



W.P.No.31334 of 2018

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

Reserved on: 18.03.2024

Delivered on : 03.06.2024

**C O R A M**

**THE HONOURABLE MRS.JUSTICE J.NISHA BANU**

**W.P.No.31334 of 2018**

K.R.Christu Raj

... Petitioner

**-Vs-**

1.The District Collector,  
Tiruvannamalai District,  
Tiruvannamalai.

2.The Director of Geology and Mining,  
Guindy Institutional Area,  
SIDCO Industrial Estate, Chennai,  
Tamil Nadu 600032.

3.The Member Secretary,  
State Environment Impact Assessment Authority,  
Ground Floor Panagal Maligai,  
No.1 Jeenis Road, Saidapet,  
Chennai 600 015.

... Respondents

**PRAYER:** Writ Petition filed under Article 227 of Constitution of India, to issue a writ of Mandamus directing the 1<sup>st</sup> respondent to grant or extend the period of lease beyond 18.12.2018 for the unutilized period of 655 days in



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respect of quarry operation in s.No.176 part, Vada Alapirandhan Village, Cheyyar Taluk, Thiruvannamalai District in favour of the petitioner.

For Petitioner : Mr.K.S.Viswanathan, Senior Counsel for  
Mr.V.Suthakar

For Respondent : Mr.Vijay Anand, Special Government Pleader  
for R1 and R2

Mr.K.Srinivasamurthy, SPCGSC for R3

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### **ORDER**

This Writ Petition is filed to direct the 1<sup>st</sup> respondent to extend the period of lease beyond 18.12.2018 for the unutilized period of 655 days in respect of quarry operation in S.No.176 part, Vada Alapirandhan Village, Cheyyar Taluk, Thiruvannamalai District in favour of the petitioner.

2. It is averred in the writ petition that the petitioner was granted a quarry lease for quarrying rough stone in Government land to an extent of 1.00 Ha, at S.No.176 part, Vada Alapirandhan Village, Cheyyar Taluk, Thiruvannamalai District, for a period of ten years from 19.12.2008 till 18.12.2018, vide proceedings dated 19.12.2008 issued by the 1<sup>st</sup> respondent. The mining lease in respect of quarrying rough stone is in an area of just 1.00 ha and it is less than 5 ha and hence there was no requirement of obtaining



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environmental clearance from the appropriate authority to carry on quarry operation.

3. It is further averred that the Ministry of Environment and Forest vide notification dated 15.01.2016 directed all those lessees who holding mining leases of even less than 5 ha., to obtain environmental clearance from the State Environment Impact Assessment Authority (SEIAA). However, the quarry owners were not put on notice about the requirement of obtaining environmental clearance and therefore, the petitioner continued their operation without obtaining any environmental clearance. On coming to know about the notification, the petitioner applied for environmental clearance to the 1<sup>st</sup> respondent by his application dated 04.08.2016.

4. It is further contended by the petitioner that in the meantime, the Ministry of Environment, Forest and Climate Change (MoEF & CC) issued a notification dated 14.03.2017, by which the applicants for EC who had been operating their units, without obtaining prior Environmental Clearance, as violation cases and further informed that all such proposal have to be submitted before MoEF & CC, New Delhi. Therefore, the 1<sup>st</sup> respondent directed the



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petitioner to submit his proposal for EC before the MoEF &CC, New Delhi.

Accordingly, the petitioner submitted his proposal dated 14.03.2017 before the said Forum. Subsequently, the MoEF & CC, issued further notifications, whereby a direction was given that the cases like that of petitioner shall be appraised by the State Authority.

5. Thereafter, the petitioner submitted his application for grant of EC to the 1<sup>st</sup> respondent on 09.04.2018. The 1<sup>st</sup> respondent granted Terms of Reference to the petitioner on 10.05.2018 with certain directions for compliance. The petitioner also complied those directions and submitted the Environmental Impact Assessment Report to the 1<sup>st</sup> respondent. Despite that his application for EC was kept pending. Hence, he approached this Court by filing W.P.No.22476/2018, to consider his application dated 09.04.2018. This Court by order dated 10.09.2018, directed the respondent to consider the case of the petitioner in accordance with notification of the Ministry dated 14.08.2018, whereby it was declared that all those quarries operating in a lease area of less than 5 has, were not required to undergo public hearing process before environmental clearance.



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6. However, the 3<sup>rd</sup> respondent vide his proceeding dated 10.10.2018, stated that since the petitioner fell under the violation category, the said notification could not be made applicable to the case of the petitioner and disposed the application.

7. The specific grievance of the petitioner is that his lease period ended on 18.12.2018. Since, the petitioner has not been able to carry on quarrying operation since 14.01.2017 till date, which amounting to 655 days, for want of Environmental Clearance, he made representation on 07.11.2018 to the respondents 1 and 2 requesting for granting extension of lease period from 18.12.2018 for a further period of 655 days. Since the said representation was not considered, the petitioner has filed this writ petition.

