



W.P(MD)No.18656 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 13.10.2025

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.18656 of 2023

and

W.M.P.(MD)No.15503 of 2023

S.Jeganakumari

... Petitioner

Vs.

1.The District Collector,
O/o.The District Collector,
Kanniyakumari District.

2.The District Forest Officer,
O/o.The District Forest Officer,
Kanniyakumari District.

3.The Member Secretary,
State Environment Impact Assessment
Authority (SEIAA),
9, Jeenis Road,
Near Government Hospital,
Anna Nagar West, Saidapet,
Chennai.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order of the



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3rd respondent in Agenda No.383-13 dated 15.06.2023 quash the same subsequently directing the respondents to issue Environmental Clearance to the petitioner for commencing quarry operation for rough stone in an extent of 2.89.0 hectare of patta lands in S.F.No.183 of Ramapuram Village, Agastiswaram Taluk, Kanniyakumari District.

For Petitioner : Mr.S.Ramsundarvijayraj

For Respondents : Mr.M.Gangatharan,
Government Advocate for R1 & R2.
Mr.N.Dilipkumar for R3

ORDER

Heard both sides.

2.The writ petitioner owns the petition mentioned patta lands located in Ramapuram, Agastheeswaram Taluk, Kanyakumari District. He submitted an application on 01.03.2016 seeking permission to quarry rough stone and jelly in the said lands. The application was forwarded to State Environment Impact Assessment Authority (SEIAA). SEIAA deliberated over the application and declined to grant environmental



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clearance. Challenging the stand of SEIAA, this writ petition has been filed.

3.The learned counsel for the writ petitioner points out that the proposed quarry site is not located within the prohibited distance from the ecologically sensitive zone. He wanted this Court to upset the impugned order on the ground that it is not in consonance with Rule 36(1)(e) of the Tamil Nadu Minor Mineral Concession Rules, 1959.

4.SEIAA has filed counter affidavit and the learned standing counsel took me through its contents. His submission is that these are not matters which can be adjudicated on the basis of arithmetic calculation. He invoked the doctrine of precautionary principle and called upon this Court to sustain the impugned order and dismiss the writ petition.

5.I carefully considered the rival contentions and went through the materials on record. The application was rejected by SEIAA for the following reasons:-



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“(i) The area is demarcated by the movement of elephants.

(ii) The area is surrounded by agricultural activities and rich vegetation.

(iii) The sensitive ESZ is situated at a distance of 1.01 km.

(iv) The sensitive Reserved Forest is located at a distance of 1.35 km.

(v) There are 16 structures are existing within a radius of 500 m.

(vi) There is a shed observed at 291m SE and two odai one at 260m W and another at 257m SE.”

6. The learned counsel appearing for the writ petitioner is right in his contention that Rule 36(1)(e) of Tamil Nadu Minor Mineral Concession Rules, 1959 only prohibits quarrying or mining or crushing activities from being carried out within one kilometer radial distance or the protective distance as notified by the Ministry of Environment, Forest and Climate Change, Government of India from time to time, whichever is more, from the boundaries of ecologically sensitive area, environmentally and ecologically protected areas such as the National Parks, Wild Life Sanctuaries, Tiger Reserves, Elephant Corridors and Reserve Forests.



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7. The question is whether merely because the proposed quarry site is located a little beyond the prohibited one kilometer radial distance, the applicant is entitled to license and whether the impugned rejection order is liable to set aside on that score.

8. The answer has to be in the negative. In matters concerning environment, Courts have to apply the precautionary principle which casts the burden of proof on the project proponent. It is for him to show that his action is environmentally benign(*vide Vellore Citizens Welfare Forum Vs. Union of India (1996) 5 SCC 647*). The principle of precaution involves the anticipation of environmental harm and taking measures to avoid it. Precautionary duties must not only be triggered by the suspicion of concrete danger but also by justified concern or risk potential. A situation may arise where there may be irreparable damage to the environment after an activity is allowed to go ahead and if it is stopped, there may be irreparable damage to economic interest. It was in case of doubt, protection of environment would have precedence over the economic interest. Anticipatory action has to be taken to prevent harm and that harm can be prevented even on a reasonable suspicion. It is not



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always necessary that there should be direct evidence of harm to the environment((2022) 10 SCC 544).

9. In the very nature of things, a quarry operation would involve blasting and creation deep pits on the earth. The law makers in their wisdom have prescribed that within one kilo meter, no quarrying operation should be permitted. That does not mean that a quarry site can be allowed to be located at a distance of 1.01 kilo meter. The SEIAA has noted that there is movement of elephants in the area. Boundaries are man-made. Nature is no respecter of statutorily demarcated lines. These are days of man-animal conflicts. Animals are seen venturing into human habitations in search of food and water. Climate change has brought about a new reality. It is ridiculous to assume that the elephants and other wild animals inhabiting the eco-sensitive zone would not stray beyond one kilometer from its boundary. If the petitioner is allowed to operate his quarry, there is every danger that the quarrying activities would adversely affect the wild life. Even its very probability is sufficient to deter granting license to the petitioner. Ignorance of law is no excuse. But this maxim will apply only to humans. No animal can be imputed



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with knowledge of laws and amendments that may be made from time to time. They cannot be expected to take cognizance of these man-made rules.

10. The Hon'ble Supreme Court in *Rajeev Suri Vs. DDA (2022) 11 SCC 1* held that once an expert committee has duly applied its mind to an application for environmental clearance, any challenge to its decision has to be based on concrete material which reveals total absence of mind. Absent that material, due deference must be shown to the decision of experts. SEIAA is not only the regulatory but also an expert body. It had rejected the writ petitioner's application after taking into account all the relevant aspects. It would be too much to even insinuate that the impugned decision suffers from non-application of mind.

11. Rule 3 of Tamil Nadu Minor Mineral Concession Rules, 1959 states that an application for grant of a quarrying permit **shall** be made in the Form in Appendix-X to the District Collector. On an application made to him under sub-Rule 1, the District Collector **may** grant a quarrying permit for any minor mineral. From the employment of these



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contrasting expressions, namely, “shall” and “may” in Rule 3, one can conclude that an applicant cannot demand license as a matter of right. Issuance of license is a matter of discretion. When the licensing authority himself has been endowed with a measure of discretion, SEIAA which is the authority to give environmental clearance has a greater leeway.

12. The applicant has no vested right as such. Conferment of quarry leases would rather belong to the category of privilege. A quarrying activity carried out just outside the prohibited area would definitely have an adverse impact on the wild life. The Court has to trust the wisdom of the experts. SEIAA is an expert body. After due expert appraisal, it was decided to negative the writ petitioner's request. In matters concerning environment, Courts have to lean more on the side of environment. I do not find any ground to interfere. The writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

13.10.2025

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
IAS/ PMU

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G.R.SWAMINATHAN, J.

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