



W.P.(MD)No.15094 of 2021

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.04.2024

CORAM :

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

W.P.(MD)No.15094 of 2021

and

W.M.P.(MD)Nos.12022 to 12024 of 2021

M/s.Chanthraa Granites
represented by its Partner
R.Subramanian

... Petitioner

Vs.

1. The Government of Tamil Nadu,
represented by its Secretary to Government,
Geology and Mining Department,
Fort St.George,
Secretariat,
Chennai-600 009.
2. The Director,
Geology and Mining Department,
Guindy,
Chennai-600032.
3. The District Collector,
Tirunelveli District,
Tirunelveli.
4. The Assistant Director of Geology and Mining,
Tirunelveli.

... Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records of the third respondent herein bearing Na.Ka.No. 44240-2/2019 dated 28.11.2019 in respect of survey No.353/2B part of an extent of 1.20.0 hectares of patta lands in Adaichani Village, Ambasamudram Taluk, Tirunelveli District and quash the same and direct the third respondent herein to grant approval for the scheme of Mining Plan for the period from 2015-2020.

For Petitioner : Mr.C.Mahadevan

For Respondents : Mr.A.K.Manikkam
Special Government Pleader

ORDER

The Writ Petition is directed against the demand notice dated 28.11.2019 issued by the third respondent and for direction to the third respondent to grant approval for the scheme of Mining Plan for the period from 2015-2020.

2. The learned counsel appearing for the writ petitioner would submit that while application has been pending in the Ministry of Environment and Forest, the third respondent, without considering the same and without passing any order therein, has issued a demand notice



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on 28.11.2019 claiming Rs.4,42,30,861/- for the period from 15.01.2016 to 10.01.2017, that the demand notice was issued without giving notice and without hearing the writ petitioner, that the demand notice is in reality an order requiring the writ petitioner to pay the amount mentioned therein and that therefore, the writ petitioner was constrained to approach this Court, challenging the impugned order dated 28.11.2019.

3. When the matter is taken up for hearing today, the learned counsel appearing for the writ petitioner would submit that the present case is squarely covered by the judgment of the First Bench of this Court dated 15.02.2024 headed by the Hon'ble Chief Justice in Writ Appeal No. 671 of 2020 and batch of appeals and Writ Petition No.31399 of 2018 and batch of petitions, wherein, the Hon'ble Division Bench has observed that the learned Single Judge at Madurai Bench of Madras High Court had decided to allow the writ petitions on the ground that the principles of natural justice were not followed and a learned Single Judge at Principal Seat had taken a different view, had referred the matters and whereas another learned Single Judge at Principal Seat had decided that since the writ petitioner therein continued with the mining operations



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from 15.01.2016 to 10.01.2017 without obtaining Environmental Clearance, the authority was justified in imposing penalty and/or recovering the 100% cost of the mineral lifted during the said period, have taken the above matters and passed the common judgment and the result portion is extracted hereunder :

“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.”

4. The learned counsel appearing for the writ petitioner as well as the learned Special Government Pleader appearing for the respondents



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would submit that the present case is squarely covered by the above judgment.

5. In view of the above, the impugned notice, dated 28.11.2019 is set aside and the impugned notice or order shall be taken as a show cause notice and the writ petitioner shall file reply to the said show cause notice along with all relevant documents within a period of four weeks from the date of receipt of copy of this order and on receipt of such reply, the authorities shall consider the reply filed by the writ petitioner and pass fresh orders with regard to imposing of penalty/cost or otherwise.

6. In the result, this Writ Petition is allowed. Consequently, connected Miscellaneous Petitions are closed. No costs.

04.04.2024

NCC :Yes/No
Index :Yes/No
Internet : Yes/ No
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K.MURALI SHANKAR, J

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To

1. The Secretary to Government,
Government of Tamil Nadu,
Geology and Mining Department,
Fort St.George,
Secretariat,
Chennai-600 009.
2. The Director,
Geology and Mining Department,
Guindy,
Chennai-600032.
3. The District Collector,
Tirunelveli District,
Tirunelveli.
4. The Assistant Director of Geology and Mining,
Tirunelveli.
5. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Order made in

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and

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Dated : 04.04.2024