

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.39146 of 2024
and W.M.P.Nos.42397 & 42399 of 2024

R.Ramakrishnan

.. **Petitioner**

Vs.

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.Vijayakumar

5.Sathish Kumar
(R5 impleaded vide order of this
Court dated 22.05.2025 in W.M.P.No.15771 of 2025

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W.P.No.39146 of 2024

in W.P.No.39146 of 2024)

.. **Respondents**

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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.106, Natural Resources (MMC.1) Department dated 06.12.2024 and quash the same as arbitrary, illegal and without any basis and pass such further or other orders.

For the Petitioner : Mr.Srinath Sridevan
Senior Counsel
for Mr.P.S.Prabhu

For the Respondents : Mr.Stalin Abimanyu
Additional Government Pleader
for RR1 to 3
Mr.K.S.Karthikraja for R4
Mr.N.D.Shivakumaran for R5

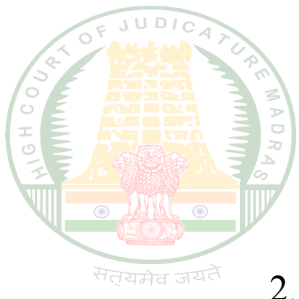
ORDER

A.The Writ Petition:

This writ petition challenges the Government Order in G.O.(D).No.106, Natural Resources (MMC.1) Department dated 06.12.2024.

B.Brief Facts:

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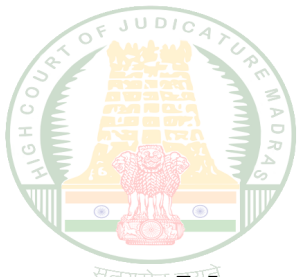


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2. The petitioner asserts that he applied for a quarry lease regarding his patta lands, which include 55/2A (Part), 55/2B, 56/1A (Part), 56/1B, 56/2A (Part), and 56/2B (Part), totalling an area of 3.58.9 hectares located in Kodangipalayam Village, Palladam Taluk, Tirupur District. The State Level Environmental Impact Assessment Authority granted environmental clearance in favour of the petitioner on 30.10.2021. Following this, after obtaining all necessary clearances and approvals, the Assistant Director of Geology and Mining, Tirupur, issued a quarry lease for five years, commencing from 02.12.2021 to 01.12.2026, under Rule 19 (1), 20, and 33 of the Tamil Nadu Minor Mineral Concession Rules, 1959 (hereinafter 'the Rules'). Subsequently, a mining lease agreement dated 02.12.2021 was registered.

2.1. Whiles, one *P. Vijayakumar*, the 4th respondent herein, has made frivolous claims as if he is the owner of the adjacent land situated near the quarry and has filed motivated complaints against the petitioner. The District Collector of Tirupur had called upon the Taluk Task Force Committee to inspect the quarry and submit a report. Following the order of the District Collector, the Task Force Committee inspected the site and filed a report stating that the safety distance of

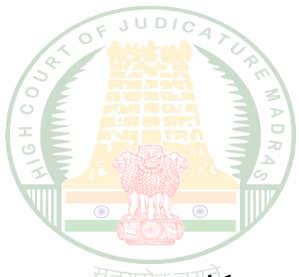


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7.5 metres had not been followed and that an adequate green belt had also not been developed at the quarrying site. It also recommended the temporary suspension of the quarry's operation.

2.2. Based on this, on 07.09.2022, the District Collector passed an order temporarily suspending the quarry lease of the petitioner. In response to this order, the petitioner filed an appeal before the 2nd respondent, namely, the Commissioner, Department of Geology and Mining, on 17.09.2022. While disposing of the appeal, the 2nd respondent constituted a team of officials to inspect whether the quarrying activities were conducted in accordance with the mining plan, environmental clearance, and lease deed. Based on the report, the 2nd respondent 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.1,72,83,636/-. The Task Force Committee also inspected another quarry, which had previously been quarried by the petitioner. This team concluded that rough stone was removed and transported without valid permits. However, they also confirmed that no quarrying was currently taking place in the



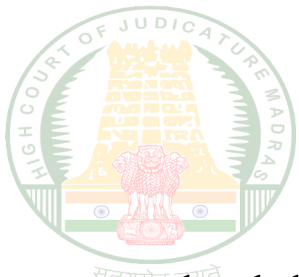
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said area. Again considering the findings, the 2nd respondent levied costs on the petitioner under several categories, totalling Rs.8,67,64,571/.

