

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 11/05/2004

Coram

The Honourable Mr. B. SUBHASHAN REDDY, Chief Justice  
and  
The Honourable Mr. Justice K. GNANAPRAKASAM

W.A. No.3241 of 2003  
and 3242 of 2003 and W.P. Nos.27705, 27706, 27758,  
27768 to 27776, 27805, 27863, 27892 to 27898, 27936, 27983, 28079,  
28203 to 28205, 28249, 28349, 28438, 28464, 28439, 28584,  
28593, 28606, 28607, 28643, 28661, 28676, 28761, 28789, 28896, 28897, 28898,  
28933, 28980, 29009, 29053, 29104, 29189, 29273, 29321, 29331 to 29334,  
29519, 29573, 29719, 29738, 29840, 29863, 29964, 30190, 30225, 31080, 31234,  
32058, 33274, 33326, 34148 and 35818 of 2003  
and  
WAMP Nos.5181 and 5182 of 2003 and WPMP Nos.34922, 33862, 33863,  
34072, 34073, 36827, 34145, 34029, 34771, 34912, 34913, 35127, 35286,  
35287, 35288, 35319, 34750, 35001, 35509, 35821 to 35824, 34749, 34930,  
34931, 34986, 35390, 35420, 35458, 35628, 35703, 35814, 35815, 36097,  
36234, 36235, 36249, 36398, 36419, 36420, 34319, 38897, 36034, 36035,  
37843, 37844, 34517, 40265, 35176, 36561, 40311, 36872, 34963, 34096 to  
34102, 34451 to 34453, 36917, 38017, 41408, 33927, 33927, 43538 of 2003

W.A. Nos.3241 and 3242 of 2003

1. State of Tamil Nadu,  
rep. by its Secretary to Government,  
Industries Department,  
Fort St. George, Chennai - 9.

2. The District Collector,  
Thanjavur District, ... Appellants in  
Thanjavur. both appeals.

-Vs-

1. P. Krishnamoorthy

2. India Desia Kattida Thozhilalar Peravai  
(Indian National Construction Employees  
Federation, rep. by its President ... Respondents in  
Era. Kulasekaran) WA 3241/03

1. K. Chittiravel

2. Fernandes,  
Co-Ordinator,  
Campaign for the Protection of Water Resources  
- Tamil Nadu

3. Federation of Consumer Organisations,  
Tamil Nadu and Pondicherry,  
rep. by its General Secretary ... Respondents in  
M. Niyamudeen. WA 3242/03

Appeals against the order dated 8.10.2003 of the learned single Judge  
in W.P.M.P. Nos.33862 and 33863 of 2003 in W.P. Nos.27705 and 27706 of  
2003.

W.P. Nos.27705 and 27706 of 2003

P. Krishnamoorthy .Petitioner in WP 27705  
K. Chittiravel .Petitioner in WP 27706

Vs.

1. State of Tamil Nadu,  
rep. by the Secretary,  
Industries Department,  
Fort St. George,  
MADRAS - 600 009

2. The District Collector,  
Thanjavur District, Thanjavur. . Respondents

Petitions under Article 226 of Constitution for the issuance of Writ  
of Declaration for the reasons stated therein.

W.P. Nos.27758 of 2003

R. Sahadevan ... Petitioner

Vs.

1. State of Tamil Nadu,  
rep. by the Secretary,  
Industries Department,  
Fort St. George,  
MADRAS - 600 009

2. The District Collector,  
Pudukottai District,  
Pudukottai. . Respondents

Petition under Article 226 of Constitution for the issuance of Writ of

Certiorarified Mandamus for the reasons stated therein.

