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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17-06-2025

CORAM

THE HONOURABLE MR JUSTICE N. ANAND VENKATESH

WP No. 26726 of 2023

M.Marimuthu

Petitioner(s)

Vs

1.The Commissioner / Director
Geology and Mining, Guindy,
Chennai 600 035.

2.The District Collector
Chengalpattu District,
Chengalpattu.

3.Wildlife Warden
Wildlife Division, Guindy,
National Park Campus
Chennai 600 022.

4.The Chief Conservator of Forests,
Velachery, Chennai, Tamil Nadu.
(R4 suo motu impleaded vide order
dated 11.09.2023 made in
WP.26726/2023)



Respondent(s)

PRAYER

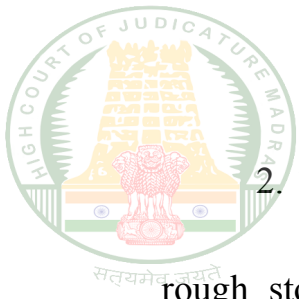
Calling for the records of the 2nd respondents proceedings in Na.Ka.No.207/Q2 /2022, dated 31.08.2023 and quash the same and consequently direct the respondents to permit the petitioner to do the rough stone quarry operation over the land measuring 1.78.50 hectares, comprised in S.No.114/1, Mangalam Village, Maduranthagam Taluk, Chengalpattu District.

For Petitioner(s): Mr.S.Sankaranarayanan
Senior Counsel
For Mr.S.Gopinathan

For Respondent(s): Mr.Stalin Abhimanyu
Additional Government Pleader
For R1 & R2
Mr.T.Seenivasan
Special Government Pleader
For R3 & R4

ORDER

This writ petition was filed challenging the proceedings of the 2nd respondent/District Collector dated 31.08.2023 and seeking a consequential direction to the respondents to permit the petitioner to carry on with the Rough Stone quarry operation over the subject property.



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2. The case of the petitioner is that he applied for a lease to carry out rough stone quarry operations in the patta land. The 2nd respondent, after following the procedure under the Tamil Nadu Minor Mineral Concession Rules, 1959, and after obtaining the report from the concerned officials, environmental clearance from the State Level Environmental Impact Assessment Authority, Tamil Nadu and consent orders from the Tamil Nadu Pollution Control Board, granted permission for quarry operations for a period of five years from 26.12.2022 to 25.12.2027.

3. The grievance of the petitioner is that during the subsistence of the lease period, the impugned proceedings dated 31.08.2023, came to be issued by the 2nd respondent, whereby the license granted to the petitioner was temporarily suspended.

4. A counter affidavit has been filed by the respondents 2 and 3. The 2nd respondent has taken a stand that a communication was received from the Wildlife Warden, Guindy, Chennai dated 16.08.2023, to the effect that the



explosives used for the quarrying operations were causing major disturbance to the incoming migratory birds and the migratory birds reaching the Sanctuary for nesting and breeding. In view of the same, it was decided to suspend the license granted to the petitioner by issuing the proceedings dated 31.08.2023.

5. The 2nd respondent has further stated that the Government of Tamil Nadu has issued G.O.No.322, Environment and Forest (FR-5) Department dated 23.05.1989 and has declared Karikili Birds Sanctuary under Section 18(1) of the Wild Life (Protection) Act, 1972 [hereinafter referred to as 'the Act']. However, the final notification under Section 26-A is yet to be issued.

6. The 3rd respondent has also filed a counter affidavit. The 3rd respondent has taken a stand that the Karikili Bird Sanctuary was declared under Section 18(1) of the Act. The total area of the Bird Sanctuary is nearly 151.26 acres, with a 5 kilometres wide belt surrounding the Sanctuary. This was published in the District Gazette and the Sanctuary is a vital habitat for water birds. It is further stated that a variety of resident birds have come to this Sanctuary. In



view of the same, this Bird Sanctuary needs to be protected from unsustainable development that causes hazards to birds and other fauna in the Sanctuary area.

7. The 3rd respondent has taken a further stand that action is being taken to declare the Eco-sensitive zone of the Karikili Bird Sanctuary. The Government of India, Ministry of Environment, Forests and Climate Change (Wildlife Division), New Delhi, through a communication dated 12.07.2024, directed a revised proposal to be submitted, which is currently under process.

