



W.P.No.38460 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

ORDERS RESERVED ON : 24.04.2025

ORDERS PRONOUNCED ON : 22.05.2025

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.38460 of 2024
and W.M.P.No.41648 of 2024

K.T.Chenthamarai

.. Petitioner

Vs.

1.The Additional Chief Secretary to Government
Natural Resources(MM1) Department,
Secretariat, Chennai – 600 009.

2.The Commissioner
Department of Geology & Mining
Thiru Vi.Ka.Industrial Estate
Guindy, Chennai – 600 032.

3.The District Collector
Coimbatore District,
Coimbatore.



W.P.No.38460 of 2024

4.The Sub Collector,
Pollachi.

5.The assistant Director,
Department of Geology and Mining,
Coimbatore.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India seeking a Writ of Certiorari, to call for the records of the 1st respondent in G.O.(D).No.102, Natural Resources (MMC.1) Department dated 29.10.2024 and quash the same as arbitrary, illegal and without any basis and pass such further or other orders.

For the Petitioner : Mr.V.Raghavachari
Senior Counsel
for Ms.V.Srimathy

For the Respondents : Mr.Stalin Abimanyu
Additional Government Pleader
for RR1 to 5

ORDER



W.P.No.38460 of 2024

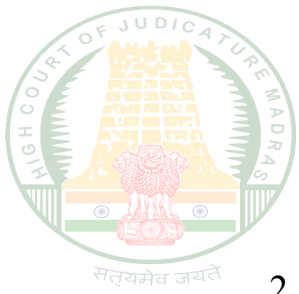
A. The Writ Petition:

This writ petition challenges the Government Order in G.O.(D).No.102, Natural Resources (MMC.1) Department dated 29.10.2024.

B. The Case of the Petitioner:

2. The petitioner herein represents M/s. YENCEES Blue Metals(P) Ltd, as its Managing Director. The petitioner company applied for separate quarry quarry licenses regarding its patta lands and was granted for the periods including renewals as follows:

- (i) S.No.495/2A to an extent of 2.43.0 hectares, 5 years from 27/02/2009 to 26/02/2014 and renewed from 02/06/2014 upto 01/06/2019;
- (ii) S.No.504/2A and 504/2B to an extent of 1.75.0 hectares, 5 years from 06/04/2010 to 05/04/2010 and renewed from 04/02/2016 to 03/02/2021;
- (iii) and S. No. 503/1A, 503/1B, 503/2 (Part) to an extent of 2.27.0 hectares, 5 years from 22/12/2018 to 21/12/2023.

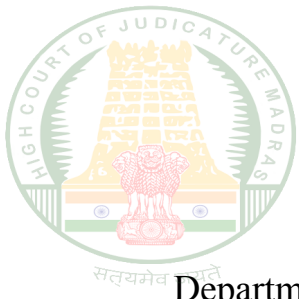


W.P.No.38460 of 2024

WEB COPY

2.1. Meanwhile, one Radhakrishnan, who is involved in the real estate business around the village of Puravipalayam, has made frivolous claims and demanded money from the petitioner. The petitioner has also lodged complaints against this individual with the Respondents on various occasions. In an earlier Writ Petition, WP.No.17367/2020, filed by Radhakrishnan to direct the respondents to take appropriate action regarding illegal mining at Quarry-3 owned by the petitioner, the court ordered an inspection and the submission of a status report on the quarry site. Pursuant to the court's order, the Commissioner of Geology and Mining formed a Joint Committee to conduct an on-site inspection. Inspection was conducted from 6th to 8th of March, 2021. Only minor violations were noticed and a report was filed. Considering the report that was filed, the W.P. No. 17367 of 2020 was closed as having become infructuous.

2.2. Upon receipt of the report, the Sub-Collector, the 4th respondent herein, levied a penalty of Rs. 32,29,77,792/- on 29.01.2022 without notice to the petitioner company for illegal mining and transportation of minerals from the leased property. In response to this order, the petitioner filed an appeal on 24.11.2022 before the 2nd respondent, namely, the Commissioner of the



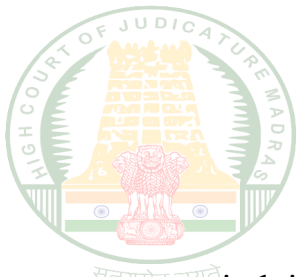
W.P.No.38460 of 2024

Department of Geology and Mining, to revise the order dated 29.01.2022.

WEB COPY

Meanwhile, the petitioner filed a writ petition against the order of the 4th Respondent in W.P. No.23470/2022 for a stay of the operation, and the Court granted an interim stay on 02.09.2022. While disposing of the appeal, the 2nd respondent, on 25.11.2022, passed orders affording the petitioner an opportunity for a hearing and, based on the report, concluded that the petitioner, while conducting mining operations, had removed and transported rough stones without a valid transport permit. Consequently, the 2nd respondent imposed costs on the petitioner under several categories, totaling Rs.2,48,09,119/-. The Joint Committee also inspected another quarry, which had previously been quarried by the petitioner, and concluded that rough stone was removed and transported without valid permits. However, they also confirmed that no quarrying was currently taking place in the said area.