W.P.Nos. 27768 to 27774 of 2003

V.Sankara Subbu .. Petitioner in W.P.No.27768/03

D.Ravindran .. Petitioner in W.P.No.27769/03

S.Viswanathan .. Petitioner in W.P.No.27770/03

J.Thiagarajan .. Petitioner in  
W.P.No.27771/03

S.Karthikeyan .. Petitioner in W.P.No.27772/03

K.Mahendiran .. Petitioner in W.P.No.27773/03

M.Sankaranarayanan  
Rep. by Power Attorney  
S.Parthasarathi .. Petitioner in  
W.P.No.27774/03

Vs.  
State of Tamil Nadu,  
rep. by the Secretary,  
Industries Department,  
Fort St. George,  
MADRAS - 600 009 .. First Respondent  
in all the petitions

The District Collector,  
Thirunelveli District,  
Thirunelveli .. Second respondent  
in W.P.No.27768/03

The District Collector,  
Perambalur District,  
Perambalur. .. Second Respondent  
in W.P.No.27769/03

The District Collector,  
Thanjavur District, .. 2nd Respondent in  
Thanjavur. WP No.27770/03

The District Collector,  
Vellore District, .. 2nd Respondent in  
Vellore. WP No.27771/03

The District Collector,  
Perambalur District, .. 2nd Respondent in

Perambalur. WP No.27772/03

The District Collector,  
Tirunelveli District, .. 2nd Respondent in  
Tirunelveli. WP No.27773/03  
The District Collector,  
Thanjavur District, .. 2nd Respondent in  
Thanjavur. WP No.27774/03

Petition under Article 226 of Constitution for the issuance of Writ of  
Certiorarified Mandamus for the reasons stated therein.

W.P. Nos.27775 and 27776 of 2003

K. Shanmugam .  
Petitioner

Vs.

1. State of Tamil Nadu,  
rep. by the Secretary,  
Industries Department,  
Fort St. George,  
MADRAS - 600 009

2. The District Collector,  
Trichirapalli District,  
Trichirapalli . Respondents

Petitions under Article 226 of Constitution for the issuance of Writs  
of  
Certiorarified Mandamus and Declaration respectively for the reasons stated  
therein.

W.P. Nos.27805 of 2003

M. Chithanathan . Petitioner

Vs.

1. State of Tamil Nadu,  
rep. by the Secretary,  
Industries Department,  
Fort St. George,  
MADRAS - 600 009

2. The District Collector,  
Sivaganga District,  
Sivagangai.

3. The Asst. Director of Geology & Mining,  
Sivagangai . Respondents  
Petition under Article 226 of Constitution for the issuance of Writ of  
Declaration for the reasons stated therein.

W.P. Nos.27863 of 2003

Ruby Nesamani . Petitioner

Vs.

1. State of Tamil Nadu,  
rep. by the Secretary,  
Industries Department,  
Fort St. George,  
MADRAS - 600 009

2. The District Collector,  
Kancheepuram District,  
Kancheepuram. . Respondents

Petition under Article 226 of Constitution for the issuance of Writ of  
Declaration for the reasons stated therein.

W.P. Nos.27892 to 27898 of 2003

K. Shankar . Petitioner in WP 27892  
R. Natesan . Petitioner in WP 27893  
M. Ramanathan . Petitioner in WP 27894  
S. Sundaravelu . Petitioner in WP 27895  
K. Saravanan . Petitioner in WP 27896  
M. Venkatesan . Petitioner in WP 27897  
K. Subburayan . Petitioner in WP 27898

Vs.

1. State of Tamil Nadu,  
rep. by the Secretary,  
Industries Department,  
Fort St. George, . 1st Respondent in all  
MADRAS - 600 009 the petitions.

2. The District Collector,  
Thiruvannamalai District, . 2nd Respondent in WPs  
Thiruvannamalai. 27892, 27895 and 27898

The District Collector,  
Karur District, . 2nd Respondent in WP  
Karur 27894

The District Collector,  
Vellore District, . 2nd Respondent in WP  
Vellore. 27896

The District Collector,  
Kancheepuram District, . 2nd Respondent in WP  
Thiruvannamalai. 27897

The District Collector,  
Tuticorin District, . 2nd Respondent in WP  
Tuticorin. 27893

Petitions under Article 226 of Constitution for the issuance of Writ  
of Declaration for the reasons stated therein.

W.P. Nos.27936 of 2003  
P. Koothaperumal . Petitioner

Vs.

1. State of Tamil Nadu,  
rep. by the Secretary,  
Industries Department,  
Fort St. George,  
MADRAS - 600 009

2. The District Collector,  
Sivaganga District,  
Sivagangai.

3. The Asst. Director of Geology & Mining,  
Sivagangai . Respondents  
Petition under Article 226 of Constitution for the issuance of Writ of  
Declaration for the reasons stated therein.

