



WP(MD)No.9917 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 12.07.2023

Pronounced on : 07.03.2024

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
and
THE HONOURABLE MR.JUSTICE B.PUGALENDHI

WP(MD)No.9917 of 2023
and
WMP(MD)Nos.8733 to 8735 of 2023

S.Samathanam

... Petitioner

v.

- 1.The State of Tamil Nadu,
Rep. by the Principal Secretary to Government,
Department of Geology and Mining,
Fort St.George, Secretariat,
Chennai - 9.
- 2.The Director of Geology and Mining,
O/o.Director of Geology and Mining,
Alandur Road, Guindy,
Industrial Estate,
Guindy, Chennai - 32.
- 3.The Commissioner,
Department of Geology and Mining,
Thiru Vi Ka Industrial Estate,
Guindy, Chennai - 32.



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4.The District Collector,
Ramanathapuram District,
Ramanathapuram.

5.The Executive Engineer,
Public Works Department,
Water Resource Organization,
Geology, Madurai – 2.

6.K.Infra,
Rep. by its Proprietor,
No.4, Town Hall Complex,
North Main Road,
Pudukkottai District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India seeking issuance of a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned order in Na.Ka.No.G & M1/1418/2018 dated 07.09.2022 on the file of the fourth respondent, quash the same and consequently, directing the respondents 1 to 5 to forbear the indiscriminate sand mining in Pambar River of S.No.327/1, Sirgampaiyur Village, Thiruvadanai Taluk, Ramanathapuram District, within a stipulated time limit.



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For Petitioner : Mr.T.Lajapathi Roy,
Senior Counsel
for Mr.Mahaboob Fazil

For Respondents : Mr.R.Baskaran,
Additional Advocate General
Assisted by
Mr.K.Balasubramani,
Special Government Pleader
for R.1 to R.5

Mr.Nitheash Nataraj
for Mr.Anirudh A.Sriram for R.6

ORDER

B.PUGALENDHI, J.,

This writ petition is filed by the petitioner, a Farmer, in the form of a public interest litigation, as against the proceedings of the District Collector dated 07.09.2022, granting sand quarry permit in Pambar River, Ramanathapuram District, to the fifth respondent / Water Resource Organization.

2.Learned Senior Counsel for the petitioner submitted that by the impugned order, the District Collector had permitted the fifth



respondent / Water Resource Organization to conduct the quarry operation. However, the quarry operation is conducted by the sixth respondent, a private operator. Though permission was granted to quarry river sand to an extent of 2.10 hectares and 31322 cubic meters, the sixth respondent is exploiting the river sand to the entire extent of 104 hectares and has lifted the sand beyond the permitted limit. Six Excavators and 100 Trucks are employed by the sixth respondent for the quarry operation and he is doing indiscriminate mining in the river. Lifting the sand beyond the permitted limit amounts to illegal quarry operation and therefore, necessary action has to be taken as against the respondents 5 & 6, who are responsible for this illegal quarrying.

3.Learned Additional Advocate General submitted that the precise area for sand quarry was identified and located by the fifth respondent, after studying the availability of the sand and thereafter, a proposal was made for conducting quarry operation. The District Collector has granted permission, after ascertaining the feasibility of conducting sand quarry in the area by conducting a joint inspection with the officials from



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Forest Department, TWAD Board, Water Resource Department, Revenue and Local Panchayat and after obtaining a No Objection from these Departments. Thereafter, the fifth respondent has prepared a mining plan through a qualified person recognized by the National Accrediation Board and they have also obtained the Environmental Clearance as required under Rule 42 of the Tamil Nadu Minor Mineral Concession Rules from the State Level Environment Impact Assessment Authority (SEIAA). According to him, the quarry operations are conducted only in accordance with the mining plan and as per the conditions of the State Level Environment Impact Assessment Authority. Further, the quarry permission was granted only for a limited period from 07.09.2022 to 06.09.2023 and as such, the permit itself is now expired.

4.Learned Additional Advocate General further submitted that the sixth respondent / Contractor has been engaged by the fifth respondent as a lifting operator for excavating and loading the sand in the quarry site and also for transporting the mined sand to the Government Depot. The movement of sand is monitored through CCTV in the mining site as



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well as in the Depot and the vehicles are also fixed with GPS tracking instruments. Therefore, the Department is monitoring the quarry operations and the movement of vehicles in an effective manner and there is no possibility of any pilferage or any illegal quarrying beyond the permitted limit.

5.We have considered the rival submissions made on either side and perused the available materials.