2.3 The 2nd respondent issued an order dated 25.11.2022 to set aside the order of the 4th respondent, namely, the Sub-Collector. The order directed the petitioner to pay a sum of Rs.25 Lakhs immediately and the remaining amount in instalments of Rs. 8,00,000/- every month within the expiry of the existing lease



W.P.No.38460 of 2024

period, i.e., 30.06.2025.

WEB COPY

2.4. Pursuant to the aforementioned order, the petitioner submitted a revised mining plan. This was approved by the Deputy Director of Geology and Mining, Tirupur, through an order dated 10.02.2023, and the lessee was directed to obtain Environmental Clearance from SEIAA-TN. Additionally, it was advised that consent be obtained from the Tamil Nadu Pollution Control Board through the proceedings R.C.No.394/Mines/2019 dated 10.02.2023. Furthermore, a supplementary lease deed was executed on 24.05.2023, extending the lease period until 30.06.2025. The approved revised mining plan dated 10.02.2023 allowed the petitioner to quarry 2,26,745 cbm of rough stone and 32,118 cbm of gravel for the remaining period of the lease from the non-operative area to a maximum depth of 42 metres.

2.5. The petitioner paid Rs.25,00,000/- on 28.11.2022 and has subsequently paid instalments up to November 2024. On 27.03.2024, the writ petition filed by the petitioner was dismissed as withdrawn. While so, the said Radhakrishnan again filed a Writ petition in W.P. No.5293/2023 against the order



W.P.No.38460 of 2024

WEB COPY

issued by the 2nd Respondent on 25.11.2022. At this juncture, the 1st Respondent, suo motu, set aside the order issued by the 2nd Respondent through proceedings in R.C.No.7958/MM1/2022 dated 25.11.2022, upholding the proceedings of the 4th Respondent dated 29.01.2022 by invoking Rule 40 of the Tamil Nadu Minor Mineral Concession Rules, 1959, and issued the impugned order in G.O. (D). No. 102. Aggrieved by this, the present Writ Petition has been filed.

2.6. As a matter of fact, of the total cost amount imposed on the petitioner, which is Rs. 2,48,09,119/-, a sum of Rs. 2,31,60,000/- has already been paid by the petitioner. The impugned Government Order has been passed in complete violation of the principles of natural justice, and the lawful order issued by the 2nd respondent has been unnecessarily interfered with. Therefore, it is prayed that the Government Order be set aside, thereby allowing the order of the 2nd respondent to come into effect and enabling the petitioner to continue his quarrying activities.

C. The Case of the Respondents:

3. The writ petition is opposed by the 1st respondent through a detailed

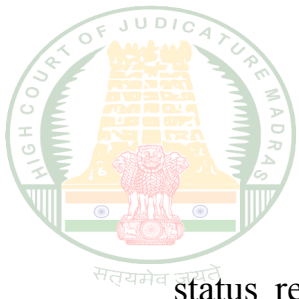


W.P.No.38460 of 2024

WEB COPY

counter affidavit. It states that the petitioner's first lease for quarrying rough stone and gravel was granted over an area of 2.43.0 hectares in patta lands in S.F.No.495/2A in Puravipalayam Village, Pollachi Taluk, Coimbatore District, initially for a duration of five years from 27.02.2009 to 26.02.2014, and subsequently from 02.06.2014 to 01.06.2019, on which date the lease expired. Secondly, it states that the petitioner's second lease for quarrying rough stone and gravel was granted over an area of 1.75.0 hectares in patta lands in S.F.No.504/2A and 504/2B in Puravipalayam Village, Pollachi Taluk, Coimbatore District, initially for a duration of five years from 06.04.2010 to 05.04.2015, and subsequently from 04.02.2016 to 03.02.2021, on which date the lease expired. The petitioner submitted a third application for quarrying rough stone and gravel in the patta lands, measuring 2.27.0 hectares in S.F.No.503/1A, 503/1B and 503/2(part), for which permission was granted for five years from 22.12.2018 to 21.12.2023.

3.1. One K.A.Radhakrishnan has filed a public interest litigation in W.P.No.17367/2020 to direct the officials to take necessary action on illegal mining in Quarry No.-3 of the petitioner, and the court ordered the filing of a



W.P.No.38460 of 2024

WEB COPY

status report with supporting documents and photographs after inspecting the petitioner's quarry site. Based on the order, the Assistant Director, Coimbatore inspected the area, and a status report was filed by the District Collector. The court, by order dated 16.02.2021, directed the Principal Secretary to the Government to file an affidavit confirming the report filed by the District Collector of Coimbatore, and this court, in its order dated 02.03.2021, directed the Principal Secretary to file a report. Pursuant to that, the Commissioner of Geology and Mining, vide R.C.No.216/MM1/2021 dated 05.03.2021, constituted a Joint Committee, carried out an inspection in the disputed area, and furnished the report with findings and recommendations.

