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W.P. No.27893 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.08.2024

CORAM:

THE HON'BLE MR. JUSTICE M.DHANDAPANI

W.P. No.27893 of 2018

and

W.M.P. Nos.32436 and 32439 of 2108

Velayudham

.... Petitioner

Versus

1. The District Collector,
Villupuram District.

2. The Assistant Director,
Mines & Minerals,
Villupuram.

3. The Executive Engineer,
Water Resource Department,
Public Works Department,
Villupuram.

.... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India to issue Writ of Certiorari to call for the records on the file of the 1st respondent in Roc / A/P & C/393/2018, dated 01.10.2018 and quash the same as illegal, incompetent and without jurisdiction.

For Petitioner : Mr.Sunny Sheen
for
Ms.V. Srimathi

For Respondents : Mr.E. Vijay Anand
Addl. Govt. Pleader

ORDER



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This writ petition has been filed to quash the order, dated 01.10.2018

in Roc / A/P & C/393/2018 passed by the 1st respondent.

2. It is stated that the petitioner was in possession of the property in S. No.206/7 and 206/10 Navamalkarpar Village, Kandamangalam Taraf, Villupuram to an extent of 0.21.0 hectares. It is further stated that to carry on fishing activities, the petitioner has taken a portion of the land for lease. Subsequently, the pond which lies in the said private land was deepened and the sand was removed and kept at the bank of the pond. According to the petitioner, the said sand is not the river sand. All of a sudden, the respondents conducted an inspection and it was alleged that the petitioner has stored 1303 m³ of sand. It is the case of the petitioner that without providing an opportunity of hearing, the 1st respondent has passed the impugned order, thereby directed the 3rd respondent to distribute the said sand to the public at a stipulated price. Aggrieved by the order impugned herein, this writ petition has been filed.

3. Learned counsel for the petitioner vehemently argued that no enquiry was conducted by the 2nd respondent with regard to the nature of sand type and that too, without verifying whether the sand stored on the petitioner's leased property is from the pond or from an outside source and without examining it, the impugned order has been passed by the



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respondents. Thus, it is his submission that the action on the part of the

respondents, without providing an opportunity to the petitioner, is a clear violation of principles of natural justice. In view of the above, the impugned order suffers from illegality and the same having been issued by the respondents, without any jurisdiction. Further he submitted that over the years, the said sand was kept idle and has not been disposed of. Hence, he prays for quashment of the impugned order as well as issuance of appropriate directions to the respondents.

4. Per contra, Mr.E. Vijay Anand, learned Additional Government Pleader reiterating the counter affidavit submitted that based on the complaint received from the Public, a surprise inspection was conducted by the officials in order to prevent the illegal mining activities and they found that the petitioner stored 1303 cubic metre of illegal sand in his land. He further submitted that pursuant to the orders of this Court, the seized sand was kept under the custody and awaiting for further orders from this Court for taking further action with regard to sale of the said sand. Also, he submitted that a police complaint was lodged in Kandamangalam Police Station against the petitioner and it was in C.S.R. stage. Accordingly, the order passed by the 1st respondent does not suffer any illegality. On the aforesaid score, he prays for dismissal of this writ petition.

<https://www.mhc.tn.gov.in/judis> 5. This Court heard the arguments advanced by the learned counsel



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on either side and perused the materials placed on record.

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6. It is not in dispute that the sand in question was found in the land belonging to the petitioner. It is the contention of the petitioner that said sand was taken from the pond, which lies in the private property of the petitioner and it is meant for creating artificial pond for fishing. Though it is the stand of the petitioner that it is not the river sand and no opportunity of hearing was given to him before passing of the impugned order, it has to be noted that based on the surprise inspection, the officials found that illegal sand was stored in the petitioner's property. Hence, in the instant case, non-issuance of notice could not be termed to be in violation of principles of natural justice. Moreso, it could be seen that in obedience to the orders of this Court, the seized sand was not sold by the respondents and the same was kept in custody. Time and again, this Court issues directions to curb the illegal mining of sand and when that be so, under what authority, the sand was levelled by the petitioner and now seeking for quashment of the impugned order is not known. Stringent action has to be taken by the officials in order to prevent the illegal mining activities.

7. Considering the facts and circumstances of the case, this Court does not find any illegality or infirmity in the order, dated 01.10.2018 passed by the 1st respondent. Further the respondents shall sell the seized sand at the prevalent rate to the general public by following the procedure



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contemplated under law. It is made clear that the respondents shall take necessary action against the petitioner, if the guilt is proved under the Mines and Minerals Act.

8. With the aforesaid observations and directions, this writ petition stands dismissed. No Costs. Consequently, connected miscellaneous petitions are closed.

06.08.2024

Index : Yes / No
Internet: Yes/No
Speaking Order/Non-Speaking Order
vsi2

M.DHANDAPANI, J.

vsi2



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To

1. The District Collector,
Villupuram District.

2. The Assistant Director,
Mines & Minerals,
Villupuram.

3. The Executive Engineer,
Water Resource Department,
Public Works Department,
Villupuram.

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