6.By the order impugned, the District Collector permitted the fifth respondent / Executive Engineer of Water Resource Organization to conduct the quarry in the River Pambar in an extent of 2.10 hectares and 31322 cubic meters. However, the case of the petitioner is that the sixth respondent, a private individual, is conducting the quarry operations and by taking advantage of the permission given by the fifth respondent, he is exploiting the sand more than the permitted quantity and also in the entire extent of 104 hectares of River Pambar.



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7. Quarrying of sand in the State of Tamil Nadu is prohibited, except by the Government, from the year 2003 as per Rule 38A of the Tamil Nadu Minor Mineral Concession Rules, 1959. There is a checkered history for the introduction of this Rule 38A. This Court, taking note of the rampant illegal mining of river sand in the State, directed the Government to constitute a High Level Committee to conduct a detailed study on sand quarrying by private individuals. The High Level Committee submitted a report that the private operators, after obtaining quarry permission, are exploiting the river sand upto 10 meters depth, which would affect the water storage and the environment of the river. Accepting this recommendation, the Government has introduced an amendment to the Tamil Nadu Minor Mineral Concession Rules and introduced Rule 38A, which prohibits quarrying of sand by any private individual.

8. Therefore, as per Rule 38A of the Tamil Nadu Minor Mineral Concession Rules, the right to exploit sand in this State vests only with



the State Government from the year 2003. The fifth respondent / Water

Resource Organization is permitted to conduct the sand quarry.

However, the fifth respondent is depending on private individuals like the sixth respondent for conducting the quarry operations in the field and for transporting the mined sand to the Government Depot. The fifth respondent claims that they have conducted two tenders. One for the purpose of excavating and loading the mined sand into the vehicles and another tender for transporting the mined sand to the Government Depot. In both the tenders, the sixth respondent was declared as the successful bidder and therefore, he was engaged.

9.The purpose, for which Rule 38A was introduced, is only to prevent the sand quarry operations by private individuals. However, the same was given a go-by by engaging private individuals like the sixth respondent as a lifting contractor or as a transporting contractor. This would certainly affect the very purpose and object for which this Rule was introduced in the year 2003. The allegation in this case is that the sixth respondent has engaged six Excavators and 100 Trucks for mining



the sand and for transporting the sand from the quarry site. Though a detailed counter affidavit has been filed by the fifth respondent that they are conducting the quarry operation as per the mining plan and that in the mining plan itself, the number of Excavators and the vehicles permitted is mentioned, the fifth respondent has cautiously avoided the furnishing of details with regard to the machines which were permitted for conducting the quarry operation in the River Pambar.

10. According to the learned Additional Advocate General, it is only two Excavators were used by the sixth respondent for quarrying and for lifting the sand in the quarry site. If that is the case, we fail to understand as to the necessity for the fifth respondent to engage the services of the sixth respondent for operating these two Excavators.

11. It appears that the fifth respondent is not having sufficient machines and equipment to conduct the quarry operations and they are depending on the private individuals, like the sixth respondent, for carrying out the quarry operations. We are of the view that in order to



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achieve the object, as stated in Rule 38A, the Government has to take a decision to constitute a separate Department for conducting the sand quarry operations without depending upon any private lifting or transporting operators. By doing so, the object of Rule 38A can be achieved and the Government can also avoid such type of allegations made as against them.

12. Since in this case the quarry permit was granted only upto September, 2023 and the period itself is over and that the entire quarry operations as well as movement of vehicles have been monitored, this Court is not inclined to pass any orders in this regard. However, the official respondents are directed not to allow any private operators in the sand quarry operations and to ensure that the sand quarry operations are performed only by the Government, as per Rule 38A of the Tamil Nadu Minor Mineral Concession Rules.



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With the above observations and directions, this writ petition stands disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

[G.R.S.,J.] [B.P.,J.]
07.03.2024

Index : Yes / No
NCC : Yes / No
Internet : Yes
ias/gk

To

1.The Principal Secretary to Government,
State of Tamil Nadu,
Department of Geology and Mining,
Fort St.George, Secretariat,
Chennai – 9.

2.The Director of Geology and Mining,
O/o.Director of Geology and Mining,
Alandur Road, Guindy,
Industrial Estate,
Guindy, Chennai – 32.

3.The Commissioner,
Department of Geology and Mining,
Thiru Vi Ka Industrial Estate,
Guindy,
Chennai – 32.



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and
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4.The District Collector,
Ramanathapuram District,
Ramanathapuram.

5.The Executive Engineer,
Public Works Department,
Water Resource Organization,
Geology, Madurai – 2.

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