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W.P.No.34709 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.11.2025

CORAM:

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.No.34709 of 2023
and
WMP.No.34670 of 2023

S.Annadurai

... Petitioner

Vs.

1.The Government of Tamil Nadu
rep. By Additional Chief Secretary to Government (FAC),
Natural Resources Department,
Fort St. George,
Chennai-600 009.

2.The Commissioner of Geology and Mining,
Guindy, Chennai-600 032.

3.The District Collector,
Dharmapuri District,
Dharmapuri.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorified Mandamus, calling for the records of the first respondent in G.O.(D) No.21, Natural Resources (MME.2) Department, dated 17.10.2023 confirming the orders of the second and third respondents passed in proceedings Rc.No.4151/MM2/2008 dated 01.04.2009 and in ROC.No.869/2007 (Mines) dated 03.03.2008 respectively, quash the same, direct the third respondent to refund Rs.1 lakh to the petitioner as deposited in compliance with the order of this Court dated



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05.02.2008 made in W.P.No.1080 of 2008.

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For Petitioner : Mr.V.Sanjeevi

For Respondents : Mr.Stalin Abimanyu, AGP

ORDER

The order passed by the first respondent in G.O.(D) No.21, Natural Resources (MME.2) Department, dated 17.10.2023, confirming the orders of the second and third respondents passed in proceedings Rc.No.4151/MM2/2008 dated 01.04.2009 and in ROC.No.869/2007 (Mines) dated 03.03.2008, is put under challenge in the present Writ Petition. Further, the petitioner has sought for a direction to the third respondent to refund Rs.1 lakh to the petitioner as deposited in compliance with the order of this Court dated 05.02.2008 made in W.P.No.1080 of 2008.

2. Heard the learned counsel for the petitioner and learned Additional Government Pleader appearing on behalf of the respondents.

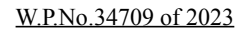
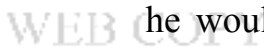
3. The facts which leads to the filing of the present petition is as follows:

3.1. The petitioner being hiring lorries for carrying/transporting goods



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by engaging drivers. While transporting the granite blocks from Madurai to Hosur, in his lorry bearing registration No.TN-30-R-3339 with granite blocks came to be seized by the Deputy Director (Mines), Dharmapuri on 21.12.2007 on the ground that the granite blocks were transported without valid permit. The petitioner approached the third respondent for release of the vehicle stating that he was not aware of the act of the driver in transporting the granite blocks without permit and that he was not claiming the granite blocks, however to release the lorry by unloading the same. While that being go, the third respondent had passed an order on 24.12.2007, imposing the penalty of Rs.5,01,728/- without any show cause notice or conducting any enquiry. As against the same, the petitioner had preferred a writ petition in W.P.No.1080 of 2008 and this Court, by order dated 05.02.2008, set aside the order of the third respondent dated 24.12.2007 and remitted the matter back to him for a fresh consideration and also subject to release the lorry on condition that the petitioner shall deposit a sum of Rs.1 lakh, within two weeks and also observed that the refund of the deposit amount can be decided by the third respondent subject to the outcome of the final order passed by him. The petitioner's lorry was released on payment of Rs.1 lakh. He was directed to appear for enquiry on 03.03.2008 by the third respondent vide memo dated 18.02.2008, despite the petitioner's oral and



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4. Aggrieved by the same, the present Writ Petition has been filed.

5. The learned counsel for the petitioner submitted that the petitioner is only a transporter and not a mining operator and however, imposing penalty for transporting illegal goods without valid permit is applicable only under Section 21 of Mines and Minerals (Development & Regulation) Act, 1957. He contended that the original authority / the District Collector had passed the impugned order under Rule 36-A of the Minor Minerals 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 held that the fine amount cannot be more than the amount contemplated under



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Mines and Minerals (Development & Regulation) Act, 1957. Hence, he prayed to allow the present petition.

6. Per contra, the learned Special Government Pleader submitted that the petitioner's lorry bearing registration No.TN-30-U-5868 was earlier seized for the same offence and the penalty imposed in this case is only for his habitual act. He contended 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, wherein it stipulates that “whenever any person contravenes the provisions of 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. Hence, he prayed this Court for dismissal of the Petition.

7. I have considered the rival submissions made by the respective



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counsels and also perused the materials available on record.

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8. Admittedly, the petitioner is not the owner of the granite blocks transported illegally without valid permit and he is only a transporter of the granite blocks from Madurai to Hosur, which has been seized by the Deputy Director of Geology and Mining, Dharmapuri and the third respondent had imposed a penalty of Rs.5,01,728/- which was challenged before the respondents. The question raised by the learned counsel for the petitioner is whether the third respondent/District Collector is empowered to impose punishment in terms of Rule 36-A of Minor Minerals 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.

9. As rightly cited by the learned counsel 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's case* as stated supra. The relevant portions of the judgment are extracted hereunder for ready reference:

“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 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



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be imposed by way of Rules.

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."

10. 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 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



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petitioner had already deposited Rs.1 lakh with the respondents in compliance of the order of this Court passed in W.P.No.1080 of 2008 dated 05.02.2008. In such view of the matter, the respondent concerned is directed to refund the sum of Rs.75,000/- without interest within a period of four weeks from the date of receipt of a copy of this order.

11. With the above observations and direction, the Writ Petition stands disposed of. Consequently, connected Miscellaneous Petition is closed. There shall be no costs.

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Index: Yes/No

NCC : Yes/No

Order : Speaking/Non Speaking

DP

To



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Natural Resources Department,
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M.DHANDAPANI.J.

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