
(1997) 08 MAD CK 0178

In the Madras High Court

Case No : W.P.No. 6634 of 1997 and W.M.P.No. 10898 of 1997

B. Mangayarkarasi

APPELLANT

Vs

The District Collector, P.M.T. District Sivagangai

RESPONDENT

Date of Decision : 19-08-1997

Acts Referred:

Tamil Nadu Minor Mineral Concession Rules, 1959 — Rule 4(A), 8(6)

Citation : (1998) 1 CTC 269 : (1998) 1 MLJ 278

Hon'ble Judges : P. D. Dinakaran, J

Bench : Single Bench

**Advocate : Mr. R. Alagirisamy, for the Appellant; Mr. K. Balasubramaniam
Additional Government Pleader (Writ), for the Respondent**

Judgement

P. D. Dinakaran, J.—Heard both the parties.

2. The petitioner has prayed for issue of a writ of certiorari calling for the records relating to the impugned proceedings Pa.Mu.M/103/96 dated 16.4.97 passed by the respondent and quash the same.

3. The petitioner submits that in the impugned proceedings Pa.Mu.M./103/96 dated 16.4.97, a quarry lease was granted to the petitioner to quarry sand in Survey Nos.133 and 134 measuring a total extent of 4.89.0 hectares, and the same was cancelled on the ground that the bid amount fetched for the said area is not reasonable. The learned counsel for the petitioner challenges the impugned order of cancellation of the lease dated 16.4.97 on the ground of principles of natural justice.

4. Per Contra, the learned Additional Government Pleader invited my attention to proviso to Rule 8(6)(b) which runs as follows:-

"Where two or more tender applications are received for an area, the District Collector shall, ordinarily, grant the lease in favour of the highest tenderer or the highest bidder, as the case may be:

Provided that where the Collector is satisfied

(i) that the highest tender amount or bid amount fetched for an area is not reasonable under the circumstances of the case; or

(ii) that it will not be in the interests of mineral development to grant the lease to the highest tenderer or highest bidder, shall pass orders refusing to grant the lease in favour of such applicant communicating to him the reasons thereof in writing".

5. I have given a careful consideration to the submissions of both sides.

6. In my opinion, the reliance of proviso to Rule 8(6)(b) of the Tamil Nadu Mineral Concession Rules, 1959, by the learned Additional Government Pleader is not applicable to the instant case, because, the said proviso is applicable only before the granting of lease; whereas, in the instant case, the lease was already confirmed on 30.12.1996.

7. In this connection, I am satisfied that the impugned order is violative of Section 4(A)(3) which reads as follows:

"No order making a premature termination of a prospecting licence or mining lease shall be made except after giving the holder of the licence or lease a reasonable opportunity of being heard".

8. Since the petitioner has not been given reasonable opportunity as contemplated u/s 4(A)(3), I am obliged to quash the impugned proceedings.

9. However, as per the records placed before me, the bid amount fetched for the said area is not reasonable when compared to the adjacent quarry, the respondent is given liberty to take appropriate proceedings in compliance of Section 4(A)(3) if he is advised.

In the result, the writ petition is allowed with the above observation. However, there will be no order as to costs. Consequent to the disposal of the above writ petition W.M.P.No.10898 of 1997 is closed.