



W.P.No.14436 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.05.2024

CORAM :

THE HONOURABLE MR. JUSTICE V. LAKSHMINARAYANAN

W.P.No.14436 of 2024

and

W.M.P.No.15710 of 2024

ACC Limited
Represented by its Director,
Madukkarai Cement Works,
A Unit of ACC Limited,
PO – Madukkarai District,
Coimbatore – 641 105
Tamil Nadu,
Represented by its Power of Attorney
Suresh Nagur
Madukkarai District,
Coimbatore – 641 105.

... Petitioner

Vs.

1.The State of Tamil Nadu,
Through Secretary,
Department of Geology & Mines
Government of Tamil Nadu,
Chennai – 600 032.

2.The District Collector,
Collectorate Building,
District Coimbatore,
Tamil Nadu.



W.P.No.14436 of 2024

3. Assistant Director of Mines,
Department of Geology and Mining,
Collectorate Campus District,
Coimbatore, Tamil Nadu.
4. Deputy Director of Mines,
Department of Geology and Mining,
Collectorate Campus District,
Coimbatore, Tamil Nadu.
5. The Tahsildar,
Taluk Office, Madukarai Coimbatore South,
District Coimbatore, Tamil Nadu.
6. The Revisionary Authority,
Ministry of Mines, Central Government,
Shastri Bhawan, New Delhi – 110 001.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus to forbear the respondents 1 to 5 from levying or collecting any penalty from the petitioner herein pursuant to the orders passed by the 2nd respondent in Rc.No.1128/Mines/2023 dated 06.11.2023 or Memo dated 15.02.2024 vide Ref. No.130/2024/A7 issued by the 5th respondent or the personal hearing notice dated 14.05.2024 vide Ref.No.462/Minerals/2019-2 issued by the 2nd respondent, till disposal of proceedings in Revision Application No.27/(01)/2024/RC-II pending on the file of the 6th respondent.

For Petitioner : Mr.Srinath Sridevan
Senior Counsel
for Mr.P.Giridharan

For R1 to R5 : Mr.J.Stalin Abimanyu
Additional Government Pleader



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W.P.No.14436 of 2024

For R6

: Mr.K.Gangadharan
Central Government Standing Counsel

ORDER

This writ petition has been filed to forbear the respondents 1 to 5 from levying or collecting any penalty from the petitioner herein pursuant to the order of the District Collector dated 06.11.2023, and the memo of the Tahsildar dated 15.02.2024, and the order passed by the District Collector dated 14.05.2024, calling upon the petitioner for an enquiry on 24.05.2024.

2.Mr.J.Stalin Abimanyu, learned Additional Government Pleader, takes notice for the respondents 1 to 5. Mr.K.Gangadharan, learned Central Government Standing Counsel, takes notice for the 6th respondent.

3.Mr.J.Stalin Abimanyu would submit that, during enquiry conducted on 24.05.2024, since the petitioner had proposed to file a writ petition, the petitioner had sought for time and the request was acceded to and the matter has been adjourned without a date. Mr.J.Stalin Abimanyu also states that a fresh date will be fixed after the results of the General Elections of 2024 are declared.



W.P.No.14436 of 2024

4.Be that as it may, the issue is a very short one. The Supreme Court of India in *Common Cause v. Union of India and others* reported in (2017) 9 SCC 499 had given a slew of directions with respect to mining leases that are being carried on without environmental clearance. For such leases, the Supreme Court had directed that penalty be levied by the delegated authority, namely, the Government of Tamil Nadu. The District Collector, in pursuance of the said judgment, had passed an order on 06.11.2023. On the basis of the said order, the Tahsildar had issued a memo on 15.02.2024 directing recovery of several amounts. The point remains that a Division Bench of this Court in W.A.No.671 of 2020, dated 15.02.2024, had directed that, prior to the levy of penalty, the lessee should be heard by the District Collector. As the said procedure had not been followed, taking into consideration the judgment of the High Court, the memo issued by the Tahsildar on 15.02.2024 was treated as a show cause notice, leaving the order of the District Collector dated 06.11.2023 intact.

5.The purport of the order of the Division Bench in the Writ Appeal was that, prior to imposition of penalty, the District Collector would have to hear the aggrieved person. Therefore, it makes no sense that the consequential order is treated as a show cause notice leaving the original



W.P.No.14436 of 2024

order dated 06.11.2023 intact.

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6.Mr.J.Stalin Abimanyu would submit on instructions that the proceedings dated 06.11.2023 would be treated as a show cause notice to which the petitioner can submit its explanation and after perusal of the said explanation and after hearing the petitioner, fresh proceedings will be passed if found necessary.

7.Taking into consideration the submission of Mr.J.Stalin Abimanyu, the proceedings of the District Collector, dated 06.11.2023, will be treated as a show cause notice, for which, the petitioner shall submit its reply within a period of four weeks from today, i.e., the explanation shall be given on or before 28.06.2024. The District Collector shall peruse the same and pass appropriate orders on or before 31.07.2024. Since the proceedings of the District Collector, dated 06.11.2023, is treated as show cause notice, the respondents will not enforce the consequential order dated 15.02.2024. This writ petition stands disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

30.05.2024

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W.P.No.14436 of 2024

Internet : Yes

Index : Yes / No

Speaking order / Nonspeaking order

Neutral Citation : Yes / No

To

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- 2.The District Collector,
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- 3.The Assistant Director of Mines,
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W.P.No.14436 of 2024

V. LAKSHMINARAYANAN, J.

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W.P.No.14436 of 2024

30.05.2024