3.2 Accordingly, the Assistant Director had inspected the aforementioned areas on 01.12.2022. He reported that apart from the above-mentioned lands, no other unauthorized quarrying was noticed in any of the non-leased out survey fields owned by the lessee company.

3.3 It was found that the third quarry covers an area of 2.27.0 hectares, and the Joint Committee estimated that excess mining of 5,65,221 cubic metres of rough stone and 31,466 cubic metres of gravel/ topsoil with weathered rock was



W.P.No.38460 of 2024

WEB COPY

removed by the petitioner without permits. The Joint Committee, upon inspecting non-leased areas, estimated that the petitioner had illegally removed 74,077 cubic metres of rough stone and 33,370 cubic metres of gravel/topsoil with weathered rock without any permit. A Writ petition was filed by K.A. Ramakrishnan to call for a record of the impugned order dated 25.11.2022 in W.P.No.5293/2023 has directed the Commissioner of Geology and Mining to file a detailed counter on what basis the penalty amount was reduced from Rs . 32,29,77,792 to 2,48,09,119/- and extended the licence. Based on this report, the 2nd respondent levied a penalty of Rs. 2,48,09,119/- and directed the petitioner to remit Rs. 25 Lakhs as the first instalment and to pay the balance in equal instalments by his order dated 25.11.2022.

3.4. Meanwhile, up to December 2024, the petitioner had remitted a total of Rs. 2,31,60,000/-. At this juncture, after a careful examination of the orders, the Government decided to exercise the power of revision under Rule 40 of the Rules. Due opportunities were granted for all parties, and after hearing them, orders were passed, upholding the proceedings of the 4th Respondent dated 29.01.2022 and setting aside the order of the 2nd Respondent dated 25.11.2022.

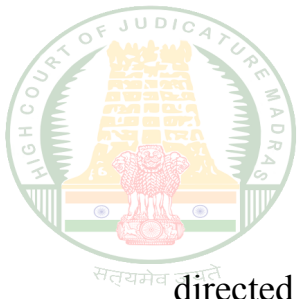


W.P.No.38460 of 2024

WEB COPY

Regarding the quarry lease in Patta lands from 2014 to 2023, subject to the conditions for the lease granted in the inspected area on 06.03.2021, the Writ petitioner has removed 29,815 cbm of rough stone in S.F.No. 495/2A(Q1), 50,805 cbm of rough stone in S.F.No. 504/2A, 504/2B (Q2), and 69,405 cbm of rough stone in S.F.No. 503/1A, 503/1B, 503/2(part), which exceed the approved quantity as per the mining plan and also violated the conditions incorporated in the Environmental clearance.

3.5. The joint committee report dated 06.03.2021 stated that the dimensions of the quarried pit in Quarry No.1 are 1.22.0 hectares x 31 metres, and Quarry No.2 is 1.57.0 hectares x 22 metres, with a total quantity of 7,23,725 cubic metres of rough stone mined and transported from Quarries No.1 and 2. Transport permits were issued for the transportation of 4,16,976 cubic metres of rough stone concerning Quarries No.1 and 2 of the petitioner company. Therefore, a quantity of 3,06,740 cubic metres of rough stone was mined and transported illegally without valid transport permits. At that time, the Commissioner of Geology and Mining, the petitioner/lessee submitted a modified mining plan, which was approved, and the petitioner company was



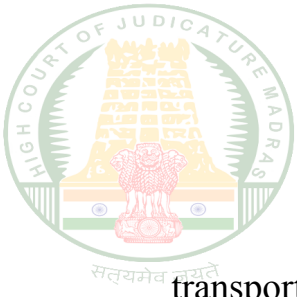
W.P.No.38460 of 2024

WEB COPY

directed to obtain Environmental Clearance and to get consent from the TN Pollution Control Board. A supplementary lease deed was executed on 24.05.2023, extending the lease period up to 30.06.2025.

3.6. The report of the joint committee dated 06.03.2021 also highlighted that the writ petitioner has dumped boulders, M-Sand, and size-reduced stones amounting to 18,645 cbm. It further reported that 3,17,648 cbm of top-soil/gravel and weathered rock have been dumped on non-permitted patta lands, violating sub-rules (2) & (3) of Rule 3 of the Illegal Mining rules. Additionally, it pointed out that unlawful quarrying operations are taking place in adjacent non-lease patta lands in S.F.No.495/2B(part), 502/1(part), and 503/2(part) of Puravipalayam village, Pollachi Taluk, with the removal of 74,077 cbm and 33,370 cbm of rough stones, respectively. Therefore, the writ petitioner's contentions, which downplay the material facts and suggest only minor violations in mining, are entirely false.

