



W.P(MD)No.21295 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.12.2024

CORAM

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P(MD)No.21295 of 2023

and

W.M.P(MD)No.17701 of 2023

M.Devi Renuka

... Petitioner

Vs

1.The District Collector,
Karur District,
Karur.

2.The Revenue Divisional Officer,
Karur District,
Karur.

3.The Revenue Tahsildhar,
Aravakurichi,
Karur District.

4.The Deputy Director,
Department of Geology and Mining,
District Collectorate,
Karur District.

5.The Panchayat President,
Periyamanjuveli Village,
Karur District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned order passed by the fifth respondent in his proceedings Nil dated 08.08.2023 and quash the same as illegal, arbitrary, without jurisdiction and in violation of



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principles of natural justice and consequently, directing the fifth respondent to issue a letter of recommendation/No objection to carry on quarrying operations at Survey No.450/3 to an extent of 1.21.5 hectares, Periyamanjuveli Village, Aravakurichi Taluk, Karur District to the petitioner within a time frame fixed by this Court.

For Petitioner : Mr.D.Kirubakaran
For RR 1 to 4 : Mr.D.Gandhi Raj
Special Government Pleader
For R – 5 : Mr.M.Ramesh

ORDER

This Writ Petition has been filed by the petitioner challenging the order passed by the fifth respondent dated 08.08.2023, thereby refusing to issue No Objection Certificate to quarry the property comprised in Survey No.450/3 (part) to an extent of 1.21.5 hectares situated at Periyamanjuveli Village, Aravakurichi Taluk, Karur District.

2.Heard the learned counsel appearing on either side and perused the materials placed before this Court.



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3.The petitioner owned land comprised in Survey No. 450/3 to an extent of 1.21.5 hectares situated at Periyamanjuveli Village, Aravakurichi Taluk, Karur District. The petitioner made an application before the first respondent for a grant of licence to quarry rough stone in the said property for a period of 10 years. On receipt of the application, the third respondent by its communication dated 18.01.2021 recommended for grant of licence and communicated the same to the second respondent to quarry rough stone in the subject property. The first respondent also recommended for grant of lease and licence to the petitioner to quarry rough stone in the subject property. While being so, the fourth respondent sought for draft mining plan by its communication dated 08.06.2021 and also the environmental clearance from the State Level Environmental Impact Assessment Authority as required under the Tamil Nadu Minor Mineral Concession Rules, 1959. After obtaining an environmental clearance certificate from the State Level Environmental Impact Assessment Authority and also from the Tamil Nadu Pollution Control Board, the petitioner submitted the same before the fourth respondent. Thereafter, the fourth respondent directed the petitioner to obtain approval from the fifth respondent for issuance of a lease and licence to quarry. Accordingly, the petitioner made a request before the fifth



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respondent for issuance of No Objection Certificate to quarry the subject land. However, it was not considered and as such, the petitioner filed a Writ Petition in W.P(MD)No.11043 of 2023 before this Court and this Court by order dated 01.06.2023 directed the fifth respondent to determine whether there are any objections from the adjacent land owners or villagers and consider the representation submitted by the petitioner for issuance of No Objection Certificate by passing orders with reasons. Thereafter, the fifth respondent refused to issue No Objection Certificate by its communication, dated 08.08.2023.

4.The learned counsel appearing for the petitioner would submit the fifth respondent has no jurisdiction to issue No Objection Certificate. Only on the instruction given by the fourth respondent, the petitioner sought for No Objection Certificate from the fifth respondent. When all other authorities concerned issued an Environmental Clearance certificate, No Objection Certificate from the Tamil Nadu Pollution Control Board and other recommendations from the authorities concerned, the fifth respondent had no role to play for the issuance of No Objection Certificate. The fifth respondent cannot question the environmental clearance certificate



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and consent granted by other authorities. That apart, the fifth respondent without giving an opportunity of hearing, refused to issue No Objection Certificate to the petitioner. It is a clear violation of the principles of natural justice.

5. On perusal of the counter-affidavit filed by the fifth respondent and on the submissions made by the learned counsel appearing for the fifth respondent would reveal that on receipt of the request made by the petitioner for issuance of No Objection Certificate to carry on quarry operation in the land comprised in Survey No.450/3 to an extent of 1.21.5 hectares situated at Periyamanjuveli Village, Aravakurichi Taluk, Karur District, perused the Environmental Clearance certificate and also other recommendations forwarded by the authorities concerned, called for objections from the general public. On the objections from the general public would reveal that already two quarry sites are running in the same Village and another quarry is functioning on the border of Periyamanuvali Village. Therefore, already the Villagers are suffering a lot and they could not able to do their agricultural activities due to pollution and also ground water level is exploited by operation of quarry. Therefore, the entire villagers passed a



