



WEB COPY



W.A.Nos.1035 to 1044 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 27.06.2024

DELIVERED ON: 08.08.2024

CORAM :

**THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR
ACTING CHIEF JUSTICE**

and

THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

**W.A.Nos.1035 to 1044 of 2022
and CMP.Nos.6582, 6584, 6586, 6587,
6577, 6573, 6575, 6578, 6580, 6589 of 2022**

W.A.No.1035 of 2022

M.Sudhakar

... Appellant

Vs.

1.The District Collector,
Vellore District.

2.The Revenue Divisional Officer,
Ranipet.

3.The Deputy Director,
Department of Geology and Mining,
Vellore.

4.Dr.Priyadharshini,
P.A.G to Collector,
Krishnagiri.

.. Respondents

Prayer: Writ Appeals filed under Clause 15 of the Letters Patent against the order dated 24.08.2021 made in W.P.Nos.11715 of 2015 etc., batch.



W.A.Nos.1035 to 1044 of 2022

For Appellants : Mr.G.Rajagopalan, Senior Counsel
for Mr.A.G.Sathyanarayana

For Respondents : Mr.P.S.Raman, Advocate General
assisted by
Mr.Stalin Abimanyu, Addl. Government Pleader
for R1 to R4

COMMON JUDGMENT

D.KRISHNAKUMAR, ACJ.

These intra court appeals are filed challenging the common order of the Writ Court dated 24.08.2021 made in W.P.Nos.11715 of 2015 etc., batch.

2. Facts leading to the filing of these writ appeals, briefly narrated, are as follows:

2.1. The appellants / writ petitioners are running blue metal quarries in various survey numbers. The lease is for 10 years. The first respondent has issued a show cause notices to the petitioners, based on the report of the second respondent/RDO wherein the second respondent has reported certain irregularities and sought for explanation from the appellants / writ petitioners.



W.A.Nos.1035 to 1044 of 2022

WEB COPY 2.2. The appellants/writ petitioners submitted detailed individual representations stating that they were not put on notice as to when the second respondent has surveyed the quarry and as to how the second respondent has come to the conclusion that there are irregularities in the running of the quarries.

2.3. Subsequently, another notice was issued by the first respondent/District Collector, enclosing a copy of the report of the second respondent wherein the second respondent had reported that they have quarried over and above the prescribed limit as per the lease agreement. According to the appellants, they have made several requests before the second respondent to resurvey the land in a proper and scientific manner and then to take a decision as to whether any illegal quarrying has been done or not but without resorting to the same, the respondents have passed the impugned orders dated 15.04.2015 in an arbitrary manner fixing exorbitant penalty and seigniorage fee without any basis and challenging the same, they have filed the writ petitions.



W.A.Nos.1035 to 1044 of 2022

WEB COPY

2.4. The Writ Court, vide common order dated 24.08.2021, had disposed of the writ petitions, taking into consideration the submission made by the learned counsel for the petitioners that as against the orders dated 15.04.2015, which are impugned in these writ petitions, has granted liberty to file an appeal before the appellate authority and directed the appellate authority to entertain the appeal without reference to the period of limitation, against which the appellant/writ petitioners have filed these writ appeals.

3. Mr.G.Rajagopalan, learned Senior Counsel for the appellants would contend that respondents 1 and 2 have not given any fair opportunity to the appellants to prove their innocence and when the respondents measured the quarries behind the back of the appellants and issued a show cause notice to them, they should have also given fair opportunity to the appellants to prove their case, but the request of the appellants was not at all considered by the respondents and therefore, there is a clear violation of the principles of natural justice before passing the impugned order. It is further contended by the learned Senior Counsel for the appellants that inspections seems to have been



