



W.P.No.10897 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.04.2024

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CORAM :
THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P. No.10897 of 2024
and
W.M.P.No.10897 of 2024

K.Indirani

... Petitioner

Vs.

1.The District Collector,
Erode District.

2.The Assistant Director,
Geology and Mining Department,
Erode.

3.Arulmigu Konganakiri Kumarsamy Temple,
Kavundampalayam,
Represented by fit person.

4.Arulmigu Matheswaran Swamy Temple,
Kavundampalayam,
Represented by fit person.

... Respondents

(R3 & R4 are *suo motu* impleaded *vide* order
dated 22.04.2024 in W.P.No.10897 of 2024 by SMSJ)

Prayer: Writ Petition is filed under Article 226 of Constitution of India, for
issuance of writ of Certiorarified Mandamus, calling for the records
pertaining to the memorandum bearing No.Na.Ka.205/Mineral/2024 dated
25.03.2024 issued by the 2nd respondent, quash the same and consequently



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direct the respondents not to interfere with the petitioner's right to carry on the quarrying activity in the land property situated in S.F.No.55/1A(part), 55/3 (part) and 58, measuring to an extent of 2.91.5 Hectare of Patta lands at Kavundampalayam Village, Gobichettipalayam Taluk, Erode District as per the lease granted to the petitioner vide proceedings dated 09.01.2024 issued by the 2nd respondent, in accordance with Environmental law.

For Petitioner : Mr.V.Raghavachari
Senior Counsel
for Mr.V.Anandhamurthy

For R1 & R2 : Mr.Stalin Abhimanyu
Additional Government Pleader

For R3 & R4 : Mr.N.R.R.Arun Natarajan
Special Government Pleader (HR & CE)

ORDER

This writ petition has been instituted challenging the memo issued by the Assistant Director, Geology and Mining Department, Erode dated 25.03.2024.

2. Based on the application submitted by the petitioner to carry out rough stone quarry in the subject 'Government Poramboke' land, a mining lease was granted by the Assistant Director of Geology and Mining



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Department, Erode dated 09.01.2024, for a period of five years.

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3. Mr.V.Raghavachari, learned Senior Counsel appearing on behalf of the petitioner would contend that the mine lease was granted after verifying the records and by conducting field inspections. The objections from the local people were also taken in to consideration by the Authorities. Therefore, the present impugned memo issued by the Assistant Director is without jurisdiction and beyond the scope of the mining lease license granted in favour of the petitioner to carry out rough stone quarry for a period of five years.

4. Mr.V.Raghavachari, would further contend that on account of personal vengeance, some person has given a complaint and that was entertained and the memo impugned was issued. Such motivated complaints cannot be a ground to deny right to lease in accordance with the license granted by the competent Authorities. Therefore, the present writ petition is to be considered.

5. Mr.Stalin Abhimanyu, learned Additional Government Pleader



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appearing on behalf of the 1st and 2nd respondent would rely on the Report submitted by the Revenue Tahsildar, Gobichettipalayam to the Assistant Director, Geology and Mining Department, Erode. The said Report of the Tahsildar would reveal that certain irregularities are identified in the quarry operations in the subject properties and further adjacent to the quarry land, old temples situate. Therefore, the people are raising objections and they are conducting frequent agitations. When large scale agitations are raised, the Assistant Director of Geology and Mining Department issued a memo asking the petitioner to submit her explanations regarding the complaint.

6. In the context of memo, the learned Senior Counsel for the petitioner would submit that the details regarding the complaint and the documents are not furnished to the petitioner. In the absence of any such details, the petitioner may not be in a position to submit his explanations. Thus, the petitioner is constrained to challenge the said memo dated 25.03.2024.

7. It is further contended that the people identified cracks in the



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nearby residential house and temple compound wall also damaged. The two temples situate nearby the quarrying location are under the control of the HR & CE Department. Those two temples are old and many people residing in that locality are worshipping.