W.P. Nos.28203 to 28205 of 2003

B. Jayakumar . Petitioner in WP 28203  
K. Balasubramanian . Petitioner in WP 28204  
G. Dhanapal . Petitioner in WP 28205

Vs.

1. State of Tamil Nadu,  
rep. by the Secretary,  
Industries Department,  
Fort St. George, . 1st Respondent in all the  
MADRAS - 600 009 petitions.

2. The District Collector,  
Virudhunagar District, . 2nd Respondent in  
Virudhunagar. WP 28203

The District Collector,  
Thanjavur District, . 2nd Respondent in  
Thanjavur. WP 28204

The District Collector,  
Perambalur District, . 2nd Respondent in WP  
Perambalur. WP 28205

Petitions under Article 226 of Constitution for the issuance of Writ  
of Declaration for the reasons stated therein.

W.P. Nos.28079 of 2003

S. Pachaikani . Petitioner

Vs.

1. State of Tamil Nadu,  
rep. by the Secretary,  
Industries Department,  
Fort St. George,  
MADRAS - 600 009

2. The District Collector,  
Karur District,  
Karur. . Respondents

Petition under Article 226 of Constitution for the issuance of Writ of  
Declaration for the reasons stated therein.

W.P. Nos.28249 of 2003

S. Govindarajan . Petitioner

Vs.

1. State of Tamil Nadu,  
rep. by the Secretary,  
Industries Department,  
Fort St. George,  
MADRAS - 600 009

2. The District Collector,  
Trichy District,

Trichy. . Respondents

Petition under Article 226 of Constitution for the issuance of Writ of Declaration for the reasons stated therein.

W.P. Nos.28349 of 2003

C. Jayaraman . Petitioner

Vs.

1. State of Tamil Nadu,  
rep. by the Secretary,  
Industries Department,  
Fort St. George,  
MADRAS - 600 009

2. The District Collector,  
Dharmapuri District,  
Dharmapuri. . Respondents

Petition under Article 226 of Constitution for the issuance of Writ of Declaration for the reasons stated therein.

W.P. Nos.28464 of 2003

S. Subbu . Petitioner

Vs.

1. State of Tamil Nadu,  
rep. by the Secretary,  
Industries Department,  
Fort St. George,  
MADRAS - 600 009

2. The District Collector,  
Ramanathapuram District,  
Ramanathapuram. . Respondents

Petition under Article 226 of Constitution for the issuance of Writ of Declaration for the reasons stated therein.

W.P. No.28438 of 2003

S. Ganesan . Petitioner

Vs.

1. State of Tamil Nadu,  
rep. by the Secretary,  
Industries Department,  
Fort St. George,  
MADRAS - 600 009

2. The District Collector,  
Trichy District,  
Trichy. . Respondents

Petition under Article 226 of Constitution for the issuance of Writ of  
Declaration for the reasons stated therein.

W.P. No.28439 of 2003

R. Murugesan . Petitioner

Vs.

1. State of Tamil Nadu,  
rep. by the Secretary,  
Industries Department,  
Fort St. George,  
MADRAS - 600 009

2. The District Collector,  
Karur District,  
Karur. . Respondents

Petition under Article 226 of Constitution for the issuance of Writ of  
Declaration for the reasons stated therein.

W.P. No.28584 of 2003

S. Mahadevan . Petitioner

Vs.

1. State of Tamil Nadu,  
rep. by the Secretary,  
Industries Department,  
Fort St. George,  
MADRAS - 600 009

2. The District Collector,  
Thanjavur District,  
Thanjavur. . Respondents

Petition under Article 226 of Constitution for the issuance of Writ of Declaration for the reasons stated therein.

W.P. Nos.28606 of 2003

V. Balasubramanian . Petitioner

Vs.

1. State of Tamil Nadu,  
rep. by the Secretary,  
Industries Department,  
Fort St. George,  
MADRAS - 600 009

2. The District Collector,  
Trichy District,  
Trichy. . Respondents

Petition under Article 226 of Constitution for the issuance of Writ of Declaration for the reasons stated therein.

W.P. Nos.28607 of 2003

P. Santhosham . Petitioner

Vs.

