



W.P(MD)No.6173 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 14.03.2024

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.6173 of 2024
and
W.M.P(MD)No.5789 of 2024

T.Ariyamalai

... Petitioner

Vs.

1.The Secretary to Government of
Tamil Nadu,
Natural Resources Department,
Secretariat, Chennai – 9.

2.The Commissioner of Geology & Mining,
Thiru Vi Ka Industrial Estate,
Guindy, Chennai – 32.

3.The District Collector,
Office of the District Collector,
Theni District.

4.The Assistant Director,
Geology and Mining,
Office of the District Collector,
Theni 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 fourth



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respondent herein to issue transport permits on the basis of the order of the second respondent dated 02.03.2023 extending the lease period forthwith to the petitioner the remaining period of 13 months within the time stipulated by this Court.

For Petitioner : Mr.Sricharan Rangarajan
Senior Counsel
for Mr.Jeganathan

For Respondents : Mr.T.Villavan Kothai
Additional Government Pleader

ORDER

The petitioner was granted quarry lease for a period of five years on 15.12.2017. The period expired on 14.12.2022. During the lease period, the petitioner faced suspension of operations. The lease itself was cancelled on 09.09.2022. Questioning the said adverse orders, the petitioner filed an appeal before the Commissioner of Geology and Mining, Guindy, Chennai. On 02.03.2023, the appellate authority passed the following order:

“6) Based on the appeal/representation made by the lessee and based on the report submitted by the Assistant Director of Geology and Mining, Theni and other observations as above, the said two quarry leases



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period is extended for 2 years from the date of execution of supplementary lease deed in respect of rough stone quarry leases granted to Tmt.T.Ariyamalai over an extent of 0.82.0 hectares of patta lands comprising S.F.Nos.745 & 746 of Shanmugasundarapuram Village, Andipatty Taluk, Theni District by the District Collector, Theni vide proceedings in RC.No.146/Mines/2016, dated 15.12.2017 for a period of five years up to 14.12.2022. Another quarry lease granted for quarrying rough stone and gravel over an extent of 1.47.5 hectares of patta lands in S.F.No.748 of Shanmugasundarapuram Village, Andipatty Taluk, Theni District by the District Collector, Theni vide proceedings in RC.No. 147/Mines/2016, dated 15.12.2017 for a period of five years up to 14.12.2022.

7) The Assistant Director of Geology and Mining, Theni is directed to execute supplementary lease deed for the extended quarry lease period for 2 years in respect of the said two quarries. Deemed extension of Environmental Clearance as per the Ministry of Environment, Forest and Climate Change Notification No.1807 (E) dated 12.04.2022.

8) The appellant is further directed to strictly follow all the conditions stipulated in lease granting order, lease deed, approved mining plan and conditions



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stipulated in Environmental Clearance already issued during carrying out the quarrying operations for extended period.”

I wanted to know from the learned Additional Government Pleader if the order passed by the second respondent has been stayed or set aside. It is stated that since the petitioner has not obtained clearance from the State Level Environmental Impact Assessment Authority, the order passed by the second respondent could not be complied with.

3.The question that arises for consideration is whether the petitioner is obliged to obtain fresh environmental clearance from the concerned authority. This issue is not 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



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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



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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 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



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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.”

In view of the same, the question of the petitioner having to apply afresh does not arise at all. The fourth respondent is subordinate to the second respondent. So long as the order of the higher authority is holding good, the fourth respondent is bound to comply with the same. The fourth respondent cannot take any independent stand in the matter. The fourth respondent is directed to comply with the proceedings bearing RC.No. 6094/MM6/2022 dated 02.03.2023 issued by the second respondent.



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This shall be done immediately and without any delay. The learned Senior Counsel appearing for the petitioner fairly brings it to my notice that the language of the Environmental Clearance Certificate dated 16.10.2017 issued in the present case is slightly at variance with the language clause that is the subject matter of WP(MD)No.17181 of 2022. Clause 11 in the present case reads as follows:

“11.Validity:-

This Environmental Clearance is granted to quarrying roughstone for producing quantity of Rough stone 118480 M³ and Gravel 20796 m³ or Limited to maximum of 3 years from the date if execution of lease deed whichever is earlier.”

In my view, this is on a better footing for the petitioner. Clause 11 goes to the extent of saying that Environmental Clearance is granted for quarrying rough stones for producing a given quantity of mine and mineral. Therefore, I would put the very same construction that was put on the earlier occasion.



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5.This writ petition is allowed accordingly. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

14.03.2024

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

Note: Issue order copy on 03.04.2024.

To

- 1.The Secretary to Government of Tamil Nadu,
Natural Resources Department,
Secretariat, Chennai – 9.
- 2.The Commissioner of Geology &Mining,
Thiru Vi Ka Industrial Estate, Guindy, Chennai – 32.
- 3.The District Collector,
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