



WP(MD)No.30038 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 18.12.2023

CORAM:

THE HONOURABLE MR.JUSTICE M.SUNDAR

and

THE HONOURABLE MR.JUSTICE R.SAKTHIVEL

W.P.(MD)No.30038 of 2023
and W.M.P.(MD)No.25923 of 2023
in W.P.(MD)No.30038 of 2023

S.P.J.Sundararajan

: Petitioner

Vs.

- 1.The Secretary to Government,
Government of Tamil Nadu,
Environment and Forests Department,
Fort St. George,
Chennai – 60 009.
- 2.The Member of Secretary,
Hill Area Conservation Authority,
Office of the Commissioner of Town
and Country Planning,
807, Anna Salai,
Chennai.
- 3.The Tamil Nadu Pollution Control Board,
76, Mount Salai,
Guindy, Chennai – 600 032.
- 4.The Member Secretary,
State Level Environment Impact



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Assessment Authority,
III Floor, Panagal Maligai,
No.1, Jeenis Road, Saidapet,
Chennai – 600 015.

- 5.The District Collector,
Thoothukudi District,
Thoothukudi.
- 6.The District Forest Officer,
Thoothukudi,
Thoothukudi.
- 7.The Assistant Director,
Department of Geology and Mining,
Collectorate,
Thoothukudi,
Thoothukudi District.
- 8.The Revenue Divisonal Officer,
Thoothukudi,
Thoothukudi District.
- 9.The Thasildar,
Thoothukudi Taluk,
Thoothukudi, Thoothukudi District.
- 10.S.P.S.Raja
- 11.M/s.Golden Blue Metals Private Limited,
Pandaravilai,
Eral Taluk, Thoothukudi District.

: Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, forbearing the respondents No.1 to 9 from granting any permission for Stone Quarry to and in favour of the respondent



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No.10 or in favour of respondent No.11 herein or in favour of any one claiming through them with regard to the Land Comprised in Survey No. 450, 451, 452, 453 (under patta Number 3424) of Kattalangulam Village, Thoothukudi Taluk, Thoothukudi District and to cancel the permission for stone quarry, it is was already been granted and pass such further or other orders.

For Petitioner : Mr.V.Kannan

For Respondents : Mr.P.Thilak Kumar,
Govt. Pleader for R1, R2 & R5 to R9
Ms.M.Sudharani for
Ms.Vijayakumari Natarajan,
Standing Counsel for R3
Mr.Y.Jagadeesh (Enrl.No.2264/11) for
Mr.N.Dilipkumar for R4

ORDER

[Order of the Court was made by **M.SUNDAR, J.**]

Captioned main 'Writ Petition' ('WP' for the sake of brevity) has been presented in this Court on 11.12.2023 and it has been presented as a 'Public Interest Litigation' ('PIL' for the sake of brevity).

2. Short facts shorn of granular particulars are that captioned WP pertains to an intended stone quarry in 'S.Nos.450, 451, 452 and 453 in Kattalangulam Village, Thoothukudi Taluk, Thoothukudi District' (hereinafter 'said land' for the sake of convenience and clarity); that said land is a private land ie., belonging to respondent No.10 (private



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respondent); that the eleventh respondent which is a private limited company is intending to start a stone quarry in said land in an arrangement with the 10th respondent is PIL petitioner's say; that patta number for said land is Patta No.3424; that PIL petitioner is former president of Perungulam Town Panchayat in Thoothukudi District; that said land is situate within Perungulam Town Panchayat; that PIL petitioner has raised some objections turning on eco-sensitivity; that captioned PIL WP has been filed with a mandamus prayer qua respondents 1 to 9 for forbearing the official respondents 1 to 9 as regards grant of permission for stone quarry in favour of respondents 10 and 11 in said land.

3. In the Admission Board hearing, Mr.V.Kannan, learned counsel on record for PIL petitioner reiterated the aforementioned facts. Learned counsel drew the attention of this Court to a representation dated 11.01.2023 sent by PIL petitioner to all the official respondents. This 11.01.2023 representation sent by the PIL petitioner shall be referred to as 'said representation' for the sake of convenience and clarity. Learned counsel submitted that said representation is very comprehensive and very many points turning on eco-sensitivity have been raised.



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4. Issue notice to official respondents.