8. The 3rd respondent has also placed reliance upon the Wildlife Conservations Strategy-2002 adopted during the 21st meeting of the Indian Board for Wildlife held on 21.01.2002, which states that lands falling between 10 kilometres of the boundaries of National Parks and Sanctuaries should be notified as eco-fragile area under Section 3(v) of the Environment (Protection) Act, read with relevant Rules. It is stated that the area where the commercial mining takes place is a Eco-sensitive Zone near the Sanctuary, and hence, no permission should have been granted to the petitioner.



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9. The 3rd respondent has taken a further stand that once the Bird Sanctuary was declared under Section 18(1) of the Act, the provisions of Sections 27 to 33A will come into effect. Accordingly, the provisions made under Sections 29 and 32 will be implemented without awaiting for the process under Section 26 of the Wildlife (Protection) Act, 1972. The 3rd respondent has placed reliance upon the judgment of the Hon'ble Apex Court in ***T.N.Godavarman Thirumulpad vs. Union of India and Others*** and also the order passed by the Apex Court in I.A.No.3949 of 2016 dated 28.04.2023. Accordingly, the 3rd respondent has sought for the dismissal of this writ petition.

10. When the writ petition came up for hearing on 03.06.2025, this Court, upon hearing the counsel appearing on either side, passed the following orders:

“Heard Mr.Sankaranarayanan, learned Senior Counsel appearing on behalf of the petitioner; Mr.Stalin Abhimanyu, learned Additional Government Pleader appearing for the respondents 1 and 2 and Mr.T.Seenivasan, learned Special Government Pleader



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appearing for the respondents 3 and 4.

2. Neither in the communication dated 16.08.2023 made by the 3rd respondent to the District Collector nor in the counter affidavit filed by the 3rd respondent before this Court, there is any indication by providing details as to how the population of the migratory birds came down during the period when the quarry operations were going on. If any data is provided starting from 2020 to till date along with the relevant records maintained by the Forest Department, it will enable this Court to apply its mind on such factual data and objectively come to a conclusion on the stand taken by the respondents 3 and 4. The reduction of migratory birds cannot be decided subjectively and there must be some data to substantiate the same. This is more so, since only a declaration of the intention to constitute a sanctuary had been made under Section 18 of the Wildlife Protection Act, 1972 and till date, no declaration has been made under Section 26A. 3. This case is adjourned only for the above said limited purpose. The copy of the typed set to be filed by the 3rd respondent shall be served to the learned counsel for the petitioner in advance. Post this Writ Petition under the caption “for orders” on 10.06.2025 at 2.15 p.m.”



11. The writ petition was thereafter listed for hearing on 10.06.2025 and

the following order came to be passed by this Court:

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“Heard the learned Senior Counsel appearing on behalf of the petitioner, learned Additional Government Pleader appearing on behalf of respondents 1 and 2 and learned Special Government Pleader appearing on behalf of respondents 3 and 4.

2. Pursuant to the earlier order, learned Special Government Pleader filed typed set of papers along with a copy of the management plan for Karikili Birds Sanctuary.

3. On hearing both sides, two clarifications are required in order to pass final orders in this writ petition and they are:

(a) whether before the mining lease was granted to the petitioner through proceedings dated 26.10.2022, the Government was involved in the quarry operations in the same property during any previous years; and

(b) if the Assistant Director (Mines), in spite of receiving objections from the Forest Department, has chosen to overrule the same and granted mining lease to the petitioner, which was subsequently suspended by the District Collector



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through the impugned proceedings dated 31.08.2023, based on the communication received from the Wildlife Warden, any action is proposed to be initiated against the Assistant Director (Mines).

4. The clarification, in this regard, becomes very relevant since the present predicament would not have arisen if the Assistant Director (Mines) had acted upon the objections given by the Forest Department and no mining lease was granted in favour of the petitioner.

5. The entire confusion in this case had arisen only due to the attitude of the concerned department and the petitioner has now been put to serious prejudice. This Court cannot deal with this case purely on legal grounds since it involves environment and this Court keeps in mind the judgment of the Apex Court in State of Telangana and others v. Mohd. Abdul Qasim (died) per Legal Representative [(2024) 6 SCC 461] [Paragraph Nos.49 to 54].

Post this writ petition under the caption 'Part-Heard Cases' on 17.06.2025."

12. When the matter was taken up for hearing today, the report of the District Collector, Chengalpattu was placed before this Court and the relevant



portions are extracted hereunder:

“a) Whether before the mining lease was granted to the petitioner through the proceedings dated 26.10.2022, the Government was involved in the quarry operations in the same property during any previous years.”

