



W.P(MD)No.3844 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 20.02.2024

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.3844 of 2024
and
W.M.P(MD)No.3734 of 2024

P.Letchumanan

... Petitioner

Vs.

- 1.The District Collector,
Madurai District,
Madurai.
- 2.The Revenue Divisional Officer,
Melur Division,
Madurai District.
- 3.The Assistant Director of Mines and Minerals,
Geology and Mining Department,
Madurai.
- 4.The Tahsildar,
Melur Taluk,
Madurai District.
- 5.The Village Administrative Officer,
Meenakshipuram Bit – II,



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Meenakshipuram Village,
Madurai East Taluk,
Madurai.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records relating to the impugned order of the second respondent i.e. the Revenue Divisional Officer, Melur in Na.Ka.NO. 9089/2022/A1 dated 10.01.2024 and quash the same as illegal and void.

For Petitioner : Mr.N.R.Elango
Senior Counsel for Mr.T.Palanisamy

For Respondents : Mr.D.Gandhi Raj
Special Government Pleader

ORDER

Heard the learned Senior Counsel appearing for the writ petitioner and the learned Special Government Pleader appearing for the respondents.

2. The petitioner challenges the impugned order dated 10.01.2024 passed by the Revenue Divisional Officer, Melur imposing penalty of Rs.1,01,32,176/- on the petitioner for illicit quarrying. This order is



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appealable before the District Collector, Madurai. Even though the petitioner has filed a formal appeal before the District Collector, Madurai, the petitioner is having certain reservations in pursuing the appeal remedy. This is because the impugned order is a fallout of the order dated 04.01.2024 made in W.P(MD)No.24844 of 2023. The District Collector, Madurai had filed report before the Hon'ble Division Bench indicting the petitioner herein. Therefore, filing an appeal before the District Collector is like filing an appeal to Caesar's wife from Caesar's order.

3. Considering the special facts and circumstances of this case, the petitioner is permitted to bypass the said remedy and file an appeal directly before the Director of Geology and Mining, Chennai.

4. The learned Senior Counsel appearing for the petitioner on instructions states that the petitioner would file such an appeal before the Director of Geology and Mining within three weeks from the date of receipt of a copy of this order.



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5. The prime grievance of the petitioner is that the petitioner was not heard before the impugned order was passed. I wanted to know if the statutory rules provide for any personal hearing.

6. The learned Senior Counsel appearing for the petitioner fairly states that Rules only contemplate issuance of notice and there is no explicit provision for personal hearing. Even though the Rules may be silent, in matter such as this which have serious financial implication and there are disputed questions of fact, in the very nature of things an enquiry must be held. An enquiry cannot be held without hearing the petitioner. Mere issuance of notice and receipt of explanation would not be sufficient. But on this ground, the impugned order need not be interfered with. The lacuna can be made good by the Director of Geology and Mining himself.

7. The Director Geology and Mining is directed to grant personal hearing to the petitioner and also hold enquiry. The petitioner is at liberty to place all the materials in his defence before the said authority. The Director of Geology and Mining shall pass final order within a



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period of five months after submission of the appeal. Since serious violation of principles of natural justice has been projected, the impugned order shall be put on hold till final order is passed by the said authority. The impugned order will abide by the order to be passed by the Director of Geology and Mining. The benefit of this order will stand automatically vacated if the petitioner fails to appeal within three weeks as undertaken before this Court. All the defences of the petitioner are left open.

8. This writ petition is disposed of accordingly. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

20.02.2024

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
MGA

To

1.The District Collector,
Madurai District,
Madurai.

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G.R.SWAMINATHAN, J.

MGA

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