5. Mr.P.Thilak Kumar, learned Government Pleader, State of Tamil Nadu, accepts notice for respondents 1, 2 and 5 to 9. Ms.M.Sudharani, learned counsel representing Ms.Vijayakumari Natarajan, learned Standing Counsel for 'Tamil Nadu Pollution Control Board' ('TNPCB for the sake of brevity) accepts notice for third respondent. Mr.Y.Jagadeesh (Enrol.No. 2264/11), learned counsel representing Mr.N.Dilipkumar, learned Standing Counsel for 'State Level Environment Impact Assessment Authority' ('SLEIAA' for the sake of brevity) submits that Mr.N.Dilipkumar accepts notice for fourth respondent and he would be representing Mr.Dilipkumar in the hearing.

6. As the hearing progressed, it came to light that captioned matter turns on a narrow compass. It also came to light that captioned main WP and 'Writ Miscellaneous Petition' ('WMP' for the sake of brevity) thereat can be disposed of by putting in a safety valve as regards respondents 10 and 11 (private respondents). This is being mentioned as we are acutely conscious that we are taking up the main WP in the Admission Board without respondents 10 and 11 (private respondents are not before us).



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7. In the aforementioned scenario in the Admission Board hearing, main WP and captioned WMP thereat are taken up and heard out with the consent of both sides.

8. The reason for us to record that the captioned main WP and captioned WMP turn on a narrow compass is the fair stand taken by learned counsel for PIL petitioner. Learned counsel for PIL petitioner advertent to said representation (representation dated 11.01.2023) submitted that it will suffice if his representation is considered by SLEIAA before passing final orders and if there is a direction in the nature of a caveat to seventh respondent who is to grant permission / license for stone quarry that permission for stone quarry shall be granted only after receipt of clearance from SLEIAA.

9. Before we proceed further, we deem it appropriate to record the stated position of official respondents. Official respondents submits that the process of grant of stone quarry permission / license to respondents 10 and 11 has passed through various tiers and it is now pending with SLEIAA (4th respondent before us). It was also pointed out that SLEIAA is a



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independent body and that it would consider all aspects of ecology and environment before grant of clearance if that be so.

10. As regards the safety valve qua respondents 10 and 11 (private respondents) we would be making it clear that SLEIAA shall give an opportunity to respondents 10 and 11 to meet various points that have been raised by PIL petitioner in said representation ie., representation dated 11.01.2023.

11. In the light of the narrative discussion and dispositive reasoning thus far the following order is made:

a) the fourth respondent viz., State Level Environment Impact Assessment Authority shall take a decision as regards clearance for grant of stone quarry permission / license in said land ie., S.Nos.450, 451, 452 and 453 in Kattalangulam Village, Thoothukudi Taluk, Thoothukudi District (Patta No.3424) after fully considering said representation of PIL petitioner. To be noted, for the sake of convenience, we deem it appropriate



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to extract and reproduce the said representation ie.,
representation dated 11.01.2023 and the same is as follows:

From
S.P.J.Sundararajan,
s/o S.P.Jeyapandian Nadar,
50, Main Road,
Pandaravilai,
Eral Taluk,
Thoothukudi District.

To

1. The Secretary to Government,
Government of Tamil Nadu,
Environment and Forests Department,
Fort. St. George,
Chennai - 600 009.
2. The Member of Secretary,
Hill Area Conservation Authority,
Office of the Commissioner of Town and
Country Planning,
807, Anna Salai,
Chennai.
3. The Tamil Nadu Pollution Control Board,
76, Mount Salai,
Guindy,
Chennai-600 032.
4. The Member Secretary,
State Level Environment Impact Assessment Authority
III Floor, Panagal Maligai,
No.1, Jeemis Road, Saidapet,
Chennai - 600 015.



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5. The District Collector,
Thoothukudi District,
Thoothukudi.
6. The District Forest Officer,
Thoothukudi,
Thoothukudi District.
7. The Assistant Director,
Department of Geology and Mining,
Collectorate,
Thoothukudi,
Thoothukudi District
8. The Revenue Divisional Officer,
Thoothukudi
Thoothukudi District.
9. The Thasildar,
Thoothukudi Tahuk,
Thoothukudi
Thoothukudi District.

Respected sir,

Sub: objection for granting permission for stone quarry

1. I humbly submit that I am the former president of Perungulam Town Panchayat in Thoothukudi District.



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I am serving for the welfare of the general public of that area.