It is submitted that, the rough stone and gravel quarry lease granted to the petitioner is a virgin one (Page No.6, of the proceedings Rc.No.439/Q2/2018, dated.26.12.2022) Being a patta land, under the Rule 19(1) of the Tamil Nadu Minor Mineral Concession Rules, 1959 an extent of 1.78.50 hectares in the subject S.F.No. 114/1 of Mangalam Village, Maduranthagam Taluk in Chengalpattu District, had been granted for a period of 5 years from 26.12.2022 to 25.12.2027. The said quarry lease was granted to the petitioner along with conditions.

Moreover, prior to the grant of the quarry lease to the subject area in S.F.No.114/1 of Mangalam village, Maduranthagam Taluk in Chengalpattu District was not allowed to any one for conducting quarry operations. The Government was also not involved in quarry operations.

Further, it is submitted that, the nearby survey numbers 113, 115/3B, 115/1F and 115/3A all belongs to private pattadars of Mangalam village, Maduranthagam



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Talk were subjected to quarry operations during the period from 2007 to 2021. One Government Poramboke stone quarry in S.F.No.115/1A & 1B of Mangalam Village, Maduranthagam Talk was under quarry operations, granted through Tender cum public action during the period from 2005 to 2015.

b) If the Assistant Director (Mines) in spite of receiving objections from the forest department has chosen to overrule the same and granted mining lease to the petitioner, which was subsequently suspended by the District Collector through the impugned proceedings dated. 31.08.2023, based on the communication received from the Wildlife Warden, any action is proposed to be initiated against the Assistant Director (Mines).

It is submitted that, The Wildlife Warden in his letter No.3891/2019/F2, dated 28.02.2022 has objected granting fresh quarry lease in S.F.No.114/1 of Mangalam Village, Maduranthagam Taluk, and Chengalpattu District. Whereas, The Assistant Director (I/C), Geology and Mining, Chengalpattu vide proceedings in Rc.No.439/Q2/2018, dated 26.12.2022 has granted quarry lease in the subject area by mentioning some of the Court orders of Hon'ble Supreme Court, Hon'ble High Court and NGT. Subsequently, based on the representation of



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Wildlife Warden, Chennai the subject quarry lease was temporarily suspended by the District Collector vide proceedings in Rc.No.207/Q2/2022, dated 31.08.2023. In this regard, the Commissioner of Geology and Mining, Chennai has been requested to conduct enquiry on concerned Assistant Director (i/c), Department of Geology and Mining, Chengalpattu vide District Collector letter No.331/Mines/2023, dated 16.06.2025.

13. Heard Mr.S.Sankaranarayanan, learned Senior Counsel appearing on behalf of the petitioner, Mr.Stalin Abhimanyu, learned Additional Government Pleader appearing on behalf of the respondents 1 and 2 and Dr.T.Seenivasan, learned Special Government Pleader appearing on behalf of the respondents 3 and 4.

14. It is not in dispute that the petitioner was granted a quarry lease through the proceedings of the Assistant Director of Geology and Mining, dated 26.12.2022 for a period of five years from 26.12.2022 to 25.12.2027. While granting this license, the concerned authority had obtained the necessary



environmental clearance from the State Environmental Impact Assessment

Authority and the relevant consent orders from the Tamil Nadu Pollution

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Control Board. Additionally, the authority also considered the objections raised by the Wildlife Warden through a communication dated 14.12.2021.

15. On carefully going through this communication, it is seen that the Wildlife Warden brought to the notice of the Assistant Director about the Eco-sensitivity of the zone near which the license was granted. The Wildlife Warden also pointed out the guidelines that restrict quarry operations within a distance of 5 to 10 kilometres from the Eco-sensitive Zone.

16. The Assistant Director of Geology and Mining, while granting the license, took into consideration the objections raised by the Wildlife Warden and dealt with them in detail in proceedings dated 26.12.2022. Specifically, starting from paragraph 11 of the proceedings which runs up to paragraph 31, the authority has justified as to how there cannot be any objection in granting the quarry license. Therefore, it is not as if the quarry license was granted to the

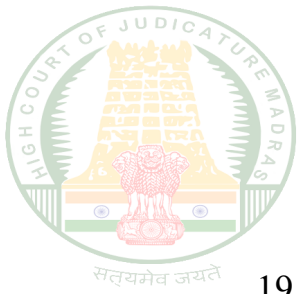


petitioner without considering the objections raised by the Forest Department.

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17. The Wildlife Warden seems to have submitted another representation to the District Collector in the year 2023, and upon considering the same, the District Collector issued the impugned proceedings dated 31.08.2023, suspending the license granted in favour of the petitioner.