3.7. The Commissioner of Geology and Mining issued orders dated 25.11.2022, levying a total penalty of Rs. 2,48,09,119/- for the quarrying and



W.P.No.38460 of 2024

transportation of 3,36,287 cbm of rough stones without a valid permit from the lease areas. Similarly, the orders granting permission to commence quarry operations by paying an initial amount of Rs. 25 Lakhs is beyond the provisions of the rules. Therefore, the Government considered all facts and circumstances before issuing the impugned Government Order. Thus, the Writ Petition must be dismissed.

3.8 The collection of compensation being the value of the mineral has already been deemed mandatory by the Hon'ble Supreme Court of India in Common Cause Vs. Union of India (2017) 9 SCC 499. According to Rule 36-A (1) of the Rules, a penalty of up to 15 times the seigniorage fee must be imposed. Therefore, the impugned order has rightly been passed and the same does not require any interference.

D. The Submissions:

4. Heard, *Mr.V. Raghavachari*, the learned Senior Counsel appearing on behalf of the petitioner. Taking this Court through the impugned order, the



W.P.No.38460 of 2024

WEB COPY

learned Senior Counsel submits that, on its face, the impugned G.O.(D)No.102, dated 29.10.2024, is liable to be quashed for violation of principles of natural justice. He would submit that when the minerals have been removed only from the permitted pasta lands and imposition of the value of the mineral as penalty was without jurisdiction. The Commissioner of Geology and Mining has submitted remarks based on the District Collector, Coimbatore's comments, and these were considered while passing the order. Therefore, the impugned order is liable to be quashed, and the matter should be remanded back to the 1st respondent for fresh consideration.

4.1. The learned Senior Counsel submits that, as a matter of fact, after the orders of the 2nd respondent, the petitioner has already commenced quarrying activities. Therefore, the petitioner must be allowed to continue these activities, as he has also been paying the instalments ordered by the 2nd respondent. The learned Senior Counsel submits that the complaints of the said K.A.Radhakrishnan lack any proof whatsoever, and he is not an affected person at all. The entire mining activity has been carried out after obtaining the requisite environmental clearance, and even the inspection teams have found that the



W.P.No.38460 of 2024

private respondents have not been affected in any manner as a result, indicating that their complaints are motivated.

4.2. *Mr.Stalin Abimanyu*, the learned Additional Government Pleader appearing on behalf of respondents 1 to 5, submits that the order issued by the 2nd respondent is entirely unacceptable and has been rightly revised by the Government. The full value of the mineral must be recovered from the petitioner. The petitioner has got no right to continue the quarry. In any case, the order of the 2nd respondent cannot be allowed to remain.

E. Consideration and Discussion:

5. I have considered the submissions made by both sides and reviewed the case records.

5.1. It is undisputed that the petitioner was allowed to quarry rough stone, topsoil with weathered rock, and gravel. It can be seen from the Order of the



WEB COPY

Sub-Collector dated 29/01/2022 that the joint inspection report has quantified that a total quantity of 457774 cbms of rough stone has been illegally quarried from the three approved quarries. The committee found that 107447cbms of rough stone has been unauthorisedly quarried from the sites where no permission is granted. Further it has noted that gravel of 31,466 cbms have also been quarried from unauthorized site by the petitioner. The same is also concisely tabulated in the Original order passed on 29/01/2022 which is as follows:

Sl.No.	Survey No. Etc.	Type of mineral	Quantity (cbms) illegally quarried	Cost of Mineral (Rs.)	Seniorage Fee (Rs)
1	495/2A (quarry -1)	Rough Stone	29,815	1,13,29,700	1759,085
2	504/2A,504/2B (Quarry -2)	Rough Stone	51805	1,96,85,900	30,56,495
3	503/1A, 503/1B, 503/2(p) (quarry -3)	Rough Stone	69405	2,63,73,900	40,94,895
4	495/2A, 504/2B (Quarry -1)	Rough Stone	306749	11,65,64,620	1,80,98,191
5	495/2B(P) Unauthorized site	Rough stone	74077	2,81,49,260	43,70,543
6	502/1(p) &503/2 Unauthorized site	Rough stone	33370	1,26,80,690	19,68,830
7	497(P), 502/1(P)	Gravel	31,466	50,34,560	10,38,378
Total			5,96,687	21,98,18,540	3,43,86,417



W.P.No.38460 of 2024

WEB COPY

5.2 There is no dispute over the same. The petitioner has not disputed the measurements. No grievance whatsoever is expressed by the petitioner in the entire affidavit filed in support of the writ petition. No arguments attacking the report or quantum is made. The commissioner who had reversed the order in appeal also does not find any error in the inspection committee report.