1. State of Tamil Nadu,  
rep. by the Secretary,  
Industries Department,  
Fort St. George,  
MADRAS - 600 009

2. The District Collector,  
Perambalur District,  
Perambalur. . Respondents

Petition under Article 226 of Constitution for the issuance of Writ of Declaration for the reasons stated therein.

W.P. Nos.28593 of 2003

Kallapalli Panchayat (Gr.I)

Rep. by its President V. Thiruvengadam . Petitioner

Vs.

1. State of Tamil Nadu,  
rep. by the Secretary to Government,  
Industries Department,

Fort St. George,  
MADRAS - 600 009

2. State of Tamil Nadu,  
rep. by the Secretary to Government,  
Public Works Department,  
Fort St. George,  
MADRAS - 600 009

3. The Director,  
Rural Development Agency,  
Kuralagam, Chennai - 108. . Respondents  
Petition under Article 226 of Constitution for the issuance of Writ of  
Mandamus for the reasons stated therein.

W.P. Nos.28643 of 2003

R. Periyasamy . Petitioner

Vs.

1. State of Tamil Nadu,  
rep. by the Secretary,  
Industries Department,  
Fort St. George,  
MADRAS - 600 009

2. The District Collector,  
Karur District,  
Karur. . Respondents

Petition under Article 226 of Constitution for the issuance of Writ of  
Declaration for the reasons stated therein.

W.P. Nos.28661 of 2003

M. Velusamy . Petitioner

Vs.

1. State of Tamil Nadu,  
rep. by the Secretary,  
Industries Department,  
Fort St. George,  
MADRAS - 600 009

2. The District Collector,  
Namakkal District,  
Namakkal. . Respondents

Petition under Article 226 of Constitution for the issuance of Writ of Declaration for the reasons stated therein.

W.P. Nos.28676 of 2003

P. Shanmugam . Petitioner

Vs.

1. State of Tamil Nadu,  
rep. by the Secretary,  
Industries Department,  
Fort St. George,  
MADRAS - 600 009

2. The District Collector,  
Trichy District,  
Trichy. . Respondents

Petition under Article 226 of Constitution for the issuance of Writ of Declaration for the reasons stated therein.

W.P. Nos.28761 of 2003

Vimal Kumar . Petitioner

Vs.

1. State of Tamil Nadu,  
rep. by the Secretary,  
Industries Department,  
Fort St. George,  
MADRAS - 600 009

2. The District Collector,  
Vellore District,  
Vellore. . Respondents

Petition under Article 226 of Constitution for the issuance of Writ of Declaration for the reasons stated therein.

W.P. Nos.28789 of 2003

T.R. Mohan . Petitioner

Vs.

1. State of Tamil Nadu,

rep. by the Secretary,  
Industries Department,  
Fort St. George,  
MADRAS - 600 009

2. The District Collector,  
Namakkal District,  
Namakkal. . Respondents

Petition under Article 226 of Constitution for the issuance of Writ of  
Declaration for the reasons stated therein.

W.P. Nos.28896 to 28898 of 2003

R. Sekar . Petitioner in WP 28896  
P.K. Sridhar . Petitioner in WP 28897

Vs.

1. State of Tamil Nadu,  
rep. by the Secretary,  
Industries Department,  
Fort St. George,  
MADRAS - 600 009

2. The District Collector,  
Thanjavur District, . 2nd Respondent in  
Thanjavur. WPs 28896 & 28897

The District Collector  
Tiruchirappalli District . 2nd Respondent in  
Tiruchirappalli. WP 28898  
Petitions under Article 226 of Constitution for the issuance of Writ  
of Declaration for the reasons stated therein.

W.P. Nos.28933 of 2003

M/s.Patel KNR (JV)  
Patel Estate, rep. by Project Manager P. Ramarao  
Mumbai . Petitioner

Vs.

1. The District Collector,  
Vellore District,  
Vellore.

2. The District Collector,  
Dharmapuri District,  
Dharmapuri. . Respondents

Petition under Article 226 of Constitution for the issuance of Writ of Declaration for the reasons stated therein.

W.P. Nos.28980 of 2003

N. Babu ` . Petitioner

Vs.

1. State of Tamil Nadu,  
rep. by the Secretary,  
Industries Department,  
Fort St. George,  
MADRAS - 600 009

2. The District Collector,  
Trichy District,  
Trichy. . Respondents

Petition under Article 226 of Constitution for the issuance of Writ of Declaration for the reasons stated therein.

