



W.P.(MD).No.8051 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.03.2024

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD).No.8051 of 2024

and

W.M.P.(MD).Nos.7306 and 7307 of 2024

A.Prabhakaran

... Petitioner

Vs.

The District Collector,
Theni District.

... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the records pertaining to the impugned order passed by the respondent notice Na.Ka.No. 155-18/2019/Mines dated 16.08.2019 and in Na.Ka.No.73/Mines/2024 dated 06.02.2024 quash the same within a time stipulated by this Court.

For Petitioner : Mr.C.Jeganathan

For Respondent : Mr.A.Kannan
Additional Government Pleader

ORDER

Heard both sides.



W.P.(MD).No.8051 of 2024

2. The respondent had issued the impugned proceedings dated 06.02.2024 for enforcing the earlier order dated 16.08.2019, levying penalty on the petitioner herein. It is obvious that the penalty order was passed without notice to the petitioner herein. The Hon'ble First Bench, vide order dated 15.02.2024 in W.A.No.671 of 2020 and etc., batch, had decided the issue in the following terms:

“24. As stated above, the fact that some of them have been issued with ECs for the period in dispute subsequently renders the factual observation of the learned Single Judge incorrect, as the learned Single Judge has observed that none of them would get EC, because they have not submitted the mining plan. Moreover, the appellants/petitioners have also disputed the quantum of the minerals extracted. The penalty/cost imposed is 100% cost of the mineral extracted. The said facts also will have to be considered by the authority.

25. In many of the matters, the concerned authority has not decided the applications for EC. If the authority has not decided the applications for EC, the appellants/petitioners cannot be faulted with. Of course, if the applications are defective, it is for the appellants/petitioners to rectify the same. The authority ought to have rejected the applications or allowed the applications.

26. In the present case, the penalty/cost has been imposed upon the appellants/petitioners. The consequence of the



administrative action is prejudicial to the appellants/petitioners. When the penalty/cost is imposed, non-adherence to the principles of natural justice would be against the tenets of civil jurisprudence.

27. In view of the aforesaid, we are of the view that the appellants/petitioners ought to have been given an opportunity before the decision was taken to impose 100% penalty/cost upon the appellants/petitioners. An opportunity may be given in a limited way, that is, by giving them an opportunity to reply to the show-cause notices, where they can put forth all the relevant facts and their defences, which certainly would have to be considered by the authorities before passing the order.

28. In the result, we pass the following orders:

(i) The impugned order passed by the learned Single Judge at the Principal Seat is quashed and set aside;

(ii) The impugned orders/memos imposing 100% penalty/cost upon the appellants/petitioners shall be construed as show-cause notices;

(iii) The appellants/petitioners shall file reply to the said show-cause notices, along with all the relevant documents on which they rely, within a period of four weeks from today; and

(iv) The authority shall consider the reply filed by the appellants/petitioners individually and pass fresh orders with regard to imposing of penalty/cost or otherwise.”



W.P.(MD).No.8051 of 2024

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3. The impugned order dated 06.02.2024 stands quashed. The order dated 16.08.2019 shall be treated as a show cause notice. The petitioner shall file reply to the show cause notice along with relevant documents within a period of four (4) weeks from today. The respondent shall consider the petitioner's reply and pass a fresh order with regard to imposing of penalty/cost or otherwise.

4. This Writ Petition is disposed of on the above terms. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

28.03.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes/ No
Lm

To
The District Collector,
Theni District.



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W.P.(MD).No.8051 of 2024

G.R.SWAMINATHAN, J.

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W.P.(MD).No.8051 of 2024

28.03.2024