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W.P.No.3489 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.11.2025

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.3489 of 2024

And

W.M.P.Nos.3745 and 3746 of 2024

M.Ashok Kumar

... Petitioner

Vs.

1 THE ADDITIONAL CHIEF SECRETARY TO GOVERNMENT
NATURAL RESOURCES (MMB-1) DEPARTMENT
GOVERNMENT OF TAMIL NADU
SECRETARIAT,
CHENNAI – 600 009.

2 THE COMMISSIONER OF GEOLOGY AND MINING,
DIRECTORATE OF GEOLOGY AND MINING,
INDUSTRIAL ESTATE,
GUINDY,
CHENNAI – 600 032.

3 THE DISTRICT COLLECTOR – MADURAI DISTRICT
COLLECTORATE,
MADURAI – 625 020.

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to
issue a Writ of Certiorari calling for the records of the respondents
herein, which culminated in the order of the third respondent herein in
Rc. No.1198/2006/Mines dated 13.06.2008, the Order in Appeal



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passed by the second respondent herein in Rc.No.12089/MM2/2008 dated 23.02.2021 and the impugned order of the first respondent herein in G.O.(D) No.14 dated 25.09.2023, quash the impugned order passed by the first respondent in G.O.(D) No.14 dated 25.09.2023 and consequently quash the orders passed by the second respondent in Rc. No.12089/MM2/2008 dated 23.02.2021 and the third respondent in Rc. No.1198/2006/Mines dated 13.06.2008.

For Petitioner : M/s.J.T.Rajasuriya
For Respondents : Mr.E.Veda Bhagath Singh
Special Government Pleader

ORDER

This writ petition has been filed seeking issuance of Writ of Certiorari calling for the records of the respondents, which culminated in the order of the third respondent in Rc. No.1198/2006/Mines dated 13.06.2008, the Order in Appeal passed by the second respondent in Rc.No.12089/MM2/2008 dated 23.02.2021 and the impugned order of the first respondent in G.O.(D) No.14 dated 25.09.2023, quash the impugned order passed by the first respondent in G.O.(D) No.14 dated 25.09.2023 and consequently quash the orders passed by the second respondent in Rc.No.12089/MM2/2008 dated 23.02.2021 and the third respondent in Rc.No.1198/2006/Mines dated 13.06.2008.



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2.The learned counsel appearing for the petitioner submitted that the petitioner is the owner of the lorries bearing Registration Nos.TN 29 H 6009 and TN 29 F 0625 and is the lessee for quarrying multi-coloured granite from the land bearing S.F.No.94/2 admeasuring 2.00.0 Hectares in Thiruchunai Village, Melur Taluk, Madurai District. On 14.07.2006, the lessee obtained transport permit for transporting four granite blocks having total volume of 34.596 cbm by remitting necessary seigniorage fee and the validity of the permit was from 14.07.2006 to 21.07.2006. The driver of the petitioner's lorry obtained facsimiled dispatch slip for the lorry bearing Registration No.TN 29 H 6009 and after loading the granite block, the driver started the vehicle on 18.07.2006 at 10 p.m. and since the said vehicle developed some mechanical problem at Karungalkudi which could not be rectified immediately, the granite block was shifted to the lorry bearing Registration No.TN 29 F 0625 and the said lorry along with granite was seized by the Assistant Geologist on 20.07.2006 at 4 a.m. at Uthangudi on the ground that the Registration Number of the lorry differed from the one mentioned in the facsimiled dispatch slip.

3.The learned counsel appearing for the petitioner further



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submitted that upon coming to know about the same, the petitioner made representation dated 20.07.2006 to the Assistant Director (Mines) Madurai seeking to release the lorry with granite, however, the lorry and granite block was not released. Thereafter the third respondent issued notice dated 25.07.2006 requiring the petitioner to appear before him on 01.08.2006 and the petitioner appeared before the third respondent, however, the third respondent did not pass any orders for release of lorry and granite and hence, the petitioner filed W.P.(MD) No.6743 of 2006 seeking release of vehicle and the Madurai Bench of this Court vide order dated 11.08.2006 directed to release the lorry on condition that the petitioner shall deposit a sum of Rs.7,500/- and the petitioner immediately complied with the said order and the lorry was released without granite block.