W.P. Nos.29009 of 2003

Ayyadurai . Petitioner

Vs.

1. State of Tamil Nadu,  
rep. by the Secretary,  
Industries Department,  
Fort St. George,  
MADRAS - 600 009

2. The District Collector,  
Tuticorin District,  
Tuticorin. . Respondents

Petition under Article 226 of Constitution for the issuance of Writ of Declaration for the reasons stated therein.

W.P. Nos.29053 of 2003

P. Santhosham . Petitioner

Vs.

1. State of Tamil Nadu,  
rep. by the Secretary,  
Industries Department,  
Fort St. George,  
MADRAS - 600 009

2. The District Collector,  
Perambalur District,  
Perambalur. . Respondents

Petition under Article 226 of Constitution for the issuance of Writ of  
Declaration for the reasons stated therein.

W.P. Nos.29104 of 2003

S. Navaneethan . Petitioner

Vs.

1. State of Tamil Nadu,  
rep. by the Secretary,  
Industries Department,  
Fort St. George,  
MADRAS - 600 009

2. The District Collector,  
Ramnad . Respondents

Petition under Article 226 of Constitution for the issuance of Writ of  
Declaration for the reasons stated therein.

W.P. Nos.28273 of 2003

P. Santhosham . Petitioner

Vs.

1. State of Tamil Nadu,  
rep. by the Secretary,  
Industries Department,  
Fort St. George,  
MADRAS - 600 009

2. The District Collector,  
Tiruchirappalli District,  
Tiruchirappalli. . Respondents

Petition under Article 226 of Constitution for the issuance of Writ of  
Declaration for the reasons stated therein.

W.P. Nos.29189 of 2003

C. Vijayakumar . Petitioner

Vs.

1. State of Tamil Nadu,  
rep. by the Secretary,  
Industries Department,  
Fort St. George,  
MADRAS - 600 009

2. The District Collector,  
Dharmapuri District,  
Dharmapuri. . Respondents

Petition under Article 226 of Constitution for the issuance of Writ of  
Declaration for the reasons stated therein.

W.P. Nos.29321 of 2003

R. Ashokan . Petitioner

Vs.

1. State of Tamil Nadu,  
rep. by the Secretary,  
Industries Department,  
Fort St. George,  
MADRAS - 600 009

2. The District Collector,  
Karur District,  
Karur. . Respondents

Petition under Article 226 of Constitution for the issuance of Writ of  
Declaration for the reasons stated therein.

W.P. Nos.29331 to 29334 of 2003

M. Vijaya Mohan . Petitioner in WP 29331

P. Udayakumar . Petitioner in WP 29332

S. Prema . Petitioner in WP 29333

M. Vijaya Mohan . Petitioner in WP 29334

Vs.

1. State of Tamil Nadu,  
rep. by the Secretary,  
Industries Department,  
Fort St. George, . 1st Respondent in all the  
MADRAS - 600 009 petitions.

2. The District Collector,  
Thanjavur District, . 2nd Respondent in WPs  
Thanjavur. 29331 and 29334

The District Collector,  
Erode District, . 2nd Respondent in WP  
Erode 29332

The District Collector,  
Vellore District, . 2nd Respondent in WP  
Vellore 29333

Petitions under Article 226 of Constitution for the issuance of Writ  
of Declaration for the reasons stated therein.

W.P. Nos.29519 of 2003

K. Nallusamy . Petitioner

Vs.

1. State of Tamil Nadu,  
rep. by the Secretary,  
Industries Department,  
Fort St. George,  
MADRAS - 600 009  
2. The District Collector,  
Trichy District,  
Trichy. . Respondents

Petition under Article 226 of Constitution for the issuance of Writ of  
Declaration for the reasons stated therein.

W.P. Nos.29573 of 2003

A. Rajmohan . Petitioner

Vs.

1. State of Tamil Nadu,  
rep. by the Secretary,  
Industries Department,  
Fort St. George,  
MADRAS - 600 009

2. The District Collector,  
Karur District,  
Karur. . Respondents

Petition under Article 226 of Constitution for the issuance of Writ of  
Declaration for the reasons stated therein.