2.3. To resolve the issue, the petitioner agreed to pay the aforementioned sums, and the 2nd respondent issued an order dated 26.09.2022 to set aside the order of the 3rd respondent, namely, the District Collector. The order directed the petitioner to pay a sum of Rs.30 Lakhs immediately and the remaining amount in instalments within the expiry of the existing lease period, i.e., 01.12.2026.

2.4. Pursuant to the said order, the petitioner submitted a revised mining plan and feasibility report from the Director General of Mine Safety. This was approved by the Deputy Director of Geology and Mining, Tirupur, through an order dated 12.02.2024. The approved revised mining plan dated 12.02.2024 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. A feasibility report was also obtained by the petitioner on 25.01.2024. By the said order, the Directorate General of Mine Safety granted permission to use Heavy Earth Moving Machinery (HEMM) for



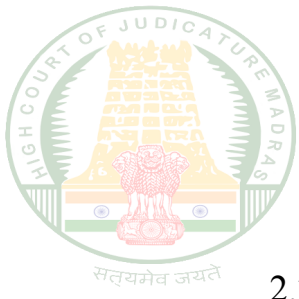
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deep hole drilling and blasting under Regulation 106 (2) (B) of the Metalliferous Mines Regulations, 1961, with certain conditions.

2.5. Subsequently, a study on blast-induced ground vibration was conducted, and it was recommended that drilling and blasting be carried out under the direct supervision of a qualified and experienced short firer. Even in the said report, it was not mentioned that the 4th respondent is in any way affected by the quarrying activities. Thereafter, the 2nd respondent issued a letter dated 22.02.2024 to revoke the suspension. On 29.02.2024, the 3rd respondent also revoked the suspension. The petitioner then began carrying out the quarrying operation as per the revised mining plan.

2.6. While this was happening, the 4th respondent submitted a petition to the 1st respondent, levelling baseless allegations. The petitioner was called upon to provide his explanation. After hearing both parties, the impugned order in G.O.(D).No.106, dated 06.12.2024, was passed. Aggrieved by this, the present Writ Petition has been filed.



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2.7. As a matter of fact, of the total cost amount imposed on the petitioner, which is Rs.10,40,48,207/-, a sum of Rs.4,99,20,072/- has already been paid by the petitioner to give quietus to the issue. 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.Contentions of the Respondents:

3. The Writ Petition is opposed by the 1st respondent through a detailed counter affidavit. It is stated that the petitioner's first lease for quarrying rough stone and gravel was granted over an area of 5.55.0 hectares in patta lands in S.F.Nos.52/2A (Part), 56/1A (P), 56/2A (P), 57/1A1, 57/1A2, and 57/1B of Kodangipalayam Village, Palladam Taluk, Tirupur District, initially for a duration of five years from 07.09.2010 to 06.09.2015, and subsequently from 29.01.2016 to 28.02.2021, on which date the lease expired. The petitioner submitted a second application for quarrying rough stone and gravel in the



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aforementioned patta lands, measuring 3.58.9 hectares, for which permission was granted for five years from 02.12.2021 to 01.12.2026. There was no habitation within a radius of 300 meters from the site.

3.1. The 4th respondent submitted a petition stating that he had established a power loom on his agricultural land and was also cultivating his two acres, which had suffered damage due to blasting and explosions. Based on this complaint, the Taluk Task Force Committee, Palladam, inspected the quarry, and the quarrying operations were suspended by an order dated 07.09.2022. Aggrieved by this, the petitioner filed an appeal.

3.2. It was found that the second quarry covers an area of 3.58.9 hectares, and the Task Force Committee estimated that 3,21,811 cubic meters of rough stone and 39,405 cubic meters of topsoil with weathered rock were removed by the petitioner without permits. The Task Force Committee, upon inspecting the first quarry site, for which the lease period had expired, estimated that the petitioner had excessively removed 16,94,952 cubic meters of rough stone and 76,003 cubic meters of topsoil with weathered rock without any permit. Based



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on the said report, the 2nd respondent levied a penalty of Rs.10,40,48,207/- and directed the petitioner to remit Rs.30 Lakhs as the first instalment and to pay the balance in equal instalments by his order dated 26.09.2022. Further complaints were received from one *Sathish Kumar*; the 5th respondent herein.

