



WP(MD)No.4037 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 02.04.2024

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.4037 of 2024

and

WMP(MD)No.3924 of 2024

R.Murugesan

... Petitioner

Vs.

1.The Commissioner of Geology
and Mining,
Chennai.

2.The District Collector,
Theni, Theni District.

3.The Assistant Director,
Department of Geology and Mining,
Theni District.

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the 3rd respondent to issue transit pass as per the supplement lease dated 09.02.2023 and consequently direct the respondents 2 and 3 to extend the quarry lease for a period of 281 days for the un-quarried period on account of the show cause notice in Rc.No.202/Mines/2022 dated 27.12.2022 issued by the 2nd respondent, without insisting fresh mining plan and fresh environment clearance.



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For Petitioner : Mr.R.J.Karthick

For Respondents : Mr.G.V.Vairam Santhosh
Additional Government Pleader

* * *

ORDER

Heard both sides.

2.The second respondent herein granted quarry lease in favour of the petitioner on 09.02.2018. The quarry lease is for a period of five years upto 08.02.2023. The quarry is in respect of the petitioner's patta lands. On account of the Covid-19 pandemic and other reasons, the petitioner was not permitted to carry on with his quarry operations. The non-operational period is from 01.04.2020 to 30.06.2021. He was also not permitted to quarry operations from 16.03.2022 to 27.12.2022 (287 days). The petitioner seeks corresponding extension of the period. For this, the respondents have no objection.

3.The Commissioner of Geology and Mining called upon the third respondent to execute a supplementary lease deed also. The first



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respondent had directed the third respondent to extend the lease period for 15 more months. In fact, the supplementary deed was also executed on 09.02.2023. Transport permit was also originally issued. But on 09.02.2024, quarry operation was stopped. The stand of the respondents is that the petitioner has not obtained environmental clearance.

4.The only question that arises for consideration is whether on this ground, the third respondent can decline to issue transport permit. The issue is no longer res integra. Vide order dated 23.08.2022 in WP(MD)No.17181 of 2022, I 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



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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



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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 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



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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."

5. Adopting very same approach, the present writ petition is also allowed. No costs. Connected miscellaneous petition is closed.

02.04.2024

Index : Yes / No
Internet : Yes/ No
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Note : Issue order copy on 10.04.2024



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