5.3 In the Order of the Commissioner dated 25/11/2022, in paragraph 7 (i) to 7(v) the Commissioner lists as many as five quarry leases that are granted in favour of the petitioner. Strangely, in paragraph 7(vi) of the following quantity alone is noted to be quarried and removed without valid permits:



W.P.No.38460 of 2024

WEB COPY

Sl. No.	Survey Number	Mineral	Quantity (cbms)
1	503/1A, 503/1B, 503/2(P)	Rough Stone	29538
2	495/2A, 504/2A, 504/2B	Rough Stone	306749
3	495/2B(P)	Rough Stone	74077
4	502/1B, 503/2B	Rough Stone	33370
		Total	443734

5.4 Thus, as against, a quantity of 5,65,221 cbms of rough stone, only part quantity of 4,43,734 cbms of rough stone alone noted. Gravel is totally left out. Further, in paragraph 8, for the reasons best known to the Commissioner, even lesser quantity of 3,36,287 cbms alone is noted and only seigniorage fee for the said quantity, with 10% for District Mineral Fund, 10% for Green Fund and Penalty of Rs. 10,00,000/- in all totalling to Rs. 2,48,09,119/- was levied by the impugned order

5.5 Given the above circumstances, any reasonable officer exercising power would typically have considered the following:



W.P.No.38460 of 2024

WEB COPY

(a). PROSECUTION:

6. First and foremost, it can be seen that when the mining plan was completely given a go-by. The petitioner has quarried huge excess quantity and also quarried from other unauthorized sites and have illegally quarried and transported a total unauthorized quantity of 5,96,687 cbms of minerals. The violations are not minimal; rather, they are manifold, mammoth, and significant. Admittedly, the quantity of minerals were transported without any valid permit. This was done in violation of the rules framed by the State Government under Section 23 (C) of the Act. As per Section 21 (1) of the Act, whoever contravenes the provisions of Subsection (1) or Subsection 1 (1-A) of Section 4 is punishable by imprisonment for a term that may extend up to five years and with a fine that may extend to Rs. 5 Lakhs per hectare of the area. Section 4 (1 – A) of the Act categorically states that no person shall transport, store, or cause to be transported or stored any minerals otherwise than in accordance with the provisions of the Act and Rules made thereunder. Thus, this is a grave offence punishable by five years of imprisonment, and the power of compounding is only with reference to offences that are punishable solely by fine. Therefore, any



W.P.No.38460 of 2024

Commissioner or officer would first direct the appropriate competent officer to file a complaint as per Section 22 of the Act.

(b) VALUE OF THE MINERAL:

7. As per Section 21 (5) of the Act, whenever a person raises any mineral from any land without lawful authority, the State Government may recover from that person the minerals raised or, if those minerals have already been disposed of, the price thereof. Additionally, the State Government may recover from such person any rent, royalty, or tax for the period during which the land was occupied without lawful authority. The explanation categorically explains the term is extracted hereunder:-

“[Explanation.—On and from the date of commencement of the Mines and Minerals (Development and Regulation) Amendment Act, 2021, the expression “raising, transporting or causing to raise or transport any mineral without any lawful authority” occurring in this section, shall mean raising, transporting or causing to raise or transport any mineral by a person without prospecting licence, mining lease or composite licence 3[exploration licence] or in contravention of the rules made under section 23C.]”

7.1 Thus, in this case, it is an admitted position that the rules framed by



W.P.No.38460 of 2024

WEB COPY

the Government under Section 23-C have been violated. Obviously, Section 21 (5) of the Act comes into play. The matter is no longer within the discretion of the authorities. The Hon'ble Supreme Court of India, in the Judgment in Common Cause's case (cited supra), has considered the scope of Section 21 (5) of the Act and its meaning, and has already held that there can be no compromise on the quantum of compensation that should be recovered from the defaulting lessee. It should be 100%. Secondly, it has categorically held that any violation within the lease area also falls under Section 21 (5) of the Act. Paragraph Nos. 151, 153, and 154 of the said Judgment are extracted hereunder for ready reference:

“151. In our opinion, Section 21(5) of the MMDR Act is applicable when any person raises, without any lawful authority, any mineral from any land. In that event, the State Government is entitled to recover from such person the mineral so raised or where the mineral has already been disposed of, the price thereof as compensation. The words “any land” are not confined to the mining lease area. As far as the mining lease area is concerned, extraction of a mineral over and above what is permissible under the mining plan or under the EC undoubtedly attracts the provisions of Section 21(5) of the MMDR Act being extraction without lawful authority. It would also attract Section 21(1) of the MMDR Act. In any event, Section 21(5) of the Act is certainly attracted and is not limited to a violation committed by a person only outside the mining lease area — it includes a violation committed even within the mining lease area. This is also because the MMDR Act is intended, among other things, to penalise illegal or unlawful mining on any land including



mining lease land and also preserve and protect the environment. Action under the EPA or the MCR could be the primary action required to be taken with reference to the MCR and Rule 2(ii-a) thereof read with the Explanation but that cannot preclude compensation to the State under Section 21(5) of the MMDR Act. The MCR cannot be read to govern the MMDR Act.

.....

153. The learned counsel for the petitioners and the learned Amicus were of the opinion that the provisions of Section 21(5) of the MMDR Act require that the entire price of the illegally mined ore should be recovered from each defaulting lessee. Similarly, in its affidavit, the Union of India differs with the recommendation of CEC. According to the affidavit of the Union of India this would be contrary to the statutory scheme and in fact 100% recovery should be made under the provisions of Section 21(5) of the MMDR. We may note that only to this extent, the learned Attorney General differed with the view expressed by the Union of India and submitted that the recommendation of CEC to recover only 30% of the value of the illegally mined ore should be accepted.

154. In our opinion, there can be no compromise on the quantum of compensation that should be recovered from any defaulting lessee — it should be 100%. If there has been illegal mining, the defaulting lessee must bear the consequences of the illegality and not be benefited by pocketing 70% of the illegally mined ore. It simply does not stand to reason why the State should be compelled to forego what is its due from the exploitation of a natural resource and on the contrary be a party in filling the coffers of defaulting lessees in an ill-gotten manner.”

(Emphasis supplied)

7.2 As a matter of fact, Rule 36-A (3) of the Rules categorically states that the price of the mineral should be recovered. The said rule is extracted hereunder



W.P.No.38460 of 2024

for ready reference:

WEB COPY

“(3) Whenever any person raises without any lawful authority any mineral from any land, the District Collector or the District Forest officer, as the case may be, may recover from such person the mineral so raised or where such mineral has already been disposed of, the price thereof, and may also recover from such person, area assessment, seigniorage fee or tax, as the case may be, for the period during which the land was occupied by such person without any lawful authority:

[Provided that in respect of minor minerals namely, building and road construction stones including gravel, ordinary sand, earth and turf, ordinary clay including silt, brick and tile clay the powers and duties exercisable and dischargeable by the District Collectors under this subrule shall be exercisable and dischargeable by the Revenue Divisional Officer concerned within their respective jurisdiction.]”

(Emphasis supplied)

7.3 Therefore, there is no doubt whatsoever that the value of the entire quantity of mineral must be recovered. Thus, the total quantity of rough stones illegally mined and transported and the cost thereof and one time seigniorage fee totally amounting to Rs. 25,43,04,957/- is recoverable as per Section 21(5) of the Act, read with Rule 36A of the Rules as stated above. Further penalty upto 15 times the seigniorage fee can be levied. The Sub-Collector had chosen to levy twice the same amounting to Rs. 6,87,72,834/-. In all a total sum of Rs. 32,29,77,792/- was ordered to be paid. The same is perfectly in order. Thus, any



W.P.No.38460 of 2024

reasonable officer/appellate authority would recover the value of the mineral, following the directives of the Hon'ble Supreme Court of India.

(c) PENALTY:

8. The Rule 36-A (1) of the Rules, along with the Judgment of the Hon'ble Supreme Court of India in the Judgment in *Common cause* (cited supra), categorically held that in cases of such violations, all fees, including the seignorage fee, that are due to the Government shall also be recovered, along with a penalty of up to 15 times the seignorage fee. Normally, in cases of such grave violations, penalties should be commensurate with the violation and should have a deterrent effect; thus, a penalty of 15 times is envisaged under Rule 36-A (1) of the Rules. Though harsher penalty can be levied upto fifteen times, considering the gravity of the situation, the original authority has exercised its power which is valid and as per law. The appellate authority/Commissioner is duty bound to see to that the violator is levied with this penalty.

(d) THE LICENCE:

9. The entire exercise of framing the Tamil Nadu Minor and Mineral



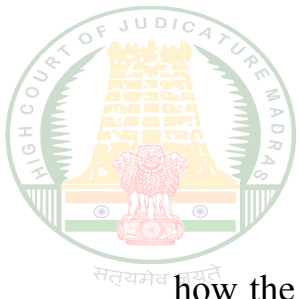
W.P.No.38460 of 2024

WEB COPY

Concession Rules, 1959, along with the mandate of Rule 41 to have a mining plan and obtain environmental clearance, aims to protect Mother Earth from unscrupulous, greedy, and selfish miners. Mother Earth can only feed us for our needs. But unscrupulous operators for their insatiable greed would cut the mother's breast and suck blood. The second respondent shockingly overlooked that the very existence of their Department is to save the environment, in accordance with Article 48 A of the Constitution of India. Any reasonable officer aware of the purpose behind Rule 41, which mandates the submission of a mining plan and the granting of environmental clearance, would only recommend the cancellation of the quarry license and ensure the immediate cessation of operations.

(e). The Unconscionable & Illegal Order:

10. While the lawful and logical conclusions would be the above, in this case, the orders passed by the 2nd respondent were exactly the opposite. Regarding prosecution, it was not even on the radar of the 2nd respondent. Concerning the recovery of the value of the minerals, the same is completely given a goby. No reasons whatsoever is mentioned in the impugned order as to



W.P.No.38460 of 2024

WEB COPY

how the Original authority was wrong in imposing compensation being the cost of the minerals amounting to Rs. 25,42,04,957/-. Thus, loss to the government to above extent to the government is willfully caused. Regarding the penalty of 15 times the seignorage fee, only Rs. 10,00,000/- is imposed. The same is in gross violation of the express Rule 36A.

10.1 While the barest minimum amount is levied, what is shocking is that even this minimum penalty is not collected, and, quite generously, for a grave polluter, instalments were allowed, with a mere payment of Rs . 25 lakhs. In fact, the volume in which the quarrying has been done makes the penalty a meagre sum for the petitioner. That is not all; the final blow is that the suspension of the quarrying operation is cancelled, and the petitioner is allowed to continue quarrying, with a revised mining plan directed to be submitted, which is then duly approved by the Assistant Director of Geology and Mining (FOR WHAT?!).

10.2 The *Thamasha* of wasting the government's time in approving the mining plan has occurred once again. One can understand the revised mining



W.P.No.38460 of 2024

WEB COPY

plan in cases of deviation or minor violation. When the licensee went berserk regarding the quantity and also quarries at unauthorized sites, cheating the government and taking away far more minerals than accounted for, without the slightest hesitation or conscience, the revised mining plan was directed, and the concerned authority granted it. Thus, the order passed by the 2nd respondent on 25.11.2022 is unfathomable, unimaginable, and shocking to one's conscience. Therefore, I have no hesitation in stating that the entire exercise points only towards extraneous considerations. The order, on its face, is fraudulent, cheating the government and the people of the State out of their lawful dues while leaving Mother Earth battered and bruised.

(f). The Exercise of Power of Revision:

11. Thus, I believe that the order has been rightly revised by the 1st respondent. In this regard, Rule 40 of the Rules is extracted below for ready reference:

“40.Power of revision of the State Government – The State Government may, of their own motion or otherwise, for good and sufficient reasons, revise any order of any authority subordinate to them made in exercise of the powers conferred on the authority



WEB COPY



W.P.No.38460 of 2024

under these rules:

Provided that no order in exercise of the above power shall be passed by the State Government without giving an opportunity of being heard to the person who will be considered to be adversely affected by such an order.”

11.1 Therefore, the 1st respondent was competent to revise such an order of significant illegality and severe perversity. The only ground raised is that the order was passed in violation of the principles of natural justice.

11.2 In this regard, notice was issued to the petitioner. It had submitted its written submissions, and a personal hearing was granted to Mr.Chenthamarai, the petitioner herein, being the Managing Director of the Company. He appeared through counsel. The findings related to the personal hearing were also included in the impugned order.

11.3 Therefore, it is not as though the order was passed without opportunity for the petitioner. The other argument made by the learned Senior Counsel is that the value cannot be collected, which has already been expressly considered by the Hon'ble Supreme Court of India in **Common Cause** (cited supra). The Hon'ble Supreme Court of India categorically held that Section 21(5)



W.P.No.38460 of 2024

WEB COPY

comes into play with respect to violations of rules, etc., in both approved and unapproved sites. No discretion is vested in the state, and it is mandatory to recover 100% of the minerals. Therefore, this contention is rejected.

11.4 Further, the submissions made by the petitioner were duly considered and answered in paragraph No. 10 of the impugned order.

11.5 In any event, the order of the 2nd respondent is completely fraudulent, aberrational, and unconscionably illegal, and it is an affront to the environment, as well as to the entire set of judgments of the Hon'ble Supreme Court of India regarding the obtaining of a revised mining plan, recovery of compensation, the polluter pays principle, and the rules framed by the Government in that regard. This course of action is taken to defraud the Government of a significant sum of money, certainly more than Rs.30 Crores. Thus, fraud is an anathema to the procedural violation that is claimed.

11.6 By passing the order, a representation was made as if the entire amount due for the violations is being recovered, and it is agreed upon by the



W.P.No.38460 of 2024

WEB COPY

petitioner, as if he is complying with the same, to resolve the issue. Thus, through the letter and conduct, the exercise deceives the Government and the people. Fraudulent representation is made and agreed upon with the motive to deceive the huge sum of money due to the Government. An act of fraud vitiates every solemn act. Fraud is anathema to all equitable principles, and any affair tainted with fraud cannot be perpetuated or upheld on equitable doctrines, including the principles of natural justice. In this case, the deception is clear and categorical, posing a false front as though lawful action is being taken, creating a loss for the Government and granting unlawful permission. Thus, there can be no invocation of any principles of natural justice at all in this case. The order dated 25.11.2022 was rightfully set aside and cannot be revived even for a moment at any cost. Therefore, I hold that the impugned order passed in G.O.(D). No.102, dated 29.10.2024, has been rightly passed.

