

**(2011) 02 MAD CK 0339**

**In the Madras High Court**

**Case No : Writ Petition No. 4105 of 2011**

S. Divakaran

APPELLANT

Vs

The District Collector and Others

RESPONDENT

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**Date of Decision : 23-02-2011**

**Acts Referred:**

Tamil Nadu Minor Mineral Concession Rules, 1959 — Rule 38C, 38C(3), 38C(6)

**Citation : (2011) 02 MAD CK 0339**

**Hon'ble Judges : M. Jaichandren, J**

**Bench : Single Bench**

**Advocate : K. Premkumar, for the Appellant; R. Thirugnanam, Special Government Pleader, for the Respondent**

**Final Decision : Dismissed**

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## **Judgement**

M. Jaichandren, J.—At this stage of the hearing of the writ petition, the learned Special Government Pleader appearing for the Respondents had submitted that Rule 38-C has been introduced in the Tamil Nadu Minor Mineral Concession Rules, 1959, which had come into force, on 11.2.2011.

2. Rule 38-C of the Tamil Nadu Minor Mineral Concession Rules, 1959, reads as follows:

38-C. Storage and transportation of sand.-

(1)(a) No person shall transport sand without a valid transport permit issued by the Public Works Department or without a sale slip of license duly authenticated by the taluk headquarters Deputy Tahsildar of the jurisdiction from which the sand is transported.

(b) No person shall stock sand for sale in any place without a valid licence.

(2) (a) No person shall transport sand in any vehicle from the quarry of the Public Works Department without a transport permit issued by the Public Works Department as in Appendix-XVII.

(b) No person shall transport sand in any vehicle from the stockyard without the sale slip issued by the licensee as in Appendix-XVII I and duly authenticated by the taluk headquarters Deputy Tahsildar as in Appendix-XIX.

(3) Any person who intends to store sand for sale shall make an application for grant of licence in the form in Appendix-XX to the District Collector concerned:

Provided that if any person who has stored sand for the purpose of sale on the date of coming into force of this rule shall apply to the District Collector in the said form for grant of licence for the purpose of this rule within sixty days from the date of coming into force of this rule.

(4) The person who makes an application as in Appendix-XX for the grant of licence, shall remit a non-refundable application fee of Rs.5000/- (Rupees five thousand only) to the District Collector concerned.

(5) On an application made provided that where the application is not complete in all material particulars, or is not accompanied by the required documents, the District Collector shall return or by notice require the applicant to supply the omission or furnish the document as the case may be within a period of ten days from the date of receipt of such notice under Sub-rule (3). The District Collector may refer the said application to the Assistant Director or the Deputy Director of Geology and Mining concerned in the district for inspection of the area and report.

(6)(a) On receipt of inspection report from the Assistant Director or the Deputy Director of Geology and Mining as the case may be, the District Collector may grant a licence in the form in Appendix-XXI or for the reasons recorded in writing, refuse to grant such licence.

(b) The District Collector shall pass orders on the application within a period of thirty days from the date of receipt of the application.

Provided that the aforesaid period of thirty days shall be applicable only if the application for licence is complete in all respects. In respect of re-submitted applications, the said period shall be reckoned only from the date of re-submission of such application.

(7) The period of licence shall not exceed one year from the date of grant of licence.

(8) A licence may be renewed for a period of not exceeding one year from the date of expiry of licence granted under Clause (a) of Sub-rule (6). The application for renewal shall be submitted thirty days before the date of expiry of licence. The procedure specified for grant of licence and fee shall apply for renewal mutatis mutandis.

(9) When the licensee sells the sand from the stockyard, the licensee shall submit the original transport permit issued by the Public Works Department to the concerned taluk head quarters Deputy Tahsildar along with the sale slip issued by him. The taluk headquarter Deputy Tahsildar shall affix the seal as in

Appendix-XI X on the quantum of sale slip which is equivalent of the quantum of sand transported with the Public Works Department transport permit slip and also make necessary endorsement on the original transport permit submitted by the licensee.

(10) Every licensee shall submit a monthly return as in Appendix-XXII to the District Collector before 10th of succeeding month.

(11) Non-possession of transport permit or sale slip for transport of the sand shall be construed as illicit transportation of sand.

(12) Whenever any person stocks the sand or transports or causes to be transported the sand without any lawful authority, and for that purpose uses any tool, equipment, vehicle or any other thing, such sand, tool, equipment, vehicle or any other thing shall be liable to be seized by the competent authorities and shall also liable for confiscation of the same. For such confiscation, the competent authorities shall make a complaint in this behalf before the competent Court. Before making such complaint, the competent authorities shall obtain specific sanction of the District Collector, for making such a complaint.

(13) The taluk headquarter Deputy Tahsildar who authenticates the sale slip shall maintain a day book register, indicating date wise number of authentication made by him, to whom it has been made and the quantum of sand for which sale slips are issued and such other particulars as are required.

(14) The taluk headquarter Deputy Tahsildar at the end of each month shall prepare and submit a return on the number of sale slips authenticated, to whom it has been issued and the quantum of sand covered therein to the District Collector concerned and such return shall be submitted before 10th of succeeding month.

(15) If any violation of condition of licence is found, the District Collector concerned shall cancel the licence after affording an opportunity of hearing to the licensee.

3. In view of Rule 38-C of the Tamil Nadu Minor Mineral Concession Rules, 1959, it is for the Petitioner to make an application to the District Collector concerned, in the form, as provided in Appendix-XX, under Clause 3 of the said Rule, for the grant/renewal of licence for the storage

4. In such circumstances, this Court does not find sufficient cause or reason to grant the reliefs, as prayed for by the Petitioner, in the present writ petition. Hence, the writ petition stands dismissed. No costs. Connected M.P. No. 1 of 2011 is closed.