reported in ***(2023) 6 MLJ 465***, the learned Senior Counsel submits that though a notice is not contemplated under Rule 36-A of the Tamil Nadu Minor Mineral Concession Rules, the Hon'ble Supreme Court as well as this Court has reiterated the necessity for enquiry / opportunity before passing any order under Rule 36-A of the Tamil Nadu



WP (MD) No. 21350 of 2023

Minor Mineral Concession Rules, 1959. In this case apparently the impugned order has been passed without any notice and without providing any opportunity of hearing to this petitioner. The learned Senior Counsel has also pointed out that the impugned order has been issued on political reasons since the petitioner happens to be a father of a former minister

3. This Court has also perused the impugned order and there is no reference of issuance of show cause to the petitioner before passing this impugned order. Therefore, this Court *prima facie* was satisfied that the basic principles of the natural justice have been violated, was inclined to entertain this writ petition and also inclined to grant an order of interim stay of the impugned order. The learned Additional Advocate General has taken notice on behalf of respondents 1 to 4 at the time of admission itself and fairly conceded that the 2nd respondent has not provided any opportunity of hearing to this petitioner before passing of the impugned order. However requested to allow the writ petition instead of keeping this writ petition pending by granting an order of interim stay with a liberty to the second respondent to conduct fresh enquiry by providing opportunity of hearing to this petitioner.



WP (MD) No.21350 of 2023

4.This Court considered the rival submissions made on either side and perused the materials placed on record.

5.The petitioner is the father of a former minister and he has been granted with lease for quarrying rough stone in S.Nos.127/3C, 127/4C, 127/5, 127/6, 127/9, 130/A and 130 at Athipalayam Village, Pugalur Taluk, Karur District, for a period of five years commencing from 16.02.2011 to 28.11.2016. The lease was also extended from 29.11.2016 to 28.11.2021. Just one month prior to the expiry of the lease period, the petitioner has sold the leasehold areas in S.Nos.127/3C, 127/4C, 127/5, 127/6, 127/9, 130/A and 130 at Athipalayam Village, Pugalur Taluk, Karur District to the 5th respondent by way of two sale deeds dated 25.10.2021 and 01.11.2021. Consequently, the petitioner has also made a request to cancel the lease agreement of the quarry in the subject lands by a representation dated 29.11.2021. The sanction for cancellation of lease agreement was given by the 1st Respondent by order dated 11.01.2022 and on 13.01.2022, the lease agreement was also cancelled through a cancellation deed by the District Collector. The District Collector before cancelling the lease has also ascertained whether the petitioner has committed any violation in the said quarry and having any dues to the



WP (MD) No. 21350 of 2023

government. The Tahsildar, Pugalur visited the quarry and submitted a report dated 24.02.2021 that there is no violation and accordingly the Revenue Divisional Officer recommended the District Collector to cancel the lease deed.

6. While so, after a period of one and half years after cancelling the quarry lease granted in favour the petitioner, the 2nd respondent has now issued the impugned order that this petitioner has conducted quarry illegally without paying the seigniorage fee for minerals quarried to an extent of 31,628 cubic metres of rough stone and 86,620 cubic metres of gravel, passed an order imposing a penalty of Rs.15,55,66,691/- towards the cost of the mineral and the seigniorage fee for the minerals illegally quarried by the petitioner.

7. This impugned order has been passed under Section 36A of the Tamil Nadu Minor Mineral Concession Rules, 1959. Whenever any person raises mineral without the authority and without paying the required seigniorage fee, the authorities concerned are entitled to recover the cost of the mineral along with the seigniorage fee for the minerals illegally quarried. Though the lease was granted by the District Collector,



WP (MD) No. 21350 of 2023

the competent authority with regard to the rough stone quarries is the Revenue Divisional Officer concerned. Therefore in this case the 2nd respondent, the Revenue Divisional Officer has passed this impugned order as per Rule 36 A of the Tamil Nadu Minor Mineral Concession Rules, 1959. The petitioner was granted lease for conducting quarry under Rule 8 by the District Collector, the lease which was initially granted for a period of 5 years was also extended for a further period till 2021. The petitioner appears to have sold this leasehold area by way of two registered sale documents on 25.10.2021 and on 01.11.2021 in favour of the 5th respondent, just one month prior to the expiry of the lease period. He has also sold the machineries to the 5th respondent. The 5th respondent, who has purchased this quarry site from the petitioner has not made any request for transferring the lease in his favour for the remaining one month period, for which the lease was in force. Even after the lease period, the 5th respondent has not made any request for grant of quarry lease in the said lands purchased by him from the petitioner, where the quarry permit was already granted twice. It is not known for what purpose the 5th respondent has purchased this land, where quarry was conducted for a period of 10 years.



