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W.P.(MD)NO.10763 OF 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.06.2024

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.10763 of 2024 AND

W.M.P.(MD)No.9624 of 2024

V.Esther Arokiya Rani

... Petitioner

Vs.

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

2. The Commissioner,
Geology and Mining,
Thiru.V.Ka.Industrial Estate,
Guindy, Chennai – 32.

3. The District Collector,
Virudhunagar District,
Virudhunagar.

4. The Assistant Director,
Geology and Mining,
Virudhunagar,
Virudhunagar District.

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the fourth respondent to issue transport permit to the petitioner based on the order passed by the fourth respondent in his proceedings in R.C.No.KV1/579/2023 dated 01.06.2023 within the stipulated period of time fixed by this Court.



For Petitioner : Mr.B.Saravanan,
Senior counsel,
for Mr.D.Kirubakaran.

For Respondents : Mr.Veerakathiravan,
Additional Advocate General,
assisted by,
Mr.N.G.A.Natraj,
Government Advocate.
* * *

ORDER

Heard the learned Senior counsel appearing for the writ petitioner and the learned Additional Advocate General assisted by the learned Government Advocate appearing for the respondents.

2. My attention is drawn to the order dated 25.03.2024 made in W.P.(MD)No.29126 of 2023(Narayana Perumalsamy V. The Secretary to Government of Tamil Nadu). The said order reads as follows:-

“ 8. I make it clear at the very outset that I do not want to go into the disputed questions of fact. It is beyond dispute that the Commissioner of Geology and Mining, Guindy, Chennai had allowed the writ petitioners' appeals. Supplementary lease deeds had been entered. It may not be open to the fourth respondent herein who is a subordinate



authority to call names. In fact, when the writ petition was listed for admission on 15.12.2023, it was adjourned to 22.12.2023. The orders on which the petitioners are placing reliance were passed in the months of February, March, April and May 2023. It is not as if the Government did not have time to revise and set aside the orders passed by the Commissioner of Geology and Mining. So long as the orders have not been stayed or set aside, they will have to be implemented.

9.However, taking note of the contentions advanced by the learned Additional Advocate General, I direct the fourth respondent herein to issue transport permits to the petitioners herein based on the order passed by the second respondent if within a period of four weeks from today. The orders of the second respondent have not been stayed or set aside.

10.This writ petition is allowed on these terms. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed. ”



3. The learned Senior counsel points out that in this case also, the Commissioner of Geology and Mining had issued the proceedings in favour of the petitioner. Unlike the earlier case, in this case there is no challenge to the said proceedings. Be that as it may, I grant liberty to the third respondent to decide whether to challenge the said order or not. If any such appeal is filed by the third respondent before the first respondent within a period of two weeks from today, it shall be entertained without reference to limitation. Final order on merits will be passed by the first respondent after issuing notice to the petitioner within a period of four weeks, thereafter. Based on the order to be passed by the first respondent, the rights of the petitioner will abide. If no order is obtained in favour of the petitioner, the proceedings of the second respondent shall be implemented. This writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

05.06.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes/ No
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Note : Issue order copy on 07.06.2024.



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G.R.SWAMINATHAN,J.

PMU

To:

1. The Secretary to Government,
Government of Tamil Nadu,
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2. The Commissioner,
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Thiru.V.Ka.Industrial Estate,
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