



W.P(MD)No.9306 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.04.2024

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.9306 of 2024

and

W.M.P.(MD)Nos.8493 and 8494 of 2024

S.K.Balasubramanian

... Petitioner

Vs.

1.Government of Tamil Nadu,
Industries (MMC.1) Department,
Represented by Additional Chief Secretary,
Fort St. George, Chennai - 600 009.

2.The Director,
Department of Geology and Mining,
Thiru. Vi.Ka. Industrial Estate,
Guindy, Chennai 600 032.

3.The District Collector,
Dindigul District,
Dindigul.

... 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 entire records of the 3rd respondent in Na.Ka.No.618/2019-Minerals dated 06.08.2019 and the consequential proceedings in Na.Ka.No. 618-3/2019 (Minerals) (R.S) dated 26.12.2023 and quash the same as arbitrary, illegal.



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For Petitioner : Ms.V.Muthu Kamatchi

For Respondents : Mr.K.Balasubramani,
Spl. Government Pleader

ORDER

Heard the learned counsel for the writ petitioner and the learned Special Government Pleader for the respondents.

2.The petitioner challenges the order dated 06.08.2019 passed by the District Collector, Dindigul levying penalty to the tune of Rs. 70,20,000/- and the consequential recovery proceedings dated 26.12.2023.

3.The prime argument of the learned counsel for the petitioner is that the issue is squarely covered by the order of the Hon'ble First Bench rendered in W.A.No.671 of 2020 etc batch dated 15.02.2024. Paragraph No.28 of the said order reads as follows:-

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



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(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.”

In this case also, the original penalty order was passed without putting the petitioner on notice.

4. Respectfully applying the ratio laid down above by the Hon'ble First Bench, the recovery proceedings issued vide memorandum dated 26.12.2023 by the third respondent is set aside. The memorandum dated 06.08.2019 issued by the first respondent shall be treated as show cause notice. The petitioner is given three weeks from the date of receipt of a copy of this order to offer his reply. The third respondent will conduct enquiry, take into account the objections of the petitioner and pass final order on merits and in accordance with law. I make it clear that I have not gone into the merits of the matter. If the petitioner fails to offer his objections within three weeks as mentioned above, it is open to the third respondent to enforce the same.



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5. With this liberty to the petitioner and direction to the third respondent, this writ petition is partly allowed. No costs. Consequently, connected miscellaneous petitions are closed.

16.04.2024

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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To:-

1. The Additional Chief Secretary,
Industries (MMC.1) Department,
Fort St. George, Chennai - 600 009.

2. The Director,
Department of Geology and Mining,
Thiru. Vi.Ka. Industrial Estate,
Guindy, Chennai 600 032.

3. The District Collector,
Dindigul District,
Dindigul.



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G.R.SWAMINATHAN, J.

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