2. I submit that the land measuring in total 15-500 hectares in Survey No. 450,451 452 and 453 under patta number 3424 in Kattalangulam village in thoothukudi Taluk belongs to one Mr. S.P.S. Raja son of Mr. S.P. Shanmuganathan of Panadaravilai, Eral Taluk, Thoothukudi District. The said Mr. S.P.S. Raja has executed a lease agreement in favour of M/s Golden Blue mental Private Limited, Pandara vilai represented by one Ponnarasi who is none other than the sister of the said Mr. S.P.S. Raja.
3. I submit that they have applied for permission for having stone quarry in the said land. The said proposed land for stone quarry is adjacent to a tank namely "partam kulam". The general public and the cattles of the village are solely depending upon the said water body.
4. I submit that in an earlier occasion the application by some other person for stone quarry in another survey number adjacent to the said water body in the said village was rejected by the authorities due to the continued protest undertaken by the public, with



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intent to protect and safeguard the general public and animals.

5. I submit that that if the permission for stone quarry in the above said land is granted, it will be in violation of the provisions of Section 36(1-A) of Tamil Nadu Minor Mineral Concession Rules 1959. Further it will be in violation of Section 4(1A) of the Mines and Minerals (Development and Regulation) Act, 1957 and Rule 36(5)(b) of the Tamil Nadu Minor Mineral Concession Rules, 1959.
6. I submit that they have to obtain proper environmental clearance for their operation, from the Tamil Nadu Pollution Control Board as well as certification from the District Forest Officer to the effect that the quarry sites are located away from the Eco-Sensitive Zone of Vallanadu Blackbuck Sanctuary. But in fact it is within the prohibited area.
7. I submit that the clearance from the competent authority has to be obtained as per the amended rule 36(1-A)(e) of the Tamil Nadu Minor Mineral Concession Rules, 1959 since the Reserve Forest situated within the 1 Km radius from the proposed area.



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8. I submit that Rule 36 places an embargo upon the grant of license for leasing operations for quarrying stones within three hundred meters from any habitable site. Further, 36 (1-A) (c) imposes a simultaneous embargo upon approval for proposed new layouts for building plans that fall within three hundred meters from any quarry. In such circumstances No new layout, building plans falling within 300 metres from any quarry should be given approval by any agency unless prior clearance of the Director of Geology and Mining is obtained. This is an inclusive definition and covers any village, town or house site as referred to in the revenue records or an approved layout. So, the general public of the village will face numerous problems and inconveniences in enjoying their property as they like.

9. I submit that since quarry operation touch upon the safety and security of inhabitants, distance to be maintained are prescribed. The object of prescribing distance for the conduct of quarry operations qua habitable areas will not be fulfilled, if the permission for quarry is granted in this case,

10. I submit that that the said proposed quarry is located nearby agricultural lands and it will affect the



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agricultural activities. Further, For conversion of agricultural land to non-agricultural land for the purpose of industrial stone quarrying activities, necessary orders have to be obtained after giving notice to the adjacent land owners and general public

11. I submit that the village people are having cultivating lands which is situated in and around the said "pattam kulam" tank bed, if the said license for quarry is granted the agriculturists in the said area will be affected. Further, for conducting quarrying operation they will use heavy explosives to blast the stones and it will spread over the agricultural lands in and around the area.

12. I submit that they will use explosives like detonators, Ammonium Nitrate etc. for the purpose of exploding the stones. the usual movement of animals and cattles in the said locality will be harmed in the event permission of quarry is granted .

13. I submit that the stone quarry operation will cause a great deal of noise pollution in the surrounding area particularly adjoining a residential locality.

14. I submit that during the operation, stones will be broken with high explosives causing noise and air



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pollution which will affect the livelihood of the general public and cattles. Further, large scale mining in this place by digging huge pits is a potential danger to humans and animals.

15. I submit that before conducting quarry operation, they have to comply with the condition stipulated under Sections 36(1), 41 and 42 of the Tamil Nadu Minor Mineral Concessions Rules. But it is not feasible considering the location of the proposed quarry.

16. I submit that they are taking hectic efforts to get clearance from concerned authorities without giving reasonable and proper notice and opportunity to all the parties concerned.

17. I submit that if report is called for from the Taluk Level Task Force constituted under G.O.(Ms)No.135, Industries(MMA-1) Department, dated 13.11.2022 before granting permission for quarry, it will bring the correct facts about the proposed quarry site.

