2024:MHC:2942

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.07.2024

CORAM:

THE HON'BLE DR.JUSTICE ANITA SUMANTH

WP.No.21389 of 2024 and
WMP.Nos.23343 & 23344 of 2024

C.Seethalakshmi … Petitioner

Vs.

1.The Union of India,
Rep by its Secretary,
Ministry of Coal and Mines,
Department of Mines,
Shastri Bhawan, New Delhi.

2.The Joint Secretary/Revisionary Authority,
Ministry of Coal and Mines,
Department of Mines,
Shastri Bhawan,
New Delhi.

3.The Govt of Tamil Nadu,
Rep by its Secretary,
Natural Resources Department,
Fort St.George, Secretariat,
Chennai-600 009.

4.The District Collector,
Ariyalur District.

5.The Assistant Director,
Department of Geology and Mining,
Collectorate, Ariyalur. … Respondents

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Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of writ of Certiorari to call for the records of the 2nd Respondent in Final Order No.28/2024 in File No.27/04/2023/RC/-II, dated 07.06.2024 passed in the Revision Application filed by the Petitioner and also for the records of the 4th Respondent in Order in Proceedings bearing Rc.No.360/Mines/2022, dated 15.05.2023 and quash the same.

For Petitioner: Mr.Srinath Sridevan, Senior Counsel
for Ms.R.Meenakshi Devi

For Respondents: Mr.K.Subbu Rangabharathi (for R1 & R2)
Central Government Standing Counsel

Mr.Stalin Abimanyu (for R3 to R5)
Additional Government Pleader

O R D E R

This writ petition has been filed by a lorry owner, whose vehicles have been seized on the ground that the petitioner was carrying limestone without any permit. This Court would prefer not to go into the facts of the matter in light of the discussion to follow and the conclusions arrived at.

2.Suffice it to say that after seizure of the lorries, the petitioner has moved the Court for release of the lorries which had been considered and the lorries released. Notice was thereafter issued imposing penalty under Sections 21(1) and 21(5) of the Mines and Minerals (Development and Regulation) Act 1957 (in short 'Act') for alleged illicit transportation of limestone. The order imposing penalty is dated 15.05.2023.

3.The petitioner has challenged the order imposing penalty notwithstanding

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the fact that the order was subject matter of statutory revision before the first respondent being the Secretary, Ministry of Coal and Mines, New Delhi (R1).

4.The revision petition has come to be dismissed by way of impugned order dated 06.06.2024, also simultaneously challenged in the writ petition. Since order dated 15.05.2023 has merged with the revision order dated 06.06.2024, the prayer challenging order dated 15.05.2023 is misconceived. As far as order dated 06.06.2024 is concerned, the same is extracted below:

> *'1.The Revisionary Authority heard both the parties.*
> *2.In light of the facts of the case, the issue concerns the imposition of a penalty under Section 21(1) of the Mines and Minerals (Development and Regulation) Act, 1957 for the illegal transportation of minerals.*
> *3.Section 21(1) of MMDR Act, 1957, vests the Criminal Court with the authority to levy the penalty after taking cognizance of the offence and completion of the trial.*
> *4.In the instant matter, since the FIR has already been lodged dated 25.09.2022 in CR.228 of 2022, and the matter is subjudice in Criminal Miscellaneous Petition in Cr. M.P.No.1776 of 2023 and 1780/2023 before the Principal Session Judge, of Ariyalur Session Division, the Revision Application is thus not tenable for admission before the Revisionary Authority and is hereby dismissed.'*

5.The revisional authority has dismissed the revision on two grounds: (i) that an F.I.R. has been lodged on 25.09.2022; (ii) the matter is subjudice in Crl.M.P.Nos.1776 and 1780 of 2023 before the learned Principal Sessions Judge, Ariyalur Session Division. This, in sum and substance, comprises the entirety of the order. The authority thus concludes that the revision petition is not tenable for admission and has proceeded to dismiss the same.

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6.It is a matter of of record that the FIR that has been lodged in the matter did not name the petitioner as accused. The dismissal on this premise is thus erroneous. Secondly, Crl.M.P.Nos.1776 and 1780 of 2023 filed for return of vehicles have been allowed on 03.08.2023 and hence the conclusion of the revisional authority on this ground is also incorrect.

7.More importantly, the authority ought to have looked into the merits of the matter and come to a reasoned conclusion on the grounds raised, instead of which, the authority is seen to have proceeded on a totally extraneous tangent, dismissing the revision petition by way of a non-speaking order.

8.For the aforesaid reasons, order dated 06.06.2024 is quashed. The revision petition is restored to the file of R1 and shall be heard and disposed expeditiously and in accordance with law, after hearing the petitioner. The petitioner is also at liberty to approach R1 for interim protection, as appropriate and such prayer, if and when made, shall be dealt with strictly in accordance with law.

9.In this connection, it is relevant to refer to the judgment of the Constitution Bench of the Hon'ble Supreme Court in the case of *Bhagat Raja v. Union of India and others*[1] also rendered in the context of the Mines and Minerals (Development and Regulation) Act, 1957. In that judgment, the Bench has referred to Section 55 of the Act observing that the discharge of revisionary functions is quasi-judicial, requiring application of mind.

1. AIR 1967 SC 1606

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10.This writ petition is allowed by way of remand. No costs. Connected miscellaneous petitions are closed.

29.07.2024

vs

Index:Yes/No
Speaking order
Neutral citation : Yes

To

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Department of Mines,
Shastri Bhawan, New Delhi.

2.The Joint Secretary/Revisionary Authority,
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Department of Mines,
Shastri Bhawan,
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3.The Secretary,
Natural Resources Department,
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