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W.P.No.4498 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.02.2025

CORAM:

THE HONOURABLE MR. JUSTICE **D.BHARATHA CHAKRAVARTHY**

W.P.No.4498 of 2025

and

W.M.P.No. 5006 of 2025

M.K.NISHAR
PROPRIETOR,
M/S.M.K.TRADERS,
3/255, H.O. KAKKUR,
KOZHIKODE,
KERALA - 673 613.

... Petitioner

Vs

1. THE COMMISSIONER
DEPARTMENT OF GEOLOGY AND MINING,
GUINDY, CHENNAI - 600 032.
2. THE ASSISTANT DIRECTOR
DEPARTMENT OF GEOLOGY AND MINING,
COLLECTORATE BUILDING,
1ST FLOOR, COIMBATORE - 641 018.
3. THE DISTRICT COLLECTOR
COIMBATORE DISTRICT,
COLLECTORATE BUILDING,
COIMBATORE - 641 018.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India for the issuance of Writ of Mandamus, calling for the records of the second respondent relating to the impugned order bearing Na.Ka 1350/Kanimam/2024 dated 08.01.2025 and quash the same and consequently



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direct the respondents to grant dealer license to the petitioner's proprietorship M/s.M.K.Traders to stock and sell the ordinary sand in Coimbatore District.

For Petitioner : Mr.T.Gowthaman, Senior Counsel
assisted by Mrs.S.Karpagapriya

For R1 to R3 : Mr.E.Vijay Anand
Additional Government Pleader

ORDER

The writ petition is filed challenging the impugned order made in Na.Ka.1350/Kanimam/2024, dated 08.01.2025.

2. The case of the petitioner is that the petitioner obtained the supply of earth from the Kerala State. The earth/soil that is supplied is duly quarried and permitted soil which has been moved into Tamil Nadu. The impugned order is passed citing Rule 38(D).

3. According to the learned counsel appearing on behalf of the petitioner, the said rule is in violation of the judgement of the Honourable Supreme Court of India in *State of Gujarat and others* vs. *Jayeshbhai Kanjbhai Kalathiya etc.* in Civil appeal Nos. 10373 -10374 of 2010 and the



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judgement in ***Sri Sai Keshava Enterprises vs. State of Karnataka and others.***

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4. Be that as it may, since the impugned order rejects the licence based on a statutory rule, unless the vires of the said statutory rule is challenged, the case of the petitioner cannot be considered by this Court. Therefore, the petitioner is granted liberty to challenge the said rule and as a consequential prayer, whatever the prayers that are made in the writ petition can also be raised in that writ petition.

5. In view thereof, this writ petition stands disposed of. Consequently, connected miscellaneous petition is closed. No costs.

12.02.2025

Neutral Citation: Yes/No
nsl

To

1. THE COMMISSIONER
DEPARTMENT OF GEOLOGY AND MINING,
GUINDY, CHENNAI - 600 032.
2. THE ASSISTANT DIRECTOR
DEPARTMENT OF GEOLOGY AND MINING,
COLLECTORATE BUILDING,

3/5



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3. THE DISTRICT COLLECTOR
COIMBATORE DISTRICT,
COLLECTORATE BUILDING,
COIMBATORE - 641 018.

D.BHARATHA CHAKRAVARTHY, J.

nsI



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