W.A.Nos.1035 to 1044 of 2022

done at 22 quarries on the same day, which is humanly impossible and the respondents never applied their mind and did not follow scientific method to measure the quarries and the respondents did not even give any prior intimation to the appellant and did not permit to resurvey in the presence of the appellants by scientific methods. It is further contended by the learned Senior Counsel for the appellants that the Government has passed G.O.Ms.No.27 dated 17.02.2015 constituting a Committee at the Taluk Level and District Level with the first respondent as Chairman to enquire any illegal mining in that particular district and when it is mandatory that a Committee should enquire into such complaints, the enquiry made by the second respondent is illegal and hence, the entire exercise is bad in law. The learned Senior Counsel further contended that the impugned order has been passed in a mechanical manner without any application of mind and in fact the show cause notice issued by the respondents 1 and 2, measurements, length and breadth sizes were mentioned, but in the impugned order nothing has been mentioned and in the reference column of the impugned order passed by the second respondent, all the communications have been verbatimly repeated for all the respondents as if enquiry has been conducted in all the quarries on the same day, which shows the malafide



W.A.Nos.1035 to 1044 of 2022

attitude of the respondents in passing the impugned order and prays for interference.

4. Mr.P.S.Raman, learned Advocate General appearing for the respondents has drawn the attention of this Court to the counter affidavit filed by the second respondent and would contend that several irregularities were noted in the quarries run by the appellants and therefore, the second respondent / RDO, Ranipet conducted surprise inspection on 25 quarries situated in two adjacent villages viz., Chengadu and Ananthalai Village in Walaja Taluk and inspection reports were sent to the District Collector, Vellore the first respondent and action was taken against 11 quarries who have not paid the government dues for breaching conditions of quarry or excavated beyond the specified limit. The following are the details of violation detected for penalty as stated in the counter affidavit:

<i>Sl.No.</i>	<i>Name of Lessee</i>	<i>WP Number</i>	<i>SF.No.</i>	<i>Quantity removed authorized (cbm)</i>	<i>Penalty Levied Rs.</i>
1	M.Sudhakar	12671/2015	1/4 (Part 6)	3,79,740	11,34,68,740
2	M.Sudhakar	12672/2015	1/4 (Part 7)	1,66,815	4,79,65,255



W.A.Nos.1035 to 1044 of 2022

Sl.No.	Name of Lessee	WP Number	SF.No.	Quantity removed authorized (cbm)	Penalty Levied Rs.
3	S.M.Sugumar	11715/2015	1/4 (Part 10)	56,503	1,68,06,391
4	P.Palanivel	11748/2015	1/4 (Part 11)	1,39,189	4,14,09,133
5	E.N.Sudarsanam	11719/2015	1/4 (Part 14)	1,40,762	4,19,39,314
6	S.Baladitya Saba	11717/2015	1/4 (Part 18)	52,101	1,57,68,997
7	Ramya Geethanjali	11749/2015	1/4 (Part 19)	1,39,662	4,15,04,614
8	G.R.Thirumalai	12063/2015	1/4 (Part 23)	1,19,595	3,55,44,715
9	J.Umapathi	11716/2015	1/4 (Part 24)	54,731	1,62,80,107
10	S.K.Sabapathy	11718/2015	Senkadu 165 (part2)	1,75,694	5,22,06,118
11	K.Senthilkumar	20652/2015	1/4 (Part 12)	60,645	1,86,52,165

5. The learned Advocate General further contended that after conducting inspection and irregularities found in the quarries, the second respondent issued a show cause notice to the appellants, for which they submitted their explanation and only thereafter, the second respondent has passed the impugned orders dated 15.04.2015, imposing penalty by clearly spelling out the extent of land illegally mined, quantum generated thereof and the loss occasioned to the exchequer and if at all the appellants are aggrieved, they have an alternative and efficacious remedy under Rule 36(c)(2) of the Tamil Nadu Minor Mineral Concession Rules, 1959 to prefer an appeal before the District



W.A.Nos.1035 to 1044 of 2022

Collector within 30 days from the date of receipt of the order and without approaching the appellate authority, the appellants have filed the writ petitions.

