
(2010) 10 MAD CK 0059

In the Madras High Court

Case No : Writ Petition (MD) No. 13007 of 2010

S. Andiappan

APPELLANT

Vs

The District Collector

RESPONDENT

Date of Decision : 22-10-2010

Acts Referred:

Tamil Nadu Minor Mineral Concession Rules, 1959 — Rule 19(2)(B), 36(1)(A)

Citation : (2010) 10 MAD CK 0059

Hon'ble Judges : K. Chandru, J

Bench : Single Bench

Advocate : R. Arun Jayatram, for the Appellant; R. Janakiramulu, Spl. G.P., for the Respondent

Final Decision : Dismissed

Judgement

K. Chandru, J.—The Petitioner has come forward to challenge the order passed by the District Collector, Pudukottai (1st Respondent)

dated 07.10.2009.

2. In the impugned order, the District Collector, Pudukottai, rejected the case of the Petitioner for quarrying roughstone in Survey No. 39/1A, 1B

and 4B to an extent of 0.48.5 hectares of Patta land. The Petitioner wanted to quarry rough stone, which is admittedly coming under the purview of

Tamil Nadu Minor Mineral Concession Rules, 1959. Therefore, it requires a permission from the competent authority. The competent authority on

entertaining the application, called for a report from the Revenue Divisional Officer, Pudukottai. The Revenue Divisional Officer gave a report and

on the basis of the said report, the Petitioner's request was refused. In the said impugned order, it was stated as follows:

In this connection, the Revenue Divisional Officer, Pudukkottai was called for a

detail report regarding whether the field applied for lease attracts

the Rule 36(1-A) of Tamil Nadu Minor Mineral Concession Rules, 1959 in the reference 4th cited which stipulates that there should be no

quarrying within a radial distance of 300 mtrs from habitations. The Revenue Divisional Officer, Pudukkottai has further reported in the reference

5th cited that at about 89 mtr. distance, a terraced house belonging to Thiru. Mathiyalagan, S/o Manikkam servai is situated to the Northern side

and at about 41 mtr. distance a thatched house belonging to applied for lease. There is dwelling houses situated within 300 mtrs distance from the

fields applied for the lease and the public also have objected to grant lease in the proposed site by the applicant.

Finally, the Revenue Divisional Officer, Pudukkottai has reported that there is no provision for a grant of quarry lease in patta land over an extent

of 0.48.5 hect. in S.F. Nos. 39/1A, 1B and 4B of Virachilai I Bit village.

Since, the fields applied for quarry lease with an extent of 0.48.5 hect.inS.F. Nos. 39/1A, 1B and 4B of Virachilai I Bit Village, Thirumayam Taluk

is lying within 300 mtrs. from the dwelling houses, the quarry lease application is liable for rejection asit attracts Rule 36(1-A)(a) of Tamil Nadu

Minor Mineral Concession Rules, 1959.

3. It is by this order and by stating these reasons, the Petitioner"s request was rejected in terms of Rule 36(1)(A) of the Tamil Nadu Minor Mineral

Concession Rules, 1959. The Petitioner made two submissions. The first submission was that along with the application, he had also produced no

objection letter from the persons, who are put up houses in the natham puramboke land in the nearby area. The second submission was that no

opportunity was given in terms of Rule 19(2)(B) of Tamil Nadu Minor Mineral Concession Rules, 1959.

4. It is also claimed that the Petitioner has already been granted licence for quarrying rough stone in the neighbouring Survey Nos. 36 and 38.

Therefore, the reason is not valid. However, this Court is not inclined to entertain the Writ petition. The Petitioner do not have any fundamental

right to carry the quarry operation subject to the relevant statutory Rule 36(1) (A). Those conditions are under which such licence can be granted.

Therefore, if the authority, who is empowered to grant licence, after taking into account of the relevant circumstances, based upon the report sent

by the field officer, no exception can be taken. In such circumstances, the Petitioner merely because he is having licence for quarrying in the

neighbouring survey numbers that by itself will not vitiate the reason given by the Respondent.

5. On the other hand, if the Petitioner is quarrying on in the other survey numbers 36 and 38 and if that was also under prohibited by Rule 36(A), it

may be a good ground to revoke the licence already granted. When once the District Collector take into account the safety of the local habitations,

the Petitioner cannot be heard to urge on any other ground other than the ground available under the rules. Merely because the Petitioner had

produced a no objection certificate from some local people, that will not vitiate the report send by the RDO, who is the field officer.

6. Under these circumstances, this Court is not inclined to entertain the Writ petition. Hence, the Writ petition stands dismissed. No costs.