8. The learned counsel appearing for the petitioner submitted that when mining lease was granted to the petitioner, there was no requirement of obtaining environmental clearance. Since new conditions has been introduced after the grant of lease, the time taken by the petitioner to comply with the said conditions, ought to be excluded from the lease period and thereby, the unutilized period during which the petitioner was unable to carryout quarrying



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operations for want of environmental clearance, must be granted to the petitioner, by duly extending the period of lease.

9. The learned counsel for the respondent would submit that the period of lease is a well settled one and accepted by both the petitioner and the 1<sup>st</sup> respondent and at no point of time, it was not agreed to extend the period of lease beyond the original lease period, treating the non-operative period as loss of lease period to the petitioner. Further the subject matter stone quarry was granted on lease for a period of 10 years as per Rule 8(8) of Tamil Nadu Minor Mineral Concession Rules, 1959, since the subject matter stone quarry was virgin at the time of notification.

10. It is further submitted that as per Sub rule (ii) of Rule 8(8) of Tamil Nadu Minor Mineral Concession Rules, 1959, the leases granted under Rule 8(8) shall expire on the date specified in the lease deed and in no case extension of the period of lease shall be made.

11. Heard both sides and also perused the materials available on record.



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12. It can be averred from the writ petition that the petitioner was granted quarry lease for quarrying rough stone in government land to an extent of 1.00 hectares at S.No 176 part, Vada Alapirandhan Village, Cheyyar Thaluk, Thiruvannamalai District, Tamil Nadu for a period of 10 years from 19.12.2008 to 18.12.2018 under Rule 8 (8) of Tamil Nadu Minor Mineral Concession Rules, 1959. The statutory period of the lease as provided under the Rules ibid for the above category of mines is 10 years.

13. At the time of granting the lease, owing to the categorization, the petitioner was not required to obtain Environmental Clearance for the quarrying Activity. During the currency of the lease, a significant Mining policy shift was introduced to make Environment Clearance mandatory even for small quarries under 5 hectares to give effect to the directions contained in the Interim Order dated 27.02.2012 of the Hon'ble Supreme Court of India in the case of **Deepak Kumar & Others vs. State of Haryana**.

14. In pursuance of the above order of the Hon'ble Supreme Court, the Government of Tamil Nadu introduced Rule 42 of the Tamil Nadu Minor Mineral Concession Rules, 1959 vide GO.Ms.No.79 Industries Department



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dated 06.04.2015 to make Environment Clearance mandatory for all future small quarries and existing/operative small quarries of sizes less than 5 hectares. The lease holders were granted a period of 180 days at the time of commencement of the Rule which was eventually relaxed to 630 days vide G.O. Ms.No.105 Industries Department dated 14.07.2016.

15. Later, the Ministry of Environment and Forests followed suit and vide Notification dated 15.01.2016 directed all those leases quarrying less than 5 hectare to obtain environmental clearances in accordance with the State Environmental Impact Assessment Authority while Notification dated 14.09.2006 hitherto mandated only for the other classes of quarries that are bigger than 5 hectares.

16. To comply with the above statutes, the petitioner had submitted a proposal for environment clearance with 1<sup>st</sup> respondent on 04.08.2016. The petitioner had also attended a meeting on 01.09.2016 regarding the application before the 1<sup>st</sup> respondent. While so, the Ministry of Environment and Forests had issued a Notification dated 14.03.2017 mandating certain violation cases where construction has started before obtaining environmental clearance or had expanded the production beyond the limit of environment clearance to be



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appraised by Expert Appraisal Committee at the Central level. The notification was a scheme to regularize the violation cases to obtain environment clearance with a window of six months. The 1<sup>st</sup> respondent, in pursuance of the above notification of Ministry of Environment and Forests treated the petitioner's case as a violation case and vide a letter dated 13.05.2017 directed the petitioner to submit his proposal for environment clearance before Ministry of Environment and Forests at New Delhi.

17. Later, the Ministry of Environment and Forests vide further notifications dated 08.03.2018 and 15.03.2018 issued in furtherance of the industry representations and Court directions directed that the violation cases of B category be appraised by the State Environmental Impact Assessment Authority (SEIAA) of the respective State or Union Territory instead of at the Central level as originally notified under Ministry of Environment and Forests Notification dated 15.01.2016. In pursuance thereof the petitioner had filed the proposal for grant of environment clearance to the first respondent on 09.04.2018. The petitioner had complied with the Terms of Reference and submitted the Environment Impact Assessment (EIA) Report to the 1<sup>st</sup> respondent on 04.07.2018.



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18. Since the petitioner's lease was about to expire on 18.12.2018, the petitioner had filed a Writ Petition before this Court in WP No 22476 of 2018 seeking a direction to the State Environmental Impact Assessment Authority (SEIAA) to consider and pass order on his application dated 09.04.2018 for environment clearance. While so, Ministry of Environment and Forests issued Notification dated 14.08.2018 clarifying that small quarries operating in a lease area less than 5 hectares need not undergo public hearing for Environmental Clearance and on 10.10.2018 the State Environmental Impact Assessment Authority (SEIAA) informed the petitioner that the above said notification dated 14.08.2018 is applicable for non violation cases only and therefore public hearing is mandatory in the petitioner's case.

