



W.P(MD)No.1114 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.03.2024

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.1114 of 2023

A.Ajikumar

... Petitioner

Vs.

1.The District Collector,
Kanyakumari District,
Kanyakumari.

2.The Assistant Director,
Department of Geology and Mining,
Collectorate,
Kanyakumari District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the 1st respondent to permit the petitioner to conduct stone quarrying operation in petitioner's patta land in S.F.No.483/1C(P), over an extent of 1.40.0 Ha in Mecode village at Kalulam Taluk, in Kanyakumari District for a period of 9 months 17 days (non - operative period) for which the petitioner was not permitted to quarry during the lease period by taking in to consideration of the environmental clearance already issued infavor of the petitioner and without insisting to get fresh clearance for the temporarily suspended period.



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For Petitioner : Mr.Sricharan Rangarajan,
For Mr.M.Gnanagurunathan.

For Respondents : Mr.T.Villavankothai,
Addl. Government Pleader.

ORDER

Heard both sides.

2.The petitioner was granted permission to quarry minor mineral in his patta land. Lease was granted on 15.12.2017. It was valid for a period of five years. The petitioner was however prevented from quarrying since the authorities were under the impression that quarry site was located within the prohibited distance from wild life sanctuary. The authorities subsequently realized that the quarry site was not within the prohibited distance from the wild life sanctuary. But then another issue was raised. The authorities felt that the petitioner will have to obtain clearance from HACA. This objection was also subsequently dropped. As a result of these two issues, the petitioner was not able to operate his quarry for 9 months and 17 days.

3.The petitioner applied to the District Collector seeking extension of the quarry lease period. The first respondent issued proceedings dated 07.06.2021



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granting permission for conducting stone quarry operation. This was subject to two limitations: (a) The petitioner can quarry only till the remaining extent of 33,907 units of rough stone and (b) The petitioner must obtain environmental clearance.

4.As regards the first ceiling, no exception can be taken. The petitioner will have to quarry the remaining extent of 33,907 units of rough stone within the aforesaid period of 9 months and 17 days. The petitioner cannot argue that he will quarry for the remaining period to whatever extent, it can permit. Such an argument cannot be accepted.

5.As regards the issue of obtaining environmental clearance, the issue is no longer *res integra*. Vide order dated 23.08.2022 in W.P.(MD)No.17181 of 2022, I had held as follows:

“3.The learned Government Pleader appearing for the first and second respondents and the learned standing counsel for the third respondent pointed out that since the environmental clearance certificate had already expired, the petitioner will have to apply afresh. The only question that arises for consideration is whether this stand of the respondents is correct. It is true that environmental clearance certificate issued on 13.10.2015 stated that it would be coterminous with the mine lease period or limited to a maximum period of five years from the date



of issue whichever is earlier. The learned standing counsel for the third respondent pointed out that the certificate was issued on 13.10.2015 and therefore, it expired on 12.10.2020 itself. The relevant clause in the environmental clearance certificate dated 13.10.2015 is as follows :

“Validity :

The Environmental Clearance will be coterminous with the mine lease period or limited to a maximum period of 5 years from the date of issue whichever is earlier.”

4.If the construction put on the aforesaid clause by the third respondent is correct, there was no need for changing its phraseology. In the environmental clearance certificate that is being issued these days, the aforesaid clause regarding validity is as follows :

“Validity

This environmental clearance is granted for for the period of 5 years from the date of execution of the mining lease period.”

5.From this modification in the language of the validity clause, one can safely infer that the clause in the writ petitioner's certificate will have to be given a purposive construction. The period of five years cannot be mechanically counted from the date of issuance of certificate. The object and purpose of the certificate was that the certificate should be valid for a maximum period of five years. It should also be coterminous with the mining lease period. Mining leases are given even for a period of ten years or more. The environmental clearance certificate was not meant to run beyond five years. That is why, in order to restrict the validity period to five years, the expression “whichever is earlier” is found. In this case, the petitioner's mining operation came to a standstill sometime in 2019. He was not able to enjoy the fruits of his



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licence. That is why, for the non-operative period, the corresponding extension was given. The authority cannot take advantage of his own wrong. The first respondent had stipulated that the petitioner must obtain environmental clearance certificate. If the quarry operations of the petitioner had not been stopped, things would have run their normal course. If the quarry operations had been conducted in terms of the mining lease, then, the life of the clearance certificate would be five years from the date of issue. Since on account of the action taken by the first respondent, there was interruption of the quarrying operations, it should be deemed that the non-operative period should not be counted. It would be a different matter altogether if the stoppage was on account of any illegality or irregularity committed by the petitioner. That is clearly not the case. Therefore, the environmental clearance certificate will be coterminous with the mining lease period. In order to clear the ambiguity, the third respondent had now restricted the mining lease period to five years from the date of execution of the lease deed. I therefore hold that the petitioner need not apply afresh to the third respondent. The environmental clearance certificate issued on 13.10.2015 in favour of the writ petitioner will hold good till for the period covered by the proceedings dated 07.06.2021 r/w. the proceedings dated 07.11.2021. The impugned order is interfered with to this limited extent. The second respondent is directed to issue transport permits to the petitioner for the said period.”

6. In this view of the matter, the respondents are directed to permit the petitioner to quarry rough stone to extent of quarrying 33,907 units within the aforesaid period of 9 months and 17 days. The question of obtaining



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environmental clearance does not arise at all. The extended period will commence from 01.04.2024.

7.This writ petition is allowed on these terms. No costs.

26.03.2024

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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Issue order copy on 27.03.2024.

To:-

- 1.The District Collector,
Kanyakumari District,
Kanyakumari.
- 2.The Assistant Director,
Department of Geology and Mining,
Collectorate,
Kanyakumari District.



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G.R.SWAMINATHAN, J.

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