



W.P(MD)Nos.1233 & 17606 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.01.2025

CORAM

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P(MD)Nos.1233 & 17606 of 2024

and

W.M.P(MD)Nos.1263, 1264, 15125 & 15126 of 2024

1.W.P(MD)No.1233 of 2024:

S.Sangeetha Rajeshwari

... Petitioner

Vs

1.The Commissioner,
Department of Geology and Mining,
Guindy, Chennai – 600 032.

2.The District Collector,
The District Collectorate,
Theni District.

3.The Assistant Director,
Department of Geology and Mining,
Theni District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the memo in Rs.No.201/Mines/2022 dated 04.01.2024 passed by the third respondent and quash the same as illegal and direct the third respondent to permit the petitioner to conduct quarrying operations at S.F.Nos.70/1 and 70/2 in Kullapuram Village, Periyakulam Taluk, Theni District for the non-operative period of 10 months without insisting the Environmental Clearance.



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W.P(MD)Nos.1233 & 17606 of 2024

For Petitioner : Mr.M.K.Sachin Rahul
for Mr.C.Arul Vadivel Associates

For Respondents : Mr.M.Senthil Ayyanar
Government Advocate

2.W.P(MD)No.17606 of 2024:

S.Sangeetha Rajeshwari ... Petitioner

Vs

1.The Commissioner,
Department of Geology and Mining,
Guindy, Chennai – 600 032.

2.The District Collector,
The District Collectorate,
Theni District.

3.The Assistant Director,
Department of Geology and Mining,
Theni District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the order in Rc.No.854/MM6/2023 dated 16.07.2024 passed by the first respondent and quash the same as illegal and direct the respondents to permit the petitioner to operate the quarry for extracting the permissible units of 57,404 units of rough stones and 1,400 units of gravel in Survey Nos.70/1, 70/2 over an extent of 2.40.0 hectares in Kullapuram Village, Periyakulam Taluk, Theni District with deemed extension of environmental clearance as per the Ministry of Environment, Forest and Climate change Notification No.1807 (E) dated 12.04.2022.



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W.P(MD)Nos.1233 & 17606 of 2024

For Petitioner : Mr.M.K.Sachin Rahul
for Mr.C.Arul Vadivel Associates

For Respondents : Mr.M.Senthil Ayyanar
Government Advocate

COMMON ORDER

W.P(MD)No.1233 of 2024 has been filed by the petitioner challenging the order passed by the third respondent dated 04.01.2024 thereby permitting the petitioner to conduct quarrying operations at S.F.Nos.70/1 and 70/2 situated at Kullapuram Village, Periyakulam Taluk, Theni District for the non-operative period of 10 months by submitting the Environmental Clearance certificate.

2.W.P(MD)No.17606 of 2024 has been filed by the petitioner challenging the order passed by the first respondent dated 16.07.2024 thereby rejecting the request made by the petitioner seeking permission to operate the quarry for the remaining permissible units of 57,404 units of rough stones and 1,400 units of gravel in Survey Nos.70/1, 70/2 to an extent of 2.40.0 hectares situated at Kullapuram Village, Periyakulam Taluk, Theni District with deemed extension of environmental clearance.



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3.The petitioner was granted quarry lease by the second respondent dated 25.01.2018 for quarrying rough stones and gravel in S.F.Nos.70/1 and 70/2 to an extent of 2.40.0 hectares situated at Kullapuram Village, Periyakulam Taluk, Theni District for a period of 5 years from the date of execution of lease deed dated 25.01.2018 till 24.01.2024 and the same was registered vide Document No.377 of 2019. While being so, the first respondent passed an order dated 06.01.2021 to carry out drone survey over the quarries located in Theni District by a special team and after inspection, a report was submitted alleging that the petitioner indulged in illicit quarrying and transportation of 1141 cubic meters of rough stones and 224 cubic meters of gravel from non-lease hold areas comprised in S.F.No.73 situated at Kullapuram Village, Periyakulam Taluk, Theni District. On the strength of the said report, the second respondent by communication dated 16.03.2022 issued show cause notice to the petitioner thereby calling upon the petitioner to submit an explanation. Though the petitioner filed an appeal before the first respondent, the petitioner agreed to pay the penalty amount and requested to issue permit for carrying out quarrying operations. Accordingly as per Rule 36-D of the Tamil Nadu Minor Mineral Concession Rules, 1959, the first respondent by its proceedings dated 07.02.2023 imposed penalty of Rs.1,14,651/-. It was duly



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complied with. The first respondent directed the third respondent to issue permit to carry out quarrying operations in the said quarry lease for an extended period of 10 months. However, the third respondent by its proceedings dated 04.01.2024 directed the petitioner to submit environmental clearance for the extended period of 10 months. The petitioner submitted the environmental clearance issued by the District Level Environment Impact Assessment Authority, Theni District dated 17.10.2018 to quarry rough stone to the quantity of 222978 cubic meters and gravel to the quantity of 22568 cubic meters or limited to maximum of 5 years from the date of execution of lease deed whichever is earlier, since 10 months period was unused period due to stoppage of quarrying as per the report submitted by the special team. Challenging the same, the petitioner filed the Writ Petition in W.P(MD)No.1233 of 2024.

4.Further, the petitioner submitted a representation for extension of the period of lease for the Covid-19 period ie., 18.02.2020 to 21.02.2022 before the second respondent. However, the said representation was not considered and as such, the petitioner was constrained to approach this Court in W.P(MD)No.



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4347 of 2024. This Court by order dated 02.04.2024 directed the first respondent to consider the representation submitted by the petitioner. Thereafter, the first respondent conducted enquiry and rejected the request made by the petitioner by order dated 16.07.2024, which is under challenge in W.P(MD)No.17606 of 2024.

5.On perusal of the counter-affidavit filed by the second respondent and on the submissions made by the learned Government Advocate appearing for the respondents would reveal that on payment of penalty of Rs.1,14,651/-, the petitioner was permitted to resume her quarry operation on condition to produce environmental clearance. It was challenged in W.P(MD)No.1233 of 2024. While being so, once again the petitioner submitted a representation to permit her to operate quarry operation for the leftover/unused period of lease of 18 months between 18.02.2020 and 21.02.2022. During such period, after Covid-19 pandemic circumstances, the petitioner operated her quarry to the quantum of 5784 units of rough stone and 5874 units of gravel. Further, the petitioner was granted lease for a period of 5 years or till the quarrying and removal of 2,22,978 cubic meters of rough stone and 22,568 cubic meters of gravel from the leased area whichever is



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earlier as per the Mining plan approved by the third respondent.

Further the environmental clearance certificate issued to the petitioner was co-terminus with the period of lease. The lease deed was executed on 25.01.2019 and the term of five years ended on 24.01.2024. There is no condition in the environmental clearance certificate that the clearance could be extended to the period of non-operation if occurred during the lease period. Further, the petitioner also operated her quarrying activities from 15.12.2020 to 07.01.2022 thereby transporting gravel to the quantum of 3645 units.

6.Insofar as the production of environmental clearance certificate for the extended period of 10 months is concerned, this Court in W.P(MD)No.6173 of 2024 by order dated 14.03.2024 in the case of T.Ariyamalai Vs. the Secretary to Government of Tamil Nadu held as follows:

"3.The question that arises for consideration is whether the petitioner is obliged to obtain fresh environmental clearance from the concerned authority. This issue is not longer res integra. Vide order dated 23.08.2022 in W.P(MD)No.17181 of 2022 I had held as follows :

"3.The learned Government Pleader appearing for the first and second respondents and the learned standing counsel for the third respondent pointed out that since the environmental clearance



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certificate had already expired, the petitioner will have to apply afresh. The only question that arises for consideration is whether this stand of the respondents is correct. It is true that environmental clearance certificate issued on 13.10.2015 stated that it would be coterminous with the mine lease period or limited to a maximum period of five years from the date of issue whichever is earlier. The learned standing counsel for the third respondent pointed out that the certificate was issued on 13.10.2015 and therefore, it expired on 12.10.2020 itself. The relevant clause in the environmental clearance certificate dated 13.10.2015 is as follows :

“Validity : The Environmental Clearance will be coterminous with the mine lease period or limited to a maximum period of 5 years from the date of issue whichever is earlier.”

4.If the construction put on the aforesaid clause by the third respondent is correct, there was no need for changing its phraseology. In the environmental clearance certificate that is being issued these days, the aforesaid clause regarding validity is as follows :

“Validity This environmental clearance is granted for for the period of 5 years from the date of execution of the mining lease period.”