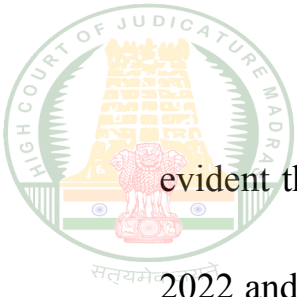
18. The order passed by the District Collector suspending the grant of license to the petitioner clearly has civil consequences, and therefore, such an order should not have been passed without affording opportunity to the petitioner. However, this Court did not want to act on technicalities since an environmental issue has been raised in the present case. Consequently, this Court had sought for various details in the earlier orders passed to ascertain as to whether there is any material to show that there is any reduction in the number of migrating birds coming into the Sanctuary and whether the nearby lands were subjected to any quarry operations before the quarry license was granted in favour of the petitioner in the year 2022.



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19. The 3rd respondent filed additional typed set of papers during the previous hearing by providing all the particulars. Insofar as the details of the number of species and the number of birds that came into Karikili Bird Sanctuary, statistics were provided from the year 2018-2019 up to 2024-2025. On going through the same, this Court was unable to really come to any conclusion as to whether the quarry operations of the petitioner had impacted migrating birds entering the Sanctuary.

20. Since this Court was not clear on the impact of the quarry operations conducted by the petitioner from the year 2022, this Court had sought for certain details regarding the earlier quarry operations that had taken place in the nearby land. The report was submitted before this Court today and the relevant portions have already been extracted supra. The report clearly brings out the fact that the quarry operations has been going on in the adjacent patta land from the year 2007 to 2021. Similarly, quarry operation has been going on in the Government Poromboke land from the year 2005 to 2015. Therefore, it is



evident that the petitioner was not granted license for the first time in the year 2022 and this area had already been used for quarry operations at least from the year 2005 onwards.

21. The other issue pertains to the objections raised by the Wildlife Warden before the Assistant Director of Geology and Mining, which were considered and overruled by the Assistant Director, while issuing the proceedings dated 26.12.2022.

22. This Court directed the District Collector to inform as to whether any proceedings were initiated against the Assistant Director for having overruled the objections given by the Wildlife Warden and while granting the license in favour of the petitioner through the proceedings dated 26.12.2022.

23. The report submitted before this Court shows that the Commissioner of Geology and Mining was requested to conduct an inquiry in this regard only recently, through a communication dated 16.06.2025. Therefore, till the Court



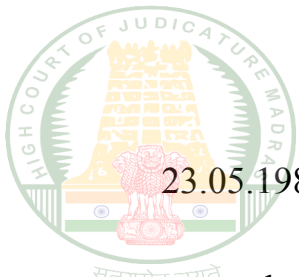
questioned the respondents as to whether any action was taken against the

Assistant Director of Geology and Mining, who gave the permission, no action

has been initiated.

24. The petitioner is now caught between the Mining Authorities on the one hand and the Forest Department on the other. If the Assistant Director of Geology and Mining had considered the objections raised by the Wildlife Warden and not issued the license, the petitioner would not have started the quarry operations. However, the Assistant Director dealt with the objections raised by the Wildlife Warden and gives detailed reasoning as to why the objections were not sustainable. While so, the very same objections were raised by the Wildlife Warden in the year 2023 and the District Collector acted upon the same by suspending the license. As observed earlier, this was done without putting the petitioner on notice before the license was suspended.

25. According to the counter affidavit filed by the 3rd respondent, the notification under Section 18(1) was issued through G.O.No.332 dated



23.05.1989. If that is so, it is quite incomprehensible as to how the license was

granted to conduct quarry operations in the nearby lands from the year 2005 to

2021. The petitioner has come into the scene in the year 2022.

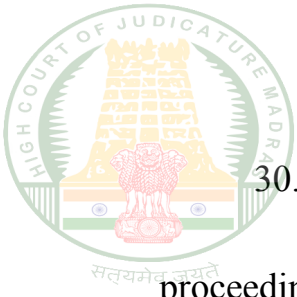
26. It is not as if the environmental degradation as was projected by the Forest Department started only in 2022 after the license was given to the petitioner. These operations have been started from the year 2005 onwards and it is not known as to why the Forest Department did not even raise their little finger for such a long time and suddenly woke up only in the year 2022.

27. There are no strong materials to establish that the quarry operations conducted from 2005 onwards had any impact on the Bird Sanctuary. When so much of quarry operations took place until the year 2021, obviously that was one more reason as to why the quarry license was granted in favour of the petitioner in the year 2022.



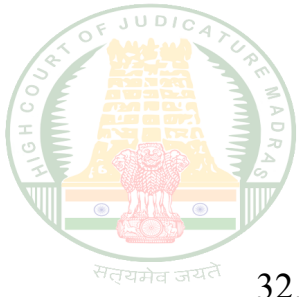
28. While granting such license, permission and consent were obtained from all authorities and the objections raised by the Forest Department were also considered. Under such circumstances, the very same objections from the side of the Forest Department after the license was granted cannot be a ground to suspend the license and that too without affording an opportunity to the petitioner.

29. It is evident from the counter affidavit filed by the respondents 2 and 3 that even though the declaration under Section 18(1) of the Act was made in the year 1989, till date, no final notification has been issued under Section 26A. It is not known as to why the respondents did not follow up and issue the final notification under Section 26A. At least if this is done and the respondents wanted to stop all such operations around the Sanctuary, the lands could be acquired and protected under the Act and that will give a lasting solution to the grievance expressed by the Forest Department.



30. In light of the above discussion, this Court find that the impugned proceedings of the 2nd respondent dated 31.08.2023, suffers from illegality for more than one reason. The first reason is that the proceedings suspending the license came to be issued without affording an opportunity to the petitioner and in violation of principles of natural justice. The petitioner after having been issued license to quarry, acquires the right and if the said right is taken away, it results in civil consequences. While interfering with such right, the minimum that is required is to put the petitioner on notice and pass an order. Admittedly, this has not happened in the present case.

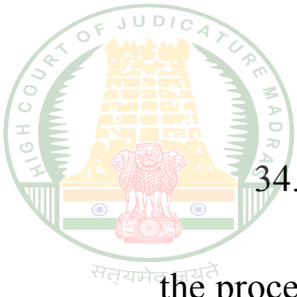
31. The other reason as to why the impugned proceedings of the 2nd respondent needs to be interfered with is that the same objections that were presented before the 2nd respondent was raised before the Assistant Director of Geology and Mining by the Wildlife Warden. The said authority considered the same and overruled the objections. This Court has already pointed out that detailed reasoning has been given for overruling the objections raised by the Wildlife Warden.



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32. The third reason to interfere with the impugned proceedings of the District Collector is that the mining operation is taking place in this area from 2005 onwards. Hence, if there was no environmental impact from the year 2005 to 2021, it is not known as to how such an environmental impact suddenly surfaced in the year 2023 when the petitioner had hardly started the quarrying operation from 26.12.2022.

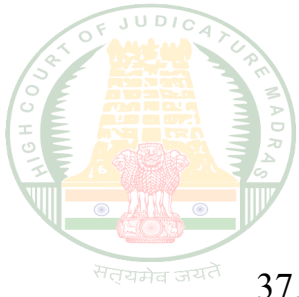
33. Therefore, the proceedings of the 2nd respondent dated 31.08.2023 was issued more by way of a knee-jerk reaction and the 2nd respondent should have considered the objections and dealt with it after affording an opportunity to the petitioner. The suspension of the license cannot be based on subjective satisfaction alone and there must be an objective consideration based on the facts and figures on the impact of such quarry operations on the Karikili Bird Sanctuary.



34. The upshot of the above discussion leads to the only conclusion that the proceedings of the 2nd respondent dated 31.08.2023 is liable to be interfered by this Court and same is hereby quashed.

35. The license granted to the petitioner for Rough Stone quarry operation over the subject property shall be continued till the same is brought to an end in the manner known to law or upon the expiry of the period for which the lease was granted.

36. As a concluding remark, if the respondents are serious about following up on the declaration of the Sanctuary under Section 18(1) of the Act, they shall proceed further and issue a final notification under Section 26A of the Act. If this is done, the nearby areas can be brought under the control of the respondents by acquiring the lands as contemplated / provided under the Wildlife (Protection) Act, 1972. Therefore, instead of resorting to temporary measures, a considered final decision must be taken in this regard.



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37. In result, this Writ Petition is allowed in the above terms. There shall be no order as to costs.

17-06-2025

Index: Yes

Speaking order

Internet: Yes

Neutral Citation: Yes

Jeni

To

1. The Commissioner / Director
Geology And Mining, Guindy,
Chennai 600 035

2. The District Collector
Chengalpattu District, Chengalpattu

3. Wildlife Warden
Wildlife Division, Guindy, National
Park Campus
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4. The Chief Conservator Of Forests,
Velachery, Chennai, Tamil Nadu.



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