W.P. Nos.29719 of 2003

R. Prabhakaran . Petitioner

Vs.

1. State of Tamil Nadu,  
rep. by the Secretary,  
Industries Department,  
Fort St. George,  
MADRAS - 600 009

2. The District Collector,  
Nagapattinam District,  
Nagapattinam . Respondents  
Petition under Article 226 of Constitution for the issuance of Writ of  
Declaration for the reasons stated therein.

W.P. Nos.29738 of 2003

G. Kamalakannan . Petitioner

Vs.

1. State of Tamil Nadu,  
rep. by the Secretary,  
Industries Department,  
Fort St. George,  
MADRAS - 600 009

2. The District Collector,  
Trichy District,  
Trichy. . Respondents

Petition under Article 226 of Constitution for the issuance of Writ of  
Declaration for the reasons stated therein.

W.P. Nos.29840 of 2003

S. Mohan . Petitioner

Vs.

1. State of Tamil Nadu,  
rep. by the Secretary,  
Industries Department,  
Fort St. George,  
MADRAS - 600 009

2. The District Collector,  
Erode. . Respondents

Petition under Article 226 of Constitution for the issuance of Writ of

Declaration for the reasons stated therein.

W.P. Nos.29863 of 2003

V. Ravichandran . Petitioner

Vs.

1. State of Tamil Nadu,  
rep. by the Secretary,  
Industries Department,  
Fort St. George,  
MADRAS - 600 009

2. The District Collector,  
Trichy District,  
Trichy. . Respondents

Petition under Article 226 of Constitution for the issuance of Writ of  
Declaration for the reasons stated therein.

W.P. Nos.29964 of 2003

S. Renganathan . Petitioner

Vs.

1. State of Tamil Nadu,  
rep. by the Secretary,  
Industries Department,  
Fort St. George,  
MADRAS - 600 009

2. The District Collector,  
Namakkal District,  
Namakkal. . Respondents

Petition under Article 226 of Constitution for the issuance of Writ of  
Declaration for the reasons stated therein.

W.P. Nos.30190 of 2003

K. Murugesan . Petitioner

Vs.

1. State of Tamil Nadu,  
rep. by the Secretary,  
Industries Department,

Fort St. George,  
MADRAS - 600 009

2. The District Collector,  
Erode District,  
Erode. . Respondents

Petition under Article 226 of Constitution for the issuance of Writ of  
Declaration for the reasons stated therein.

W.P. No.30225 of 2003

R. Murugan . Petitioner

Vs.

1. State of Tamil Nadu,  
rep. by the Secretary,  
Industries Department,  
Fort St. George,  
MADRAS - 600 009

2. The District Collector,  
Ramanathapuram District,  
Ramanathapuram. . Respondents

Petition under Article 226 of Constitution for the issuance of Writ of  
Declaration for the reasons stated therein.

W.P. No.31080 of 2003

P. Radhakrishnan . Petitioner

Vs.

1. State of Tamil Nadu,  
rep. by the Secretary,  
Industries Department,  
Fort St. George,  
MADRAS - 600 009

2. The District Collector,  
Coimbatore District,  
Coimbatore. . Respondents

Petition under Article 226 of Constitution for the issuance of Writ of  
Declaration for the reasons stated therein.

W.P. No.31234 of 2003

A. George Roy . Petitioner

Vs.

1. The Government of Tamil Nadu,  
rep. by the Secretary to Government,  
Industries Department,  
Fort St. George,  
MADRAS - 600 009

2. The Director of Geology & Mining,  
Chennai - 32.

2. The District Collector,  
Tiruchirappalli . Respondents

Petition under Article 226 of Constitution for the issuance of Writ of  
Declaration for the reasons stated therein.

W.P. No.32058 of 2003

S. Kalpana . Petitioner

Vs.

1. State of Tamil Nadu,  
rep. by the Secretary,  
Industries Department,  
Fort St. George,  
MADRAS - 600 009

2. The District Collector,  
Sivagangai District,  
Sivagangai. . Respondents

Petition under Article 226 of Constitution for the issuance of Writ of  
Declaration for the reasons stated therein.

W.P. No.33274 of 2003

A. Shanmugam . Petitioner

Vs.

1. State of Tamil Nadu,  
rep. by the Secretary,  
Industