



WP(MD)Nos.22861, 22949 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 27.09.2023

CORAM:

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

WP(MD)Nos.22861, 22949 of 2023

and

WMP(MD)Nos.19107, 19166 of 2023

S.Ramaiah

: Petitioner in both WPs

Vs.

1.The District Collector,
Pudukottai District,
Pudukottai.

2.The Assistant Director,
Geology and Mining,
Collectorate,
Pudukottai District,
Pudukottai.

: Respondents in both WPs

COMMON PRAYER: Writ Petitions filed under Article 226 of the Constitution of India seeking issuance of a Writ of Certiorari calling for the records relating to the impugned show cause notice issued by the first respondent in Rc.Nos. 91-2/2021 (G&M) and 91-3/2021 (G&M), respectively, dated 11.09.2023 and quash the same.



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For Petitioner : Mr.B.Saravanan,
Senior Counsel
Assisted by
Mr.D.Kirubakaran

For Respondents : Mrs.D.Farjana Ghoushia,
Special Government Pleader

[In both WPs]

COMMON ORDER

These writ petitions are filed as against the notices issued by the first respondent / District Collector, Pudukottai, dated 11.09.2023, in and by which, the petitioner was directed to appear for enquiry on 15.09.2023. The petitioner was earlier issued with a notice on 30.08.2023, based on a report submitted by the Taluk Level Task Force that the petitioner has committed certain violations in the quarry operations. Thereafter, the present impugned notices came to be issued.

2.Learned Senior Counsel for the petitioner submitted that the impugned notices have been issued without conducting any survey and the first respondent has issued the impugned notices in a mechanical manner, based on the report submitted by the Taluk Level Task Force. In the event if any violation is noted, the Taluk Level Task Force ought to have issued a notice before enquiry and ought to



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have conducted the inspection in the presence of the petitioners and only thereafter, a decision could be taken. Therefore, he prayed for appropriate orders.

3.Learned Special Government Pleader for the respondents submitted that it is only a notice for enquiry and the petitioner can establish his case before the enquiry. The Taluk Level Task Force filed a report that there are certain violations in the quarry operations of the petitioner, based on which, a notice for enquiry dated 30.08.2023 was issued. Thereafter, the first respondent has issued the subsequent notices, which are impugned in these writ petitions.

4.This Court paid it's anxious consideration to the rival submissions made on either side and perused the available materials.

5.The petitioner has been granted with a rough stone quarry under Rule 8(8) of the Tamil Nadu Minor Mineral Concession Rules, 1959, in a Government Poromboke land in S.Nos.409 (Part -2) & 409 (Part – 3) to an extent of 0.72.0 Hectares and 0.70.0 Hectares at Thulaiyanoor Village, Thirumayam Taluk, Pudukottai District. The lease was initially granted on 14.11.2018 for a period of five years till 30.11.2023.



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6. One Kumaravelu has raised certain allegations as against this petitioner that he is conducting illegal quarrying and has also filed a writ petition before this Court in WP(MD)No.8421 of 2021. A Division Bench of this Court, by order dated 26.04.2021, directed the authorities concerned to conduct a survey on the quarry sites of this petitioner and to take appropriate action. This Court has also held that during the survey, the petitioner herein / tenth respondent in that writ petition as well as the President of Thulaiyanur Village Panchayat shall be present. The survey team was also directed to take photographs / videographs and to conduct the entire survey using latest equipment.

7. Based on this order dated 26.04.2021, it appears that the Taluk Level Task Force has conducted an inspection on 27.07.2023 and submitted a report along with a sketch. The District Collector has also issued a show cause notice dated 30.08.2023 to this petitioner that there are certain violations, which needs action under Rule 36(5)(h) of the Tamil Nadu Minor Mineral Concession Rules and has also called upon the petitioner to appear for enquiry on 07.09.2023. It appears that this petitioner has responded to this enquiry and thereafter, for the subsequent enquiry on 15.09.2023, the impugned show cause notice dated 11.09.2023 was



issued. This second show cause notice fixing the date of hearing as 15.09.2023 is now under challenge.

8.A mere show cause notice does not amount to an adverse order, which vitiates the rights of a party and therefore, the Courts, normally, restrain to interfere with show cause notices, unless it has been passed by an authority without jurisdiction. In this regard, the Hon'ble Supreme Court, in its decision in ***Union of India and another v. Kunisetty Satyanarayana***, decided on 22.11.2006, has held as follows:

“A mere charge sheet or show cause notice does not give rise to any cause of action, because it does not amount to an adverse order which affects the rights of any party unless the same has been issued by a person having no jurisdiction to do so. It is quite possible that after considering the reply to the show cause notice or after holding an enquiry, the authority concerned may drop the proceedings and / or hold that the charges are not established. It is well settled that a writ lies when some right of any party is infringed. A mere show cause notice or charge sheet does not infringe the right of any one. It is only when a final order imposing some punishment or otherwise adversely affecting a party is passed, then the said said party can be said to have any grievance.



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Writ jurisdiction is discretionary jurisdiction and hence, such discretion under Article 226 should not ordinarily be exercised by quashing a show cause notice or charge sheet.”

9.The case of the petitioner is that the District Collector has initiated the proceedings based on the report of the Taluk Level Task Force dated 27.07.2023 and that the Taluk Level Task Force has conducted the inspection in his absence. The Task Forces have been constituted vide G.O.Ms.No.135, Industries Department, dated 13.11.2009, pursuant to the orders of this Court in WP.No.9860 of 2008, dated 05.11.2009, to prevent illegal mining. The Task Forces are formed at Taluk Level, District Level and State Level with certain mandates.

10.The Taluk Level Task Force consists of the Tahsildar (Convenor), Inspector, Forest Officer, a representative from the Department of Geology & Mining, a representative from the Regional Transport Office, Village Administrative Officer, Sub-Inspector of Police, Assistant Engineer (PWD – WRO). The Taluk Level Task Force is empowered to make frequent surprise checks in the mining / quarrying field and on the vehicles transporting the minerals and to submit its report to the District Level Task Force.



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11.The District Level Task Force consists of the District Collector (Chairman), Superintendent of Police, District Forest Officer, District Revenue Officer, Regional Transport Officer, Revenue Divisional Officers, Deputy Superintendents of Police, Assistant Director (Panchayat), Assistant Director (Town Panchayat), Commissioners of Municipalities, District Level official from Tamil Nadu Pollution Control Board, Deputy Director (Mines) / Assistant Director (Mines) – Member Secretary / Convenor, Executive Engineer (PWD – WRO).

12.There is a mandate for the District Level Task Force to meet once in a month without fail to discuss the illegal quarrying / mining / transportation / damage caused to the environment and to submit a report to the State Level Task Force. The functions of the District Level Task Force is

i) to collect / review the information / cases / issues to the illegal mining / quarrying within their jurisdictions and;

ii) to monitor the functions of the Taluk Level Task Forces.

13.This impugned notice has been passed by the District Collector as the Chairman of the District Level Task Force and that too, based on the report of the



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Taluk Level Task Force. The Taluk Level Task Force, which is authorised to conduct surprise checks in any mining area, has conducted an inspection and has submitted an inspection report dated 27.07.2023 and based on this report, the show cause notice was issued on 30.08.2023. This inspection report of the Taluk Level Task Force was also enclosed along with the earlier show cause notice dated 30.08.2023, which this petitioner has not challenged and the petitioner has, in fact, participated in the enquiry. However, the petitioner proposed to challenge the subsequent notice issued on 11.09.2023. Therefore, this Court is not inclined to interfere with the impugned show cause notice.

14.Perusal of the record reveals that already a direction has been issued by this Court in the writ petition filed by Kumaravelu as against this petitioner's quarry sites in WP(MD)No.8421 of 2021, dated 26.04.2021. It is not known as to whether this order has been complied with or not. In any event, the licensing authority is expected to conduct a survey to identify the extent of quarry conducted by the petitioner and to ascertain whether the quarried materials have been duly accounted for. The Government has now introduced survey by drone technology and has issued G.O.Ms.No.87, Industries Department, dated 21.04.2022, directing the officials concerned to conduct survey with drone



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technology. In the event, if the licensing authority is intending to conduct any survey on the petitioner's quarry sites, the same shall be conducted in his presence, as directed by this Court in WP(MD)No.8421 of 2021. In the event, if any illegal quarry has been detected during such survey, then the authorities are expected to proceed further under Rule 36(5)(h) of the Tamil Nadu Minor Mineral Concession Rules.

15. In this case, since the impugned notices were issued by the Chairman of the District Level Task Force based on the report of the Taluk Level Task Force and considering the fact that it is only a show cause notice, this Court is not inclined to entertain these writ petitions.

Accordingly, both the writ petitions are dismissed. The petitioner shall appear before the first respondent and shall raise his objections, if any, during the enquiry. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

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

27.09.2023



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To

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Pudukottai.
- 2.The Assistant Director,
Geology and Mining,
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