3.3. Following the complaints, the Sub Collector of Tirupur, the District Environmental Engineer of the Tamil Nadu Pollution Control Board, and the Assistant Director (Mines) were instructed to inspect the relevant area and submit a report. Subsequently, the inspection report was submitted. Meanwhile, up to June 2024, the petitioner had remitted a total of Rs.3,37 Crores. Transport permits were issued from 06.03.2024, based on the instructions of the 2nd respondent. Under these circumstances, the appeal filed by the 4th respondent was taken up as he undertook a hunger strike, seeking the disposal of his petition. Thereafter, it was observed that the petitioner had remitted a total sum of Rs.4.99 Crores by November 2024.

3.4. At this juncture, after a careful examination of the orders, the Government decided to exercise the power of revision under Rule 40 of the



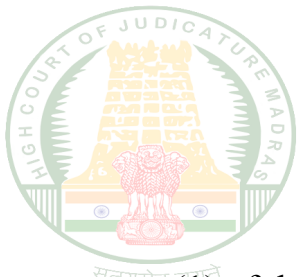
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Rules. Due opportunities were granted for all parties, and after hearing them, orders were passed. The fact that when the quantity of mineral estimated by the team for the second licence was 3,11,811 cubic metres, the penalty of Rs.1,72,83,686/- was considered. Similarly, the orders granting permission to commence the quarry operation by paying an initial amount of Rs. 30 Lakhs are beyond the rule provisions, and therefore, the Government considered all the facts and circumstances before passing the impugned Government Order. Thus, the Writ Petition must be dismissed.

3.5. The 4th respondent also filed a counter affidavit. According to the counter affidavit, the inspection team found numerous violations, including that the mining operations have not been conducted as per the mining plan. The order issued by the 2nd respondent, namely the Commissioner, is arbitrary and malafide. As per Section 21 (5) of the Mines and Minerals (Development and Regulation) Act, 1957, (hereinafter 'the Act'), the full value of the minerals must be recovered. This has already been deemed mandatory by the Hon'ble Supreme Court of India in *Common Cause Vs. Union of India*¹. According to Rule 36-A

¹ (2017) 9 SCC 499



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(1) of the Rules, a penalty of up to 15 times the seigniorage fee must be imposed.

If the value of the mineral and the seigniorage fee is calculated, a total of Rs . 184,19,62,215/- is payable. This amount was willfully not collected by the 2nd respondent. Despite the fact that a penalty exceeding Rs.174 Crores has now been waived, no criminal action has been initiated against the petitioner, who is a severe violator. The 4th respondent has also submitted several documents evidencing the violations.

3.6. According to the 5th respondent's counter affidavit, the entire quarry site and the associated blue metal units are operating in complete violation of the law, causing significant harm to the livelihood of the local farming community and posing substantial environmental and safety risks. Consequently, he has filed a complaint. Approximately 814 tons of explosives have been used for quarrying all the materials. Details of various protests by the people are also provided. The operations pose a serious threat to environmental, economic, and safety aspects, necessitating urgent and stringent actions.

D.The Submissions:

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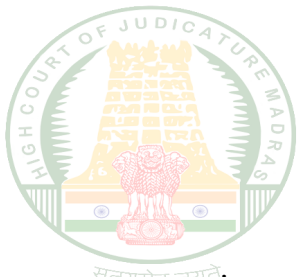
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4. Heard, *Mr. Srinath Sridevan*, the learned Senior Counsel appearing on behalf of the petitioner. Taking this Court through the impugned order, the learned Senior Counsel submits that, on its face, the impugned G.O.(D) No.106, dated 06.12.2024, is liable to be quashed for violation of principles of natural justice. Pointing to paragraph No.7 of the impugned order, the learned Senior Counsel notes that after the personal hearing was granted to the petitioner, the revision was further conducted, and the written statements of the Assistant Director and the Assistant Geologist seem to have been obtained without the petitioner's knowledge, 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.