19. Now the grievance of the petitioner is that though the petitioner was originally granted lease for a period of 10 years from 19.12.2008 to 18.12.2018, due to various actions and inactions of the respondents he could operate his quarry only during the periods 2011-12 to 2013-14, 2014-15 to 2015-16 and 08.08.2016 to 13.01.2017 cumulatively quarrying 1350 CBM of rough stone during the entire period. From the period from 13.01.2017 to 18.12.2018 (655 days) he was not able to quarry for the reasons not attributable



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to him. Accordingly, the petitioner has filed this writ petition seeking a direction to the 1<sup>st</sup> respondent to extend the lease period beyond 18.12.2018 for the unutilized period of 655 days in the leased quarry.

20. The petitioner claims that there are judicial precedents to allow extension of lease period to ensure justice to the unerring miners and relied on the decision of the Division Bench of this Court in WA No 1018-1019 & 5734 of 2010.

21. The respondents have filed a counter and there is no dispute regarding the fact situation discussed above. On questions of law and precedence, the respondents have objected to the relief sought by the petitioner on several grounds including that such a relief can open a flood gate for litigations.

22. The respondents have pointed out Rule 8 (8) of the Tamil Nadu Minor Mineral Concession Rules, 1959 that imposes a limit of 10 year lease period for grant of license and a statutory prohibition to extend the same beyond that period under any circumstances. The introduction of Rule 42 of the



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Tamil Nadu Minor Mineral Concession Rules, 1959, consequent to the directions of the hon'ble Supreme Court in the case of Deepak Kumar & Ors vs State of Haryana, and the Ministry of Environment and Forests notification dated 15.01.2016 mandates the requirement of environment clearance for small quarries below 5 hectares and the statutes are not challenged and are in full force. Admittedly the petitioner has also made efforts to comply with the statutory requirements before the lease period expired.

23. Now the few questions that needs to be resolved by this court in the present petition is as to whether the direction of this Court in its order dated 10.09.2018 in the case of the petitioner in WP No 22476 of 2018 can provide any relief to the petitioner? The order directed the respondent to consider the application dated 09.04.2018 in accordance with the notification dated 14.08.2018. The State Environmental Impact Assessment Authority (SEIAA) had on 10.10.2018 informed the petitioner that the public hearing is mandatory since the petitioner case fell under the violation category and therefore the clarification in the notification dated 14.08.2018 is not applicable to the petitioner's case. Therefore, the said order of this court is of no help to the petitioner.



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24. The second question is whether the precedents relied by the petitioner viz the order of this hon'ble Court in WA No 1018-1019 & 5734 of 2010 allowing extension of the lease in mining cases would have a binding precedence. On perusing the order, it is seen that para 29 of the order categorically states that the findings in the cases are very specific to the facts and circumstances of the case and cannot be read in isolation or treated as a precedence. Clearly the fact situation here is that the petitioner had not obtained the mandated environment clearance to operate the quarry. Further, the cases are decided during 2011 that is a few years before the amendments in the governing statutes viz Rule 42 of the Tamil Nadu Minor Mineral Concession Rules, 1959 and Ministry of Environment and Forests Notification dated 15.01.2016. Therefore the decisions relied by the petitioner cannot be pressed as precedence in the instant case.

25. The most appropriate precedents are the ones filed by the respondents and the pivotal among them is the decision of the Hon'ble Supreme Court in the case of ***Dharmendra Kumar Singh vs State of Uttar Pradesh*** reported in (2021) 1 SCC 93. After agreeing that the right to extension of lease either flow from a statutory provision or on the terms of the



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lease between the connected parties the hon'ble court went on to assert that even obstructed period of lease on account of judicial interdiction cannot give a window to extend the lease by ignoring the statutory provision especially when the terms of lease does not provide for any such consequence. The fact situation in the said case is in all fours with the petitioner's case. The above order of the Hon'ble Supreme Court is passed after the amendments carried out in the statutes viz the Ministry of Environment and Forests Notifications and the new mining policy of the state of Uttar Pradesh that contain pari materia provisions of the amended Tamil Nadu Minor Mineral Concession Rules, 1959, there is no scope for any distinction of the case from the petitioner's case.

26. The Hon'ble Supreme Court had also invoked its powers under Article 142 of the Constitution of India to provide justice to the miners from the practical challenges in operating mining leases in the absence of statutory provisions and contractual provisions for extension of mining leases like in the instant case. The plausible refunds wherever applicable on the basis of agreed terms of lease on case to case basis in matters of security deposit or advance royalties and the interest accruing there on is gracefully postulated in the Order. The Petitioner is free to approach the 1<sup>st</sup> respondent for any such rights accrued on account of the unutilized periods.



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27. Accordingly, the Writ Petition is dismissed on the above terms.

No costs.

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Internet : Yes/ No

Index: Yes / No

Neutral Citation : Yes/ No

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**J.NISHA BANU, J.**

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