18. I submit that they have to obtain proper environmental clearance for their operation, from the Tamil Nadu Pollution Control Board as well as certification from the District Forest Officer to the



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effect that the quarry sites are located away from the Eco-Sensitive Zone of Vallanadu Blackbuck Sanctuary.

19. I submit that since the area applied for quarry lease is occupied by trees. In the event of permission for quarry being granted, the blasting of rock is likely to impede the growth of them and the ecological niche of the area is likely to be disturbed.
20. I submit that No Objection Certificates given by the various departments will only have a persuasive value and ultimately, it is the Hill Area Conservation Authority (HACA) which has to go through those recommendations and discuss the same and take a decision since the quarry site being situated in a elevated position with a slope
21. I submit that that if the Revenue department issued a proper notice in accordance with law calling for objections, if any, for the grant of quarry license to the aforesaid persons. Myself and general public would have responded to the notice by giving our objections and urging the matter before the appropriate authorities. But in fact, no notice has been issued so far calling our objections.



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22. I submit that they have to get environment clearance from State Government Impact Assessment Authority (SEIAA), Tamil Nadu and consent of the Tamil Nadu Pollution Control Board,
23. I submit that the distance of the proposed stone quarry from the residential area and the tank which will either directly or indirectly affect by the stone quarry, which will naturally involve blasting of stone, breaking down of the stone and for this purpose, to a limited extent also requires usage of explosives.
24. I submit that several activities are prohibited as per G.O.Ms.No.49, dated 24.03.2009, in respect of villages in Hill Taluks, wherever, reserve forest lands are available next to private patta lands. Further, Mining activities in those lands can be permitted, only after getting clearance from the Hill Area Conservative Authority(HACA).
25. I submit that mining, quarrying, sand mining are prohibited within the distance of 10 km from the ecological sensitive area, under Section 5 of Environment(Protection), Act, 1986.
26. I submit that if the government notifications issued to preserve the ecology and environmental



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integrity are strictly considered, permission will not be granted for sand quarry in that particular land.

27. I submit that they are seeking permission for quarry in that particular land with a mala fide intention to loot the natural wealth of our country by quarry in the not permitted adjoining patta and poramboke lands. It is not only a loss of revenue to the Government but also a theft of our natural wealth, that too near a water body.

In the above circumstances, I humbly request your goodness to abstain from granting any permission for Stone Quarry to and in favour of Mr.S.P.S.Raja son of Mr. S.P.Shanmuganathan, Pandaravilai, Thoothukudi district or in favour of M/s Golden Blue metals Private Limited, Pandaravilai, Thoothukudi District or in favour of any one claiming through them with regard to the Land Comprised in Survey No.450,451,452,453 (under patta Number 3424) of Kattalangulam village, Thoothukudi Taluk, Thoothukudi District and to cancel the permission for stone quarry, if it was already been granted.

11.1.2023

Yours faithfully,
S.P.S. Sundararajan



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b) the fourth respondent ie., SLEIAA while considering the aforementioned representation shall give adequate and ample opportunity to respondents 10 and 11 (private respondents) to meet all the points that have been raised in the said representation;

c) The fourth respondent ie., SLEIAA shall consider the matter on its own merits and in accordance with law and all that we have said is the said representation of PIL petitioner shall also be taken into account in addition to other parameters / determinants while taking a decision regarding clearance;

d) Though obvious for the sake of abundant clarity and specificity, we make it clear that we are not expressing any view or opinion on the merits of the matter and the floor is clear for SLEIAA to decide on clearance on its own merits and in accordance with law albeit taking into account the said representation ie., 11.01.2023 representation in the aforesaid



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manner, after giving adequate opportunity to respondents 10 and 11. This Court is informed that all clearance of fourth respondent ie., SLEIAA are uploaded in its official website and the same will obviously apply to the case on hand. Though obvious in the light of provisions of Tamil Nadu Minor Mineral Concession Rules, 1959, we make it clear that grant of permission / license for stone quarry in said land by seventh respondent (if that be so) shall be post clearance by SLEIAA.

12. Captioned WP is disposed of in the aforesaid manner with the aforesaid limited directives and preservation of rights in the aforementioned manner. Consequently captioned WMP is also disposed of as closed. There shall be no order as to costs.

[M.S.,J.] & [R.S.V.,J.]

18.12.2023

Neutral Citation : Yes
Index : Yes
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