The learned Advocate General further contended that though the appellants prayed before the learned Single Judge to prefer an appeal and liberty was given by the learned Single Judge, so far, the appellants have not preferred any appeal before the appellate authority and the present writ appeals are not maintainable and therefore, prays for dismissal of these writ appeals.

6. Heard the rival submissions and also perused the materials available on record.

7. Admittedly, the appellant/writ petitioners are lessees of the quarries run by them to quarry blue metal jellies as per the lease agreement entered into between the respondents. They have been imposed with fine / penalty, vide impugned individual proceedings of the second respondent dated 15.04.2015, which are put to challenge in the writ petitions. There were contentions and counter contentions with regard to affording of opportunity to the appellants before passing such order of penalty. A perusal of the documents produced by



the appellants would reveal that the appellants have individually submitted their detailed explanation to the show cause notice issued by the second respondent.

8. At this juncture, it is necessary to extract one of such impugned order dated 15.04.2015 issued by the second respondent:

"ORDER:

In the proceedings letter of the District Collector, Vellore, the stone quarry licence was given to Thiru.Bala Adithyasabha Ananthalai village S.No.1/4(Quarry-18) Walajah Taluk. In connection with the complaint of the stone quarry owners, Kancheepuram District, in connection with the report sought for through the Demi Official Letter of the District Collector, Vellore, referred to as 3 herein above, the report was sought for, the report was obtained from the Tahsildar, Walajah as per reference 4 herein above, and the joint site inspection was conducted, and through the letter No.Na.Ka.Aa6/598/2013 dated .11.14 the report was sent to the District Collector, Vellore. As per that report, in the proceedings which was issued by the District Collector, Vellore as per refence 6 herein above, personal hearing was conducted and it was ordered to initiate appropriate action as per Rule 36-A(1) 1959.

As per that, through the letter referred to as 7 herein above, the Show Cause Memorandum was sent to the quarry licencees, and the explanation submitted as per letter referred to 8 herein above was carefully perused. In the explanation with by them, no registers, or original documents, in proof to show the quantity of stone quarried by the lessees and sent from there and the quantity of stones manufactured therein. In the letter referred to as 9 herein above, the lessees were given seven days' time, once again and the summons for personal hearing was



WEB COPY



W.A.Nos.1035 to 1044 of 2022

sent, and it was instructed to submit the details such as income tax, commercial tax etc. But, the lessees did not produce the above said details in this office.

Through this, it is confirmed that, the proper registers are not being maintained for the stones, being manufactured in the quarry of the lessees, and for the stones carried out from there, and without paying the seniorage to the Government, they carried the stones. Further, at the time of inspection, when the measurement of the pits made in the quarry were calculated, it is confirmed that the stones more than the permitted level was quarried. Further, it is confirmed that by violating the condition, the stones were quarried from the area in respect of which licence is not granted. The act of non-payment of proper seniorage amount to the Government and quarrying the stones, violating the conditions, is an offence as per Rule 36-A(1) of Tamil Nadu Minor Minerals Concession Rules, 1969.

Therefore, for the above said offence, viz., carrying the stones, without the payment of proper seniorage, for quarrying the stones, and carrying them out by violating the licence conditions, from the area in respect of which the licence is not granted, the fine is being imposed under Rule 36-A(1) of 1959, in the following manner:

.....

If he desirous to appeal against the order, the same shall be preferred before the District Collector, as per Tamil Nadu Minor Minerals Concession Rules, 1958, within a period of 30 days from the date of receipt of this order."