4.2. 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 4th and 5th respondents are without any proof whatsoever, and they are not at all affected persons. The

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entire mining activity has been carried out after obtaining the requisite environmental clearance, and even the inspection teams have found that the private respondents have not been affected in any manner as a result, indicating that their complaints are motivated.

4.3. *Mr. Stalin Abimanyu*, the learned Additional Government Pleader appearing on behalf of respondents 1 to 3, submits that the order passed by the 2nd respondent is completely unacceptable and has therefore been rightly revised by the Government. The entire value of the mineral must be recovered from the petitioner. In fact, the impugned order should have included the consequential orders and, to that extent, the matter requires reconsideration by the 1st respondent or the other respondents. In any event, the order of the 2nd respondent cannot be allowed to stand.

4.4. *Mr K. S. Karthik Raja*, the learned counsel appearing on behalf of the 4th respondent, reiterates the various contentions raised in the counter affidavit and highlights the severe environmental damage caused in the area. It is submitted that due to the blasting activities, fragments and particles of rough



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stones and gravel have been scattered across agricultural fields. Furthermore, as a result of the intense blasts, residential buildings have developed cracks, and the local population, as well as the surrounding flora and fauna, have suffered significantly due to the quarrying operations.

4.5. The 5th respondent appearing as a party-in-person would also reiterate the allegations and support the Government Order. He took this Court through the documents submitted by him to prove the alleged violations and submitted that the agitation was not motivated and the lawful protesters are being targeted.

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, and topsoil with weathered rock, and gravel. Upon reviewing the order dated 26/09/2022 issued by the 2nd respondent, it can be noted from paragraph No. 6 that, regarding the existing quarry lease granted in favour of the petitioner over



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an area of 3.58.9 hectares (the second application) for the period beginning on 02.12.2021, permission was granted to quarry the aforementioned extent. The petitioner was allowed to quarry topsoil and weathered rock up to a depth of 2 meters according to the approved mining plan, and permits were requested and issued for 1575 cbms. However, it appears that the petitioner removed 40,980 cbms to a depth of 3 meters, thus quarrying and transporting 39,405 cbms without a valid permit, roughly 25 times the lawfully accounted limit.

5.2. Regarding rough stone, the petitioner was permitted to extract to a depth of 45 metres and permit were obtained only for 3,580 cbms, whereas the petitioner removed 3,75,391 cbms. Thus, he extracted 3,21,811 cbms of mineral without any valid permit. The Committee appointed by the 2nd respondent found the following and made recommendations to take action as per the rules:

“Findings and recommendations of the committee:-

I. Mining operations is not carried out in accordance with the approved mining plan.

II. The lessee has not maintained the safety distance of 7.5 m to the adjacent patta lands on the north and west as stipulated in the special condition of lease granting order.

III. The lessee has not maintained the safety distance of 50m to the power line situated on the eastern side of the applied



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area as stipulated in the special condition of lease granting order.

IV. The pit in the expired quarry and present lease area is merged together as a single pit as the lessee has not maintained safety distance of 7.5 m between the two quarries in the northern side.

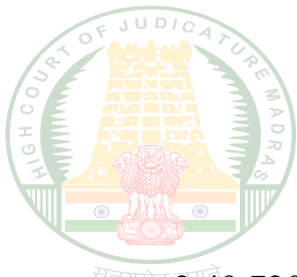
V. Based on pit dimension measured by the Sub Inspector of Survey (Mines) and compared with the permit Issued details, it was observed that a quantity of 39,405 Cbm of top soll and weathered rock and 3,21,811 Cbm of rough stone has been removed without permit.

VI. For the violation stated supra, the committee has recommended to take necessary action as per the provisions of the Act and Rules In force.”

(Emphasis supplied)

5.3. In respect to the adjacent, expired quarry lease (first application) covering an area of 5.55.0 hectares in favour of the petitioner, the Committee found that although the petitioner was permitted to quarry topsoil and weathered rock up to a depth of 3 meters and permits were issued for 17,820 cubic meters, he had actually removed 2,35,730 cubic meters. After deducting 1,41,907 cubic meters of dump, it was determined that 76,003 cubic meters of mineral were quarried and transported without any valid permit.

5.4. Regarding rough stone, while the petitioner was allowed to quarry up to a depth of 25 meters per the approved mining plan, he had quarried to a depth of 50.8 meters. Although he had applied for and obtained permits to remove only



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2,49,720 cubic meters of rough stone, he had, in fact, removed 19,44,672 cubic meters, thereby extracting an excess of 16,94,952 cubic meters of rough stone without any valid permit.

5.5. The Committee appointed by the 2nd respondent recorded the following findings:

“Findings and recommendations of the committee:-

I. Mining operation is not carried out in accordance with the approved mining plan.

II. The lessee has not maintained a safety distance of 7.5m to the adjacent patta lands on the south, north east and south western side as stipulated in the special condition of the lease granting order.

III. A condition of safety zone of 7.5m for the adjacent patta land situated in eastern side was stipulated in the lease granting order. But, state on the ground, power line is situated on the eastern side but there is no condition Imposed in the lease granting order about power line.

IV. There is detailed Odal marked In the FMB in lease granted area in May 05, 2025 1835/2A, 57/1A1, 57/18 but as per the Inspection report of the Assistant Geologist, Tiruppur dated 01.06.2010, state on ground there is no odal.

V. Top soll and weathered rock dump outside the lease granted area In patta land belongs to Thiru. Kuppusamy In S.F.No.154/2 of Ichipatti Village, adjacent to the north eastern corner of the quarry. In this regard, the ex-lessee has Informed that top soll and weathered rock has been dumped In the above sald patta land with consent of the pattadar.



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VI. Portion of top soil was refilled Inside the pit on the north eastern side.

VII. Based on the pit dimensions measured by the Sub-Inspector of Survey (Mines) and compared with the permit Issued details, it was observed that a quantity of 76,003 Cbm of top soll and weathered rock and 16,94,952 Cbm of rough stone has been removed without permit.

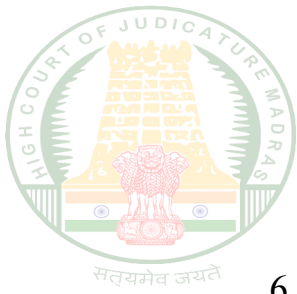
VIII. For the violations stated supra, the committee has recommended to take necessary action as per the provisions of the Act and Rules In force.”

(Emphasis supplied)

5.6. Thereafter, the 2nd respondent called for an explanation from the petitioner and directed him to submit a written statement for further action on the appeal petition. By a written submission dated 26.09.2022, the petitioner accepted the violations pointed out in the report and agreed to remit a sum of Rs.30 Lakhs within 30 days. He also agreed to pay any remaining penalty found in relation to the penalty before the expiration of the subject lease.

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

(a) PROSECUTION:



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6. First and foremost, it can be seen that when the mining plan was approved to mine up to 25 metres, the petitioner has gone up to 50.8 metres. The violations noticed and accepted 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 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



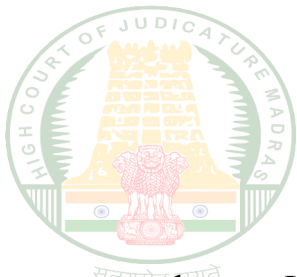
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from any land without lawful authority, the State Government may recover from that person the minerals raised or, if those minerals have already been disposed of, the price thereof. Additionally, the State Government may recover from such person any 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 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



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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.

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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



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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 for ready reference:

“(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



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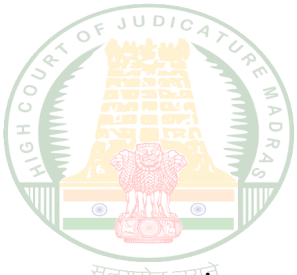
District Collectors under this subrule shall be exercisable and dischargeable by the Revenue Divisional Officer concerned within their respective jurisdiction.]”

(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 amounts to 20,16,763 cbm. The 4th respondent states that the cost of the mineral is approximately Rs.380/- per cbm, and calculating at this rate, the value of the rough stones to be recovered is Rs.76,63,69,940/-. Similarly, regarding the topsoil and weathered rock, a quantity of 1,15,408 cbms has been illegally removed, and if we calculate this at Rs.160/-, it amounts to Rs.1,84,65,280/-. Therefore, the approximate total value of the mineral(subject to a correct calculation by applying the appropriate value by the experts) to be recovered is approximately Rs.78,48,35,220/-. Thus, any reasonable officer would recover this 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



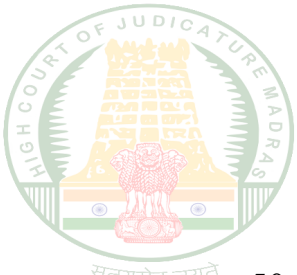
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seignorage fee, that are due to the Government shall also be recovered, along with a penalty of up to 15 times the seignorage fee. A rough calculation of the seignorage fee for rough stones is Rs.20,16,763/- and for topsoil is Rs.1,15,408/- Thus, penalty of a minimum of Rs.21,32,171/- (the actual seignorage fee) to Rs.3,19,82,565/- (15 times seignorage fee), is leviable. This falls within the discretion of the penalty-levying authority. However, in any event, a minimum of Rs.21,32,171/- ought to be levied. 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.

(d) THE LICENCE:

9. The whole exercise of framing of the Tamil Nadu Minor and Mineral Concession Rules, 1959, the mandate of Rule 41 to have a mining plan and to get environmental clearance are all towards saving the mother earth from the unscrupulous, greedy and selfish Minors, whose operations are like cutting the mother's breast and sucking her blood for their unsatisfiable greed. The 2nd respondent forgot that the very existence of their Department is to save the environment, pursuant to the Article 48 A of the Constitution of India, to protect the environment. A person is granted mining plan for 25 metres and he mines



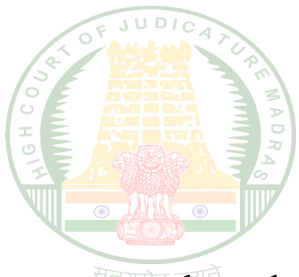
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upto 50.8 metres and in the current licence, he has already gone upto 54 metres, while the approved depth is 45 metres. Any reasonable officer knowing the very purpose of insertion of Rule 41 of the Rules in submitting a mining plan and grant of environmental clearance would only order for cancellation of the quarry licence and ensure forthwith winding up of the 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 minerals, there is a significant loss to the Government and the environment, amounting to a minimum of Rs.78 Crores and a maximum of over Rs.180 Crores, impacting the Government's exchequer. Regarding the penalty of 15 times the seignorage fee, it is only a single seignorage fee, in addition to a penalty of Rs.10 lakhs each, ordered to be levied.

11. 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 . 30 lakhs. In fact,



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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?!!*).

12. The *Thamasha* of wasting the Government's time in approving the mining plan has once again occurred. One can understand the revised mining plan in a case of deviation or minor violation. When the licensee had gone twice the depth in the former quarry, more than the permitted depth in the current quarry, had cheated the government and taken away manifold times of minerals than which is accounted for, without even a slightest hesitation or conscience revised mining plan is directed and the concerned authority also grants the same. Thus, it can be seen that the order passed by the 2nd respondent on 26.09.2022 is unfathomable, unimaginable, and shocks one's conscience. Therefore, I have no hesitation in holding that the entire exercise points only towards extraneous considerations. The order, on the face of it, is fraudulent, cheating the



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Government and the people of the State of their lawful dues, while leaving Mother Earth battered and bruised.

13. Furthermore, it is brought to the attention of this Court that the 2nd respondent also sent a communication on 01.06.2023 criticising the District Collector, who had duly fulfilled his duties with integrity. While the letter contains several scathing allegations, a portion of it in paragraph No.5 is extracted hereunder:-

“அப்போதைய மாவட்ட ஆட்சியர் திரு.வினித், இ.ஆ.ப., அவர்கள் தொடர் உண்ணாவிரதம் மேற்கொண்டவர்களை அழைத்து பேசி பிரச்சினையினை விரைவில் தீர்த்திருக்கலாம். ஆனால் போராட்டக்காரர்களுக்கு உடந்தையாகவே செயல்பட்டார் என்பது 10 நாட்களுக்கு மேல் சட்டஒழுங்கு பிரச்சனை இருந்ததிலிருந்து அவரது எண்ணங்களை அறிந்திட இயலும்.”

F. The Exercise of Power of Revision:

14. 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:



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“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 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.”

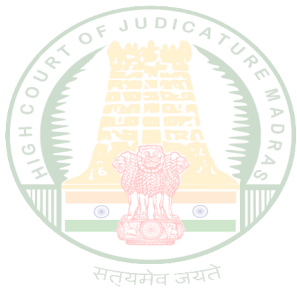
15. Therefore, the 1st respondent was competent to revise such an order of significant illegality and severe perversity. The only ground raised is that the order was passed in violation of the principles of natural justice.

16. In this regard, notice was issued to the petitioner. He has submitted his written submissions, and a personal hearing was granted to him. He appeared through counsel. The findings related to the personal hearing were also included in the impugned order, and the relevant portion is extracted hereunder for ready reference:

“Findings of the Personal Hearing with
Thiru.R.Ramakrishnan (lessee):

i. The counsel of the petitioner has submitted that the petitioner's application has no merits and his client has complied with all the regulatory requirements. He has been regularly paying the installments of penalty amount. On the issue of the Commissioner not having authority to pass orders on penalty, the counsel referred to rule 36(D).

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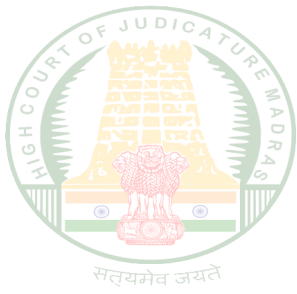
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ii. The counsel has further pleaded to allow the quarry to run as they are in full compliance of the order of the Commissioner of Geology and Mining.”

17. Therefore, it is not as if the order was passed without opportunity to the petitioner. The other argument made by the learned Senior Counsel is that after the personal hearing of the petitioner, written statements were obtained from certain officials and were considered. Firstly, upon reading the impugned order, it can be seen that the petitioner was given due opportunity regarding the exercise of revision undertaken against the order of the 2nd respondent. All the submissions made by the petitioner were duly considered and answered in paragraph No.8 of the impugned order. Since the action involves a grave violation of rules and the law, the 1st respondent has entertained explanations from the subordinate officials regarding how they acted in a particular manner and how the appeal was routed through various hierarchies. In this regard, *Mr.A.John James*, the Assistant Director and former Assistant Geologist, has provided a statement, and it is essential to extract the relevant portion, which reads as follows:-

“III. With regard to the signing of officials in Page No.9 of the Note File, it is noticed that the Note file has been signed by

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the Assistant, Assistant Geologist only and not by the Assistant Director and other officers of the Department.

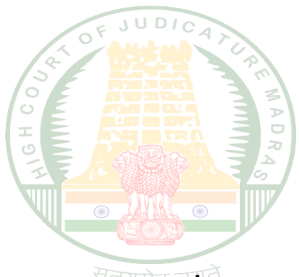
IV. While enquiring this aspect I have replied that the file has not been submitted to the Assistant Director and submitted directly to the Commissioner of Geology and Mining.”

18. Similarly, *Mr.R.Easwaran* had also squarely pointed the 2nd respondent, and the relevant portion is extracted as follows:

“IV. Finally, then Commissioner of Geology and Mining has dictated me all the subject matters, amount of penalty to be levied and conditions etc., to be incorporated in the draft proceedings and orally ordered me to prepare draft proceedings and to submit before him.

V. As per the instructions of then Commissioner of Geology and Mining, I have prepared draft proceedings on the same lines as he instructed me and submitted to him the draft proceedings for further corrections or modifications if any.”

19. Therefore, the issues relate to determining the internal workings of the office, which is administrative in nature and not a concern for the petitioner, nor something that has prejudiced the petitioner. The fact is that the petitioner has even admitted before the 2nd respondent to pay the penalty. It is stated before this Court that to give quietus to the matter, the petitioner wanted to pay the penalty and did not contest it. Thus the mere inquiry by the Government how the other subordinate officers of the Government acted in a particular manner is with a



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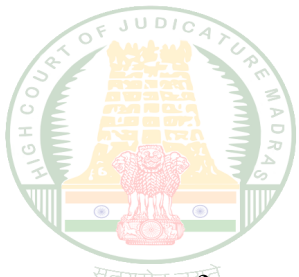
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view to fix the responsibility and does not relate to the merits of the matter or continuing the hearing of the revision. Therefore, there is absolutely no violation of principles of natural justice.

20. 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.78 Crores. Thus, fraud is an anathema to the procedural violation that is claimed.

21. 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 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

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of money due to the Government. An act of fraud vitiates every solemn act.

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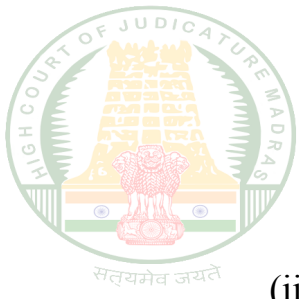
Fraud is anathema to all equitable principles, and any affair tainted with fraud cannot be perpetuated or upheld on equitable doctrines, including the principles of natural justice. In this case, the deception is clear and categorical, posing a false front as though lawful action is being taken, creating 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 26.09.2022 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.106, dated 06.12.2024, has been rightly passed.

G. The Need for Supplementary Orders:

22. However, while setting aside the order, no consequential orders have been directly issued by the 1st respondent, which should include,

(i) Directing the appropriate authority to file a private complaint for an offence under Section 21 of the Act;

(ii) Assessing the value of the mineral, ordering its recovery, and imposing an appropriate penalty;



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(iii) Initiating proceedings regarding the cancellation of the petitioner's quarrying license under Section 4-A of the Act, as it is essential in the best interests of quarrying activity, preserving the environment, preventing pollution, and safeguarding public health.

23. However, the impugned order in G.O.(D).No.106, dated 06.12.2024, need not be interfered with or set aside without the above directions. The 1st respondent can issue the aforesaid directions by a supplementary order, and with regard to cancellation, due opportunity has to be further afforded to the petitioner. Regarding the prosecution, this Court itself directs the jurisdictional Sub Collector, Tirupur, to file a private complaint before the appropriate Court.

H. The Result:

24. In view thereof, this Writ Petition is allowed on the following terms,

(a) The impugned order in G.O.(D).No.106, dated 06.12.2024, 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



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determined by the inspecting team;

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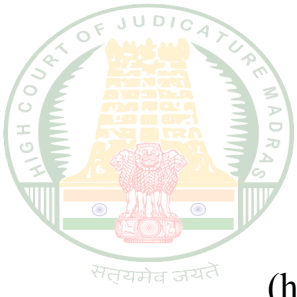
(c) The 1st respondent shall issue a show cause notice to the petitioner in furtherance of the Government Order in G.O.(D).No.106, dated 06.12.2024, concerning the premature termination of the existing lease agreement of the petitioner and also the recovery of the value of the minerals along with the appropriate penalty amount for the seignorage fee;

(d) The show cause notice shall be issued by the 1st respondent within a period of two weeks from the date of receipt of the website-uploaded copy of this order;

(e) The petitioner may submit his explanation, which shall be considered in accordance with the law. The further supplementary orders to G.O.(D).No.106, dated 06.12.2024, shall be passed within twelve weeks from that date;

(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 action and urges the authorities to seriously examine the entire episode, taking any further action against the relevant officials if warranted;



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(h) The conduct of *Mr. Vinith*, I.A.S., the District Collector, who promptly constituted the Taluk Task Force Committee, inspected the site, and uncovered the truth, is praiseworthy;

(i) No costs; therefore, the associated miscellaneous petitions are closed.

22.05.2025

Neutral Citation : Yes/No

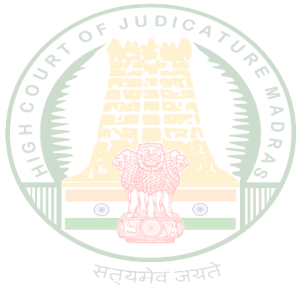
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To

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.



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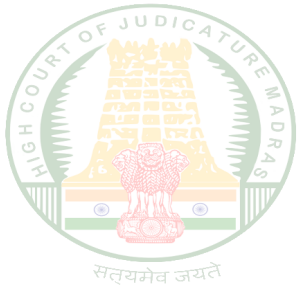


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D.BHARATHA CHAKRAVARTHY, J.

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22.05.2025