4.The learned counsel appearing for the petitioner further submitted that in the meanwhile, the third respondent passed an order dated 06.08.2006 imposing penalty of Rs.5,91,330/- and aggrieved by the same, the petitioner filed W.P.(MD) No.7159 of 2006 and the Madurai Bench of this Court vide order dated 19.09.2006 directed to release the lorry with granite block on paying necessary seigniorage fee and observed that it is open to the District Collector, Madurai to



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proceed further in accordance with law for any infraction of the Rules, if any and challenging the said order, the third respondent preferred W.A.(MD) No.18 of 2007 and the Hon'ble Division Bench of the Madurai Bench of this Court confirmed the order to the limited extent of releasing the lorry and with regard to granite, the matter was remitted back to the third respondent.

5.The learned counsel appearing for the petitioner further submitted that thereafter, the third respondent passed an order dated 13.06.2008 imposing penalty of Rs.1,96,800/- and challenging the same, the petitioner preferred appeal before the second respondent and in the appeal, the petitioner's counsel explained the entire facts, however, the second respondent vide order dated 23.02.2021 dismissed the appeal and challenging the same, the petitioner preferred second appeal before the Principal Secretary to Government and the matter was taken up for hearing by the first respondent and the first respondent passed the impugned order dismissing the second appeal preferred by the petitioner.

6.The learned counsel appearing for the petitioner further



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submitted that the original authority / the District Collector had passed the order under Rule 36 (A) (I) and Rule 36 (5) (b) of the Tamil Nadu Minor Mineral Concession Rules, 1959, which is not applicable and if at all, for transportation of granite blocks illegally i.e., without valid permit, the penalty has to be imposed in terms of 21(2) of Mines and Minerals (Development & Regulation) Act, 1957, where the maximum punishment is only imposition of fine amount to the tune of Rs.25,000/-. He drew the attention of this Court to the decision of the Hon'ble Division Bench of this Court in the case of S.Annadurai Vs. The Government of Tamil Nadu rep. by its Secretary to Government Industries Department, Fort St. George, Chennai & 2 Others reported in 2023 (1) Writ L.R. 140, wherein, it has been held that the fine amount cannot be more than the amount contemplated under Mines and Minerals (Development & Regulation) Act, 1957. Accordingly, he prayed to allow the writ petition.

7.Per contra, the learned Special Government Pleader submitted that the imposition of penalty should not exceed Rs.25,000/- as stated by the petitioner is not correct and drew the attention of this Court to Rule 36-A(1) of TNMMCR, 1959, which stipulates that “whenever any person contravenes the provisions of



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sub section (1) of section 4 of the Act in any land, enhanced seigniorage fee upto a maximum of fifteen times the normal rate subject to a minimum of twenty five thousand rupees shall be charged and recovered from that person by the District Collector or the District Forest Officer as the case may be or in the alternative, he shall liable to be punished as provided in sub-section (1) of section 21 of the Act and the order impugned warrants no interference. Accordingly, he prayed for dismissal of the writ petition.

8.Heard the arguments advanced on either side and perused the materials available on record.

9.The petitioner is the owner of the lorries bearing Registration Nos.TN 29 H 6009 and TN 29 F 0625 and is the lessee for quarrying multi-coloured granite from the land bearing S.F.No.94/2 admeasuring 2.00.0 Hectares in Thiruchunai Village, Melur Taluk, Madurai District. On 14.07.2006, the lessee obtained transport permit for transporting four granite blocks having total volume of 34.596 cbm by remitting necessary signiorage fee and the validity of the permit was from 14.07.2006 to 21.07.2006. The driver of the petitioner's lorry obtained facsimiled dispatch slip for the lorry bearing Registration



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No.TN 29 H 6009 and after loading the granite block, the driver started the vehicle on 18.07.2006 at 10 p.m. and since the said vehicle developed some mechanical problem at Karungalkudi which could not be rectified immediately, the granite block was shifted to the lorry bearing Registration No.TN 29 F 0625 and the said lorry along with granite was seized by the Assistant Geologist on 20.07.2006 at 4 a.m. at Uthangudi on the ground that the Registration Number of the lorry differed from the one mentioned in the facsimiled dispatch slip, for which, after some litigations, the third respondent passed an order dated 13.06.2008 imposing penalty of Rs.1,96,800/-, which was challenged before the respondents.

10.The question raised by the learned counsel appearing for the petitioner is whether the third respondent/ District Collector is empowered to impose punishment in terms of Rule 36 (A) (I) and Rule 36 (5) (b) of the Tamil Nadu Minor Mineral Concession Rules, 1959 and contended that if at all, the petitioner had transported granite blocks illegally, he has to be punished under Section 21 of the Mines and Minerals (Development & Regulation) Act, 1957.



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11.As rightly cited by the learned counsel appearing for the petitioner, the very same issue was dealt with by the Hon'ble Division Bench of this Court in the case of **S.Annadurai Vs. The Government of Tamil Nadu rep. by its Secretary to Government Industries Department, Fort St. George, Chennai & 2 Others** reported in **2023 (1) Writ L.R. 140**, the relevant portion of which is extracted hereunder:

"14. A close reading of the above provision would show that the offence complained of should be with relation to any land. Therefore, what is contemplated is the offence of mining and transporting, and not mere transporting. No doubt, the mineral was seized from the petitioner. The petitioner has not claimed any right over the mineral. The petitioner has also identified the person who is the owner of the mineral, and in the order of the Government dated 19.11.2009, it is stated that the person who was identified as owner of the mineral has refused the ownership. Be that as it may, we are concerned with the quantum of punishment that would be imposed on the petitioner, who was a transporter. True, that there is an infraction of law, and the petitioner has transported the mineral without valid



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permit or dispatch slip, but the punishment cannot be a capital punishment, it should be in tune with the offence committed. The mineral has been recovered and it is not lost to the Government. Therefore, we are of the opinion that imposition of the penalty as prescribed by 36-A of the Tamil Nadu Minor Mineral Concession Rules, 1959, mechanically cannot be sustained. The reasoning of the Writ Court that once the offence is admitted, the penalty should follow, is not absolute. It is subject to certain exceptions. Once we find that Section 21(1) of the Mines and Minerals (Development and Regulation) Act, 1957 prescribes particular penalty for transportation, adding anything more to it, would in violation of the provisions of the law.

15. Section 15(1-A)(g) of the Mines and Minerals (Development and Regulation) Act, 1957, in our considered opinion will not invest the power with the State Government to prescribe the penalty, which is higher than what is prescribed under the Act. This view of us find support to Section 21(2) itself, where the very provision contemplates Rules to be framed under the Act and it also restricts the fine that could be imposed by way of Rules.



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16. We are therefore unable to sustain the dismissal of the writ petition as directed by Writ Court. Writ Appeal succeeds and it stands allowed. The punishment is modified to Rs.25,000/-. It is stated that the petitioner has paid a sum of Rs.12,500/- pursuant to the order made in the writ petition in W.P.43657 of 2006. And it is also seen from the proceedings of the District Collector dated 08.02.2007 that the petitioner has paid a sum of Rs.12,500/- to the Government Account pursuant to the order made in W.P.No.43657 of 2006. The appellant will pay the balance amount of Rs.12,500/- within a period of six weeks from the date of receipt of a copy of this order. There shall be no order as to costs."

12. A perusal of the decision of the Hon'ble Division Bench of this Court as stated supra had made it clear that if the act of the offender is in violation of illegal mining of minerals, for the said violation, the District Collector is empowered to impose punishment under Rule 36(A), as per which seigniorage fee upto a maximum of fifteen times the normal rate can be imposed as penalty. However, the present case does not fall under illegal mining of minerals but it is only



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a case of transportation of the minerals without valid permit for which maximum penalty can be only Rs.25,000/- as per Section 21 of the Mines and Minerals (Development & Regulation) Act, 1957. It is brought to the notice of this Court that in the present case, the petitioner had already deposited Rs.7,500/- with the respondents in compliance of the order of this Court passed in W.P.(MD) No.6743 of 2006 dated 11.08.2006. Hence, the petitioner will deposit the balance amount of Rs.17,500/- within a period of six weeks from the date of receipt of a copy of this order.

13.With the above observations and directions, the writ petition stands disposed of. No costs. Consequently, the connected miscellaneous petitions are closed.

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Index: Yes/ No
Speaking Order: Yes/ No
NCC: Yes/ No



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