9. A perusal of the impugned order extracted above reveals that there is a bare mention about all the proceedings from Ref.Nos.1 to 11 and there is a vague mention that show cause notice was issued, explanation of the appellants



W.A.Nos.1035 to 1044 of 2022

were carefully perused and opportunity was given to the appellants. It is not specified as to when the personal hearing was conducted and under whose presence, the quarries were inspected and violations were noted. Except making a vague allegation that the lessees did not produce the details such as Income Tax, Commercial Tax etc. and no proper records were maintained for the stone quarries and without paying the seigniorage to the Government, they carried the stones, no other valid reasons have been assigned in the impugned order. The impugned order came to be passed based on the inspection carried out by the second respondent and without assigning valid reasons, the second respondent has confirmed that in violation of the conditions imposed, the stones were quarried from the area in respect of which licence was not granted. Thus the impugned order is nothing but a non-speaking order and also passed in violations of the principles of natural justice. The learned Advocate General appearing for the respondents also fairly agreed that the impugned order passed by the second respondent violates the principles of natural justice.

10. It is also alleged by the appellants/writ petitioners that all the 22 quarries were inspected on the same day, which is not at all possible.



W.A.Nos.1035 to 1044 of 2022

Moreover, the impugned order specified that as per Rule 36A(1) of the Tamil Nadu Minor Mineral Concession Rules, 1959, the appellants shall appeal as against the said order before the District Collector, within a period of 30 days. However, the appellants have not preferred any appeal as against the said order and without exhausting the alternative remedy, the writ petitions were filed. The Writ Court has also taken into consideration the said aspects and rightly granted liberty to the petitioners/appellants to prefer appeal as against the order imposing penalty. In spite of the liberty granted by the Writ Court, the appellants/writ petitioners have not chosen to file any appeal and instead they have filed these writ appeals.

11. Rule 36(A) of the Tamil Nadu Minor Minerals Concession Rules, 1959 speaks on penalty and the same is extracted hereunder:

“36-A. Penalties. - (1) Whenever any person contravenes the provisions of sub-sections (1) and (1-A) of [Section 4](#) of the Act in any land, enhanced seigniorage fee upto a maximum of fifteen times the normal rate subject to a minimum of twenty-five thousand rupees shall be charged and recovered from that person by the District Collector or the District Forest Officer, as the case may be,



W.A.Nos.1035 to 1044 of 2022

or in the alternative, he shall be liable to be punished as provided in sub-section (1) of [Section 21](#) of the Act”

Thus, District Collector is the competent authority to levy seigniorage fee in case of any violations. When such being the position, the imposing of penalty by the second respondent/Revenue Divisional Officer, Ranipet is legally unsustainable.

11. In the case on hand, the impugned order has been passed without assigning valid reasons and the learned Advocate General has also fairly stated that there is a violation of principles of natural justice and the District Collector is the authority competent to impose penalty and the appellants/writ petitioners failed to exhaust the alternative remedy available by filing appeal before the District Collector as against the order of the second respondent. In such circumstances, this Court is of the view that the impugned order passed by the second respondent warrants interference and the same is liable to be set aside.

12. In the light of the above discussions, the impugned order dated 15.04.2015 passed by the second respondent stands set aside and the matter is



W.A.Nos.1035 to 1044 of 2022

remitted to the first respondent / District Collector, who shall afford sufficient opportunity to the appellants/writ petitioners and pass appropriate orders within a period of twelve weeks from the date of receipt of a copy of this order.

13. These Writ Appeals are disposed of with the above directions. No costs. Consequently, connected miscellaneous petitions are closed.

(D.K.K. ACJ.) (K.B. J.)
08.08.2024

Jvm
Internet: Yes/No
Index : Yes/No



WEB COPY



W.A.Nos.1035 to 1044 of 2022

D.KRISHNAKUMAR, ACJ.
and
K.KUMARESH BABU, J.
Jvm

- To
- 1.The District Collector,
Vellore District.
 - 2.The Revenue Divisional Officer,
Ranipet.
 - 3.The Deputy Director,
Department of Geology and Mining,
Vellore.

Common Judgment in
W.A.Nos.1035 to 1044 of 2022

08.08.2024