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resolution during the Grama Shaba, thereby resolved to make a request to cancel the quarry licence and further resolved that no permission shall be granted to quarry the subject property. The following objections were duly considered by the fifth respondent while refusing to issue No Objection Certificate:

'a.The Alagapur channel which brings water for irrigation is situated in the place where proposed quarry is to be operated.

b.Within 500 and 300 metres of the quarry site there are 50 houses.

c.Except the quarry site the other surrounding places are agriculture land, already due to functioning of two quarry sites half of the agricultural activities have been exploited and if the proposed quarry was opened then the remaining agricultural activities will also exploited.

d.Within 700 metre Primary School is situated at Kiriappa Nayakkanur Village and there is huge agricultural land in the Village.

e.Within 750 metres of Kudaganaru is situated and within 1 kilometre Kudanganaru Bridge is located.

f.The road in the quarry sites belongs to the Public Works Department and the said road was in very worst condition due to non maintenance.'



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6. Even after those objections made by the Villagers, the Tamil Nadu Pollution Control Board had accorded permission to quarry the subject land. It is also relevant to extract Rule 36 of the Tamil Nadu Minor Mineral Concession Rules, 1959, hereunder:

'36. General restrictions in respect of quarrying operations :- (1) The quarrying permit holder or the lessee or their men shall not work or carry on or allow to be worked or carried on any mining operations at or to any point within a distance of 50 metres from any railway line except with the previous written permission of the Railway administration concerned or under or beneath any ropeway or any ropeway trestle or station except under and in accordance with the written permission of the authority owning the ropeway or from any reservoir, canal or other public works such as public roads and buildings except with the previous written permission of the Collector of the district or any other officer authorised by the State Government in this behalf and otherwise than in accordance with such instructions, restrictions and conditions, either general or special, which may be attached to such permission. The said distance of 50 metres shall be measured in the case of railway, reservoir or canal horizontally from the outer toe of the bank or the outer edge of the cutting, as the case may be, and in case of building, horizontally from the plinth thereof. In the case of village roads, no working shall be carried out within a distance of 10 metres and except with the previous permission of the Collector of the District or any other officer duly authorised by the State Government in this behalf and



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otherwise than in accordance with such directions, restrictions and additions, either general or special, which may be attached to such permission:

[Provided that notwithstanding anything contained in any law for the time being in force or any provision in any lease deed or agreement already executed under these rules, there shall be no quarrying of sand in any river bed or adjoining are or any other area which is located within 500 metres radial distances from the location of any bridge, water supply system, infiltration well or pumping installation of any of the local bodies or Central or State Government Department or the Tamil Nadu Water Supply and Drainage Board head works or any area identified for locating water supply schemes by any of the above-mentioned Government Departments or other bodies].

(1-A)(a) No lease shall be granted for quarrying stone within 300 metres (three hundred metres) from any inhabited site:

Provided that the exiting quarries which are subsisting under current leases shall be entitled for continuance till the expiry of the lease period. The lessees whose quarries lie within a radius of 300 metres from the inhabited site shall undertake blasting operations only after getting permission of the Director of Mines Safety, Gorgaum:

Provided further that the new and existing units of quarries shall also be required to comply with the Pollution Control Measures (i.e., dust control measures) besides complying with the other conditions in regard to Pollution Control Measures.'



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7. Accordingly, the resolutions resolved in the Grama Sabha dated 01.05.2022, 15.08.2022 and 02.10.2022 are also produced before this Court. During the Grama Sabha, all the Villagers participated and made objections to quarry the subject land by the petitioner.

8. In view of the above, the fifth respondent refused to issue No Objection Certificate. Therefore, it cannot be said that the fifth respondent has no jurisdiction or power to refuse to issue No Objection Certificate to quarry the subject land after issuance of Environmental Clearance Certificate and permission accorded by the Tamil Nadu Pollution Control Board. The power is vested with the provision under Section 160 of the Tamil Nadu Panchayats Act and it is not only with Panchayat Union Council and also including the President of the Village Panchayat. That apart, the distance between the subject quarry land and other residential areas is situated within a radius of 300 meters from the subject quarry land. Therefore, it is not permissible under Rule 36 of the Tamil Nadu Minor Mineral Concession Rules, 1959. In view of the above, the fifth respondent rightly refused to issue No Objection Certificate to quarry the



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subject land by the petitioner and this Court finds no infirmity or illegality in the order passed by the fifth respondent. Hence, this Writ Petition is devoid of merits and the same is liable to be dismissed.

9. Accordingly, this Writ Petition is dismissed. There shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

04.12.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes
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G.K.ILANTHIRAIYAN, J.

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