WP (MD) No. 21350 of 2023

8. It has to be noted that the petitioner himself has lodged a complaint as against the 5th respondent on 11.10.2022 that the 5th respondent is conducting illegal quarry in the lands sold by him to the 5th respondent. No action was taken on the petitioner's representation dated 11.10.2022. In the meantime, the Vigilance and Anticorruption Department has conducted enquiry as against this petitioner's son, a former minister. At the time a request was made from the Vigilance and Anticorruption Department with regard to this quarry conducted by this petitioner. Based on this request, the Tahsildar, Pugalur has inspected the quarry site and submitted a report on 26.05.2022 that to a large extent, illegal quarry was conducted. Accordingly the Revenue Divisional Officer has proceeded further under Rule 36A of the Rules and has now imposed the penalty by this impugned order.

9. As per the impugned order the petitioner has illegally quarried 3,16,280 cubic metres of rough stone and 86,620 cubic metres of gravel stone from his leasehold area without paying the seigniorage fee and accordingly he caused the loss to the government ex-chequere. The loss is also valued as Rs.15,55,66,691/- the costs of the mineral including the seigniorage fee. This penalty has been imposed on the petitioner though



WP (MD) No. 21350 of 2023

the petitioner has already sold the quarry site to the 5th respondent.

Further, the 2nd respondent has passed this impugned order without issuing any notice to the petitioner and without providing any opportunity to this petitioner.

10. Considering the other interesting factors in this case, this Court is of the view that this impugned order itself has been passed in order to save their skin, pursuant to the enquiry contemplated by the Vigilance and Anti Corruption Department and also with an aim to help the petitioner to get the relief from this Court.

11. The interesting factors noticed by this Court in this case are summarised as follows:

i. The Thasildar, Pugalur / 4th respondent has inspected the quarry site in the year 2022 and submitted a report on 26.05.2022 that the petitioner has conducted illegal quarry to a huge extent. However, the very same officer has conducted an inspection on the quarry site on the directions of the Revenue Divisional Officer in the month of December 2021 and submitted a report to the Revenue Divisional Officer that there



WP (MD) No. 21350 of 2023

was no quarry operation after the lease period and the lease granted to this petitioner can be cancelled. Based on this recommendation, the lease granted in favour of this petitioner was cancelled.

ii. The petitioner has obtained quarry lease, conducted rough stone quarry in his patta lands and sold his patta lands in favour of the 5th respondent. As per the terms and conditions, after the quarry lease period, the lessee is expected to close the quarry. In this case, the quarry land has been sold in the month of October 2021, when the lease was in existing till 22.11.2021. The 5th respondent has not only purchased this land, but has also purchased the machineries from this petitioner. But the machineries were sold on 29.01.2022, three months after the sale of the lands.

12. The 5th respondent, who purchased this land even when the quarry lease was in force, has not taken any steps to transfer the lease in his favour and also did not make any request for extending the quarry lease. The petitioner has also submitted a representation dated 11.10.2022 that



WP (MD) No. 21350 of 2023

the 5th respondent has been conducting quarry in the lands sold by him.

This representation appears to have been given after the initiation of enquiry by the Vigilance and Anti Corruption Department. The Tahsildar has also submitted a report on 26.05.2022 that there are violations in the quarry petitioner's quarry.

13.If the Vigilance and Anti Corruption Department has not initiated enquiry as against the petitioner's son, then this illegal quarry conducted in the petitioner's quarry would not have been unearthed. The extent of illegal quarrying in one rough stone quarry itself is to an extent of Rs.15,55,66,691/-. The government has granted permission for more than 1700 rough stone quarries in the State of Tamil Nadu. If the volume of the illegal quarry in one quarry site is to the extent of Rs.15,55,66,691/-, it is not known what would be the extent of illegal quarry in other quarries run in Tamil Nadu.

14.The minerals are the gift of the mother nature to the mankind. The rough stone quarries are mostly conducted by blasting the mountains, which play a vital role in monsoon. The mineral sand has been exploited sufficiently and therefore now the mountains are exploited for producing manufacture sand (m-sand).



WP (MD) No. 21350 of 2023

15. A separate Department has been established to regulate the

lease and for issuance of permits and to monitor the quarry operations.

The officials of the department of Geology and Mining are expected to monitor the quarry sites periodically once in six months and to ascertain whether the quarries are conducted as per the mining plan and the terms of the agreement. Several safety measures are required under the Act and Rules and there cannot be any quarry operations without any mining plan and environmental clearance. As per the mining plan, quarry operations has to be conducted in the specified places alone. The lessee is also expected to fix the boundaries for the quarry site. The department of Geology and Mining has also entered into an agreement with the Anna University to conduct survey in the quarry site once in six months by using drone technology of the Anna University at a cost of Rs.25 Crore vide G.O.Ms.No.87, Industries (MMD1) Department dated 21.04.2022. Apart from this drone technology, the department is also provided with the technology of Total Survey Station with surveyors for each district. If the survey was conducted periodically as expected, then this huge quantity of illegal quarry as projected in this case is not possible. In this case illegal quarrying of rough stone has been detected since the Vigilance and Anticorruption Department has conducted enquiry.



WP (MD) No. 21350 of 2023

Otherwise, the natural resources would be allowed to be exploited with the connivance of the officials concerned.

16. The Government has also constituted Task Forces at Taluk Level, District Level and State Level to monitor the illegal quarry activities. It is not known whether these task forces are functioning and if they are functioning as per the Government orders, then there cannot be any illegal transportation of the mineral to this extent as found in this case.

17. The Head of the Departments are also not interested in implementing the Government Order in GO.Ms.No.24 Personnel and Administrative Department dated 17.02.2020 by fixing responsibility and accountability on the officials concerned.

18. Admittedly in this case, no notice was issued to this petitioner before passing the impugned order. Therefore on the ground of violation of the principles of natural justice, the impugned order is liable to be set aside.



WP (MD) No. 21350 of 2023

19. Accordingly, the impugned order is set aside, however, with the following directions:

i. The District Collector concerned shall conduct survey in the petitioner's leasehold area with the assistance of the Survey Department and the Department of Natural Resource by using the drone technology and to find out the exact quantity of minerals quarried in the petitioner's quarry site and shall assign the same to a responsible Revenue Divisional Officer with integrity in the District to conduct further proceedings if any required.

(ii) In the event of conducting enquiry, due opportunity of hearing shall be provided to the petitioner as well as the 5th respondent and shall pass suitable orders as expeditiously as possible.

(iii) The District Collector and the Vigilance and Anticorruption Department shall conduct enquiry with regard to the manner in which the report dated 24.12.2021 was submitted by the Tahsildar, Pugalur.

(iv) The District Collector and The Vigilance and Anticorruption Department shall also find out the reasons for the passing of the



WP (MD) No. 21350 of 2023

impugned order by the 2nd respondent without providing opportunity of hearing to the petitioner and find out whether it was done intentionally by him.

20. With the same vigour shown in this case, the Secretary to the Government Natural Resources Department shall ensure that all the quarries in the State of Tamil Nadu are surveyed with drone technology as per G.O.Ms.No.87, Industries (MMD1) Department dated 21.04.2022 once in six months and the extent of quarrying has to be certified by the concerned officers namely the Assistant Director of Geology and Mining and the Surveyors in their reports. The accountability shall also to be fixed for the officers as per G.O.Ms.No.24 Personnel and Administrative Department dated 17.02.2020.

21. The authorities either knowingly or unknowingly are passing orders affecting the rights of the parties and imposing penalties without providing opportunity of hearing to the concerned persons. Around 50 % of the writ petitions are filed on this ground alone. The Courts are also insisting the importance of the principles of the natural justice. Even thereafter the authorities are passing orders by providing such



WP (MD) No. 21350 of 2023

grounds for the litigants to get the interim orders in their favour.

The remaining writ petitions are entertained by this Court for lack of sufficient reasons in the orders passed by the authorities. The reason is the soul of any order. Therefore, this Court expects Mr. Veera Kathiravan, the Additional Advocate General, to address this issue to the Chief Secretary to the Government of Tamil Nadu to issue necessary circulars insisting the importance of the principles of natural justice and the reasonings in the orders. So that most of the litigations can be avoided by the Government and ultimately a huge expenses can be saved by the Government. This Court also places its appreciation to the learned Additional Advocate General for his astute stand in this writ petition.

21. This writ petition is disposed of in the above terms. No costs. Consequently connected miscellaneous petition is closed.

25.09.2023

Internet: Yes / No

Index: Yes / No

NCC: Yes / No

DSK



WP (MD) No.21350 of 2023

To

- 1.The District Collector,
Office of the District Collector,
Karur District.
- 2.The Revenue Divisional Officer,
Sub Collector,
N.Pradhaksanam Road,
Madavilagam, Karur.
- 3.The Assistant Director,
Geology and Mining Department,
Karur.
- 4.The Tahsildar,
Pugalur, Karur District.

Copy to

- 1.The Chief Secretary,
Government of Tamil Nadu,
Chennai.
- 2.The Secretary to the Government,
The Natural Resource Department,
Chennai.
- 3.The Director,
The Natural Resource Department,
Chennai.
- 4.The Director,
Vigilance and Anti Corruption Department,
Chennai.



WEB COPY



WP (MD) No.21350 of 2023

B.PUGALENDHI, J.

dsk

ORDER MADE IN

WP(MD)No.21350 of 2023

25.09.2023