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W.P.Nos.17076 of 2020 & 4317 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.06.2024

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.Nos.17076 of 2020 & 4317 of 2022 and
WMP.Nos.21144 & 21147 of 2020

WP.No.17076 of 2020

- 1.J.Mahalakshmi
- 2.Thenu Jayaraj
- 3.V.Kanimozhi
- (petitioners 1 to 3 represented by their
Power of Attorney Agent
J.Senthil)
- 4.J.Senthil

...Petitioners

Vs.

- 1.The Commissioner of Geology and Mining,
Government of Tamilnadu,
Guindy,
Chennai 600 032
- 2.The Deputy Director,
Geology and Mining,
Erode District
- 3.The District Collector,
Erode District,
Erode

... Respondents

PRAYER: Writ Petition is filed under Article 226 of Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records on the file of the first respondent in relation to the impugned



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communication in Ref.No.Rc.No.6865/MM4/2018 dated 28.08.2019, quash the same and consequently directing the second respondent to issue transport permit for transporting black granites from the petitioner's quarry situated at Igalur Village, Thalavadi Taluk, Erode District, comprised in SF.No.214/3A(Part) which was deemed to have been approved with effect from 29.05.2017 under the scheme of mining plan as per Rule 18(5) of the Granite Conversion and Development Rules, 1999 by considering the petitioner's representation dated 20.02.2020.

For Petitioners : Mr.Mohammed Riyaz
for Mr.S.Senthil

For Respondents : Mr.E.Vijay Anand,
Additional Government Pleader

WP.No.4317 of 2022

J.Senthil

...Petitioner

Vs.

- 1.The Government of Tamilnadu
Represented by its
The Principal Secretary,
Industries Department,
Secretariat, Fort St.George,
Chennai 600 009
- 2.The Commissioner of Geology and Mining,
Government of Tamilnadu,
Guindy,
Chennai 600 032
- 3.The District Collector,
Erode District,
Erode
- 4.The Tahsildar,



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Thalavadi Taluk,
Erode District

... Respondents

PRAYER: Writ Petition is filed under Article 226 of Constitution of India praying to issue a Writ of Mandamus directing the respondents to effect transfer of the name of the petitioner instead of the name of his father late R.Jayaraj in the license issued by the 1st respondent vide G.O.(3D) No.11 Industries (MME.2) Department dated 25.05.2012 and also in Mining Lease Deed dated 25.06.2012 executed in favour of the petitioner's father by the 3rd respondent for the period of 20 years commencing from 25.06.2012 for quarrying black granites from the petitioner's land situated at Igalur Village Thalavadi Taluk Erode District comprised in S.F.No.214/3A (part) by considering the representation of the petitioner dated 05.06.2020.

For Petitioner : Mr.Mohammed Riyaz
for Mr.S.Senthil

For Respondents : Mr.E.Vijay Anand,
Additional Government Pleader

COMMON ORDER

The writ petition in WP.No.17076 of 2020 has been filed challenging the order passed by the first respondent thereby returned the scheme of mining plan submitted by the deceased lessee-R.Jayaraj for the lease granted for quarrying black granite over an extent of 1.15.0



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hectares of patta lands comprised in SF.Nos.214/3A(P) of Igalur Village, Thalavadi Taluk, Erode District for a period of 20 years. The writ petition in WP.No.4317 of 2022 has been filed for direction to the respondents to transfer the mining lease in favour of the petitioner on the demise of his father.

2. The petitioners in WP.No.17076 of 2020 are the legal heirs of the said deceased R.Jayaraj. He had applied for grant of lease to quarry black granite to an extent of 1.15.0 hectares comprised in SF.No.214/3A (part) situated at Igalur Village, Thalavadi Taluk, Erode District for a period of 20 years under Rule 19A of Tamilnadu Minor Mineral Concession Rules, 1956. The late Jayaraj obtained approval of mining plan from the first respondent by order dated 17.05.2012 for a period of five years from the date of commencement of lease period. Thereafter, he had obtained environmental clearance from the State Level Environment Impact Authority by its communication dated 19.02.2015 to transport 250 cubic meter of black granite for a period of five years commencing from 25.06.2012. Accordingly, the Tamilnadu Government



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issued order in GO.(3D) No.11 Industries (MME.2) Department dated 25.05.2012 for quarrying black granites for a period of twenty years. Accordingly, mining lease deed dated 25.06.2012 was executed in favour of the said late Jayaraj. Till 07.08.2018, he was granted transport permits to transport the unearthed granites. The period of mining plan of five years expired on 24.06.2017. Therefore, the said late Jayaraj had applied for scheme of mining plan for the next five years to the first respondent by an application dated 01.03.2017 for production of 4800 cubic meter of black granites for the years 2017-2018 to 2021-2022. The second respondent by its communication to the first respondent dated 03.03.2017, recommended to pass orders. In fact, the Assistant Director of Geology and Mining Erode also had sent recommendations by the communication dated 03.09.2018. As per the rules, decision should be taken within a period of 90 days from the date of receipt of the scheme of mining plan as contemplated under Rule 18(4) of Granite Conservation and Development Rules, 1999.



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3. As per Rule 18(5) of Granite Conservation and Development Rules, 1999, if no decision is conveyed within the period of 90 days, the said scheme of mining plan shall be deemed to have been provisionally approved. Though the said late Jayaraj had applied for the scheme of mining plan on 01.03.2017, no decision was taken within the period of 90 days i.e. on or before 29.05.2017. While being so, the said Jayaraj died on 07.09.2019 leaving behind the petitioners as his surviving legal heirs. Now by the impugned proceedings dated 28.08.2019, the first respondent had returned the scheme of mining plan after a period of two years alleging that the deceased Jayaraj had transported quantum of 1613.430 cubic meter instead of 250 cubic meter of black granites as excess quantity over and above the permissible limit under the environmental clearance and further alleged that the said Jayaraj is bound to pay 100 % cost of mineral for the excess quantity as held by the Hon'ble Supreme Court of India in WP.(Civil) No.114 of 2014 dated 02.08.2017 in the case of ***Common Cause Vs. Union of India and others***. Therefore, the scheme of mining plan was returned.



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4. Admittedly, the deceased Jayaraj had applied for scheme of mining plan on 01.03.2017 for further period of five years commencing from 29.05.2017 for production of 4800 cubic meter of black granites. As stated supra, as per Rule 18(5) of Granite Conservation and Development Rules, 1999, the scheme of mining plan was deemed to have approved for further period of five years. Further, the application submitted by the petitioner in WP.No.4317 of 2022 for transfer of lease is pending only on the ground that the petitioner has to pay the arrears of District Mineral Foundation Trust fund of Rs.18,44,061/- for the period covered from 17.09.2015 to 31.08.2017. The Hon'ble Division Bench of this Court, in a batch of writ petitions in WP.No.1256 of 2018, etc bach, by order dated 16.09.2019, held that the Tamilnadu District Mineral Foundation Rules, 2017 came into force only from 19.05.2017 and as per the proposition in law laid down by the Hon'ble Supreme Court of India in the case of ***Federation of Indian Mineral Industries and Others Vs. Union of India and another*** reported in (2017) 16 SCC 186, the State Government does not have the power to collect contribution to District Mineral Foundation, from an anterior date to the establishment of fund,



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by the rules framed on 19.05.2017. Therefore, the demand from 17.09.2015 cannot be sustained. However, the petitioner is ready to pay the District Mineral Foundation Trust fund from 19.05.2017 onwards.

5. The learned Additional Government Pleader appearing for the respondents submitted that the order dated 28.08.2019 is only a direction to the District Collector, Erode by returning the scheme of mining plan for fixing and collection of 100% cost of mineral for the excess quantity. As such, only after issuance of show cause notice and giving opportunity of hearing, the scheme of mining plan for further period will be considered.

6. In view of the above, insofar as the writ petition in WP.No.17076 of 2020, the third respondent is directed to issue show cause notice to the petitioners and, after giving opportunity of hearing to the petitioners, to pass orders on the application seeking scheme of mining plan for further period, within a period of eight weeks from the



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date of receipt of copy of this order. It is also made clear that the third respondent shall bear in mind the above observations made by this Court and pass orders on merits and in accordance with law.

7. Insofar as the direction sought for in the writ petition in WP.No.4317 of 2022 for transfer of licence and mining lease deed, the third respondent is directed to transfer the licence and mining lease deed in favour of the petitioner on condition that the petitioner shall pay the District Mineral Foundation Trust fund from 19.05.2017, within a period of eight weeks from the date of receipt of copy of this order.

8. With the above directions, both the writ petitions are disposed of. Consequently, connected miscellaneous petitions are closed.

There shall be no order as to costs.

24.06.2024

Neutral citation: Yes/No

Index: Yes/No

Speaking/Non-speaking order

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G.K.ILANTHIRAIYAN, J.

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To

- 1.The Principal Secretary,
The Government of Tamilnadu
Industries Department,
Secretariat, Fort St.George,
Chennai 600 009
- 2.The Commissioner of Geology and Mining,
Government of Tamilnadu,
Guindy,
Chennai 600 032
- 3.The Deputy Director,
Geology and Mining,
Erode District
- 4.The District Collector,
Erode District,
Erode
- 5.The Tahsildar,
Thalavadi Taluk,
Erode District

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