8. Since the temple compound wall is damaged and fell down, this Court directed the Special Government Pleader Mr.N.R.R.Arun Natarajan, HR & CE Department to get instructions. On instructions, he would submit that the temple namely Arulmigu Matheswaran Swamy Temple in Survey No.59 classified as “வண்டி பாதை”. The said temple situate within a distance of 18 metres from the quarrying location. Another temple namely, Arulmigu Kumarasamy Temple situate 288 metres from the quarrying location. Both the temples are under the control of the HR & CE Department.

9. Since both the temples are located within the prohibited area, license to quarry ought not to have been granted by the competent Authorities. Temples are old temples and people of that locality are worshipping. The people noticed damages in the compound wall and raised complaints before the Tahsildar, who in turn submitted a Report to the



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Assistant Director, Geology and Mining Department. Since agitations are conducted by the people of that locality, the impugned memo has been issued asking the petitioner to submit her explanations.

10. It is contended by the petitioner that there was an enquiry even before grant of license to the petitioner and the people of that locality had no objection to grant lease in favour of the petitioner. No heritage building situate nearby the quarrying location and the temple situate in 'Temple Poramboke' lands. Therefore, now the 2nd respondent cannot turn around and by entertaining the complaint, memo cannot be issued.

11. In this context, the learned Additional Government Pleader and the learned Special Government Pleader, HR & CE Department would draw the attention of this Court with reference to the order of license dated 09.01.2024, issued by the Assistant Director of Geology and Mining Department, Erode, wherein the Tahsildar has initially submitted a Report stating that there is no Church, Mosques, Temple or Heritage Building situate nearby the proposed quarrying location. It is further stated that no such Temple, Mosques or Church within the radius of 300 metres from the



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quarrying point. However, subsequently, it is found that the Arulmigu Matheswaran Swamy Temple situate within the distance of 18 metres from the quarrying place. Arulmigu Kumarasamy Temple also situate within 300 metres from the quarrying location. In this context, the subsequent Report of the Revenue Tahsildar, Gobichettipalayam, dated 25.03.2024, to the Assistant Director/2nd respondent would reveal that the people are raising many objections and temple also situate nearby the quarrying locations. Therefore, the correctness of the Report originally submitted by the Tahsildar before granting license is also to be verified. Since contradictory Reports are submitted by the Tahsildar, an inquiry is to be conducted. The impugned memo also states that the petitioner has to submit an explanation with reference to the complaints. The petitioner states that she is not aware of the complaint nor copy of the complaint has been produced. Since the people in general in that locality are conducting agitations frequently and there are other complaints from the Temple worshipers and Authorities, the HR & CE Department also has to make an assessment with reference to the impact and submit appropriate Report to the District Collector to protect the Temple and its stability and other aspects of the matter. Regarding the complaints from the people and other persons, the District Collector has to conduct an inquiry and



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find out the truth for initiation of appropriate actions. In this context, Arulmigu Konganakiri Kumarsamy Temple and Arulmigu Matheswaran Swamy Temple, Kavundampalayam represented by fit person are *suo motu* impleaded for the purpose of submitting their Report to the District Collector for conducting an inquiry.

12. The District Collector, Erode District/1st respondent is directed to conduct field inspection with the assistance of the Authorities competent and receive Reports from HR & CE Department, Revenue Department etc., and conduct an inquiry by affording opportunity to all the parties including the petitioner and hear the people of that locality if required, to ascertain their grievances and thereafter, pass appropriate orders on merits and in accordance with law as expeditiously as possible, preferably within a period of twelve (12) weeks from the date of receipt of a copy of this order.

13. Accordingly, this writ petition stands **dismissed** at the admission stage itself. No costs. Consequently, connected miscellaneous petition is closed.



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Index : Yes/No
Speaking Order : Yes/No
Neutral Citation : Yes/No
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To

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S.M.SUBRAMANIAM,J.

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