5.From this modification in the language of the validity clause, one can safely infer that the clause in the writ petitioner's certificate will



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have to be given a purposive construction. The period of five years cannot be mechanically counted from the date of issuance of certificate. The object and purpose of the certificate was that the certificate should be valid for a maximum period of five years. It should also be coterminous with the mining lease period. Mining leases are given even for a period of ten years or more. The environmental clearance certificate was not meant to run beyond five years. That is why, in order to restrict the validity period to five years, the expression “whichever is earlier” is found. In this case, the petitioner's mining operation came to a standstill sometime in 2019. He was not able to enjoy the fruits of his licence. That is why, for the non-operative period, the corresponding extension was given. The authority cannot take advantage of his own wrong. The first respondent had stipulated that the petitioner must obtain environmental clearance certificate. If the quarry operations of the petitioner had not been stopped, things would have run their normal course. If the quarry operations had been conducted in terms of the mining lease, then, the life of the clearance certificate would be five years from the date of issue. Since on account of the action taken by the first respondent, there was interruption of the quarrying operations, it should be deemed that the non-operative period should not be counted. It would be a different matter altogether if the stoppage was on



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account of any illegality or irregularity committed by the petitioner. That is clearly not the case. Therefore, the environmental clearance certificate will be coterminous with the mining lease period. In order to clear the ambiguity, the third respondent had now restricted the mining lease period to five years from the date of execution of the lease deed. I therefore hold that the petitioner need not apply afresh to the third respondent. The environmental clearance certificate issued on 13.10.2015 in favour of the writ petitioner will hold good till for the period covered by the proceedings dated 07.06.2021 r/w. the proceedings dated 07.11.2021. The impugned order is interfered with to this limited extent. The second respondent is directed to issue transport permits to the petitioner for the said period.”

In view of the same, the question of the petitioner having to apply afresh does not arise at all.”

7.In view of the above, the condition imposed by the third respondent dated 04.01.2024 insisting environmental clearance cannot be sustained and the same is liable to be quashed and the impugned order passed by the third respondent dated 04.01.2024 is quashed. **Accordingly, W.P(MD)No.1233 of 2024 is allowed.** The third respondent is directed to permit the petitioner to conduct quarrying operations at S.F.Nos.70/1 and 70/2 in



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Kullapuram Village, Periyakulam Taluk, Theni District for the non-operative period of 10 months without insisting on environmental clearance certificate, within a period of two weeks from the date of receipt of a copy of this order.

8.Though the petitioner operated the quarry during the period from 18.02.2020 to 21.02.2022 she had transported rough stone to the quantum of 5784 unit and gravel to the quantum of 5784 unit. As per the lease agreement, the petitioner was permitted to quarry for the period of 5 years from the date of execution of lease deed ie., till 24.01.2024 and to quarry rough stone to the quantum of 2,22,978 cubic meters and gravel to the quantum of 22,568 cubic meters. Admittedly, the petitioner did not quarry rough stone and gravel to the said quantum during the lease period.

9.On perusal of the records also revealed that on one or two occasions during the Covid-19 period, the petitioner operated her quarrying in the leasehold area. In view of the above, the order impugned by the first respondent dated 16.07.2024 cannot be sustained and the same is liable to be quashed. Accordingly, the impugned order passed by the first respondent dated 16.07.2024 is



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quashed. **Accordingly, W.P(MD)No.17606 of 2024 is allowed.**

The respondents are directed to permit the petitioner to operate her quarrying for extracting the remaining permissible rough stone to the quantum of 57,404 units and gravel to the quantum of 1,400 units in the lease area ie., Survey Nos.70/1 and 70/2 to an extent of 2.40.0 hectares situated at Kullapuram Village, Periyakulam Taluk, Theni District, within a period of twelve (12) months from the date of receipt of a copy of this order. There shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

29.01.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes
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- To
- 1.The Commissioner,
Department of Geology and Mining,
Guindy, Chennai – 600 032.
 - 2.The District Collector,
The District Collectorate,
Theni District.
 - 3.The Assistant Director,
Department of Geology and Mining,
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G.K.ILANTHIRAIYAN, J.

ps

Order made in
W.P(MD)Nos.1233 & 17606 of 2024

29.01.2025