11.7 In the instant case, citing violations, Radhakrishnan had filed W.P. No. 17367 of 2020 with a prayer to close down the illegal mining activity of the petitioner. When the matter came up for hearing, it was specifically represented



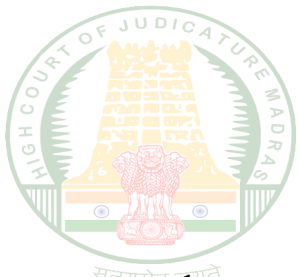
W.P.No.38460 of 2024

before the Hon'ble Division Bench that mining activities are closed. Para 4 of the order reads thus:

*“4. It is stated that not only **the mining activities are stopped**, but the amount to be recovered has also been assessed, followed by a notice. The process for recovery of the amount would be taken. In the meantime **the request of the eighth respondent to allow it to operate the mining has been declined**. Challenging the same, the eighth respondent filed a writ petition and the same is pending before the Court.”*

(Emphasis supplied)

11.8 After noting the above submissions, the writ petition was disposed of as having become infructuous. In this background, even if the appellate authority felt that the permission for quarrying should be granted, it cannot do so in the teeth of the representation made before this Court. At least an appropriate application should have been filed for granting permission. Thus, when a public interest litigation is entertained, to get it closed by making a representation and thereafter, allowing the appeal to continue the mining operations, amounts to interference with the due process of law and a fraud is played on the Court. The period of the last of the quarry ended in the year 20023 and there is no need for any further orders of cancellation. The quarrying operations were rightly stopped by the authorities. Therefore, the power of revision has rightly been exercised by



W.P.No.38460 of 2024

the government.

WEB COPY

12. This case demonstrates a shockingly unconscionable and unreasonable exercise of power in the guise of an appeal. Even the authorities granting the revised mining plan and renewing the EC are showing complete apathy. Above all, when such a huge quantity of illegal mining was taking place, the field officials at the relevant point in time completely abdicated their duty. All this does not seem to be mere coincidence and prima facie exhibits a deep-rooted conspiracy and extraneous considerations.

(g). The Result:

13. In view thereof, this Writ Petition is disposed on the following terms;

(a) The impugned order in G.O.(D).No.102, dated 29.10.2024, is upheld;

(b) The jurisdictional Sub Collector of Tirupur or such other officer is directed to file a private complaint, initiating prosecution against the accused persons for the offences committed by them in respect of the above quarries as determined by the inspecting team;



W.P.No.38460 of 2024

WEB COPY

(c) Expeditious steps shall be taken to recover the compensation/penalty as imposed by the Order dated 29/01/2022, and the recovery of the same shall be monitored by the first respondent;

(f) The appropriate authorities shall consider mitigation measures that are to be undertaken at the site;

(g) This Court appreciates the first respondent's appropriate prompt action and appropriate exercise of power;

(h) The first respondent shall also take steps to open a vigilance enquiry with regard to whole episode and if any prima facie case is made out with reference to the exercise of power and also against the relevant field officials who were working in the area at the relevant time, then cases be registered against them and prosecuted in accordance with law;

(i) No costs. The associated miscellaneous petitions are closed.



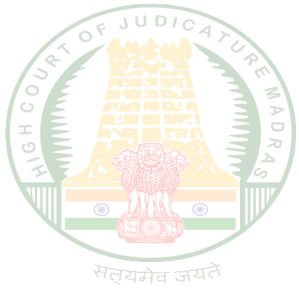
WEB COPY



W.P.No.38460 of 2024

22.05.2025

Neutral Citation : Yes/No
Jer



W.P.No.38460 of 2024

WEB COPY

To

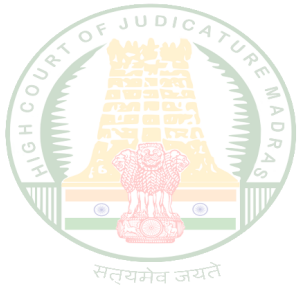
1.The Secretary to Government of Tamil Nadu
Natural Resources Department
Secretariat, Chennai – 600 009.

2.The Commissioner
Department of Geology & Mining
Thiru Vi.Ka.Industrial Estate
Guindy, Chennai – 600 032.

3.The District Collector
Tirupur District
Tirupur.

4.The Sub Collector,
Pollachi.

5.The assistant Director,
Department of Geology and Mining,
Coimbatore.



WEB COPY



W.P.No.38460 of 2024

D.BHARATHA CHAKRAVARTHY, J.

Jer

W.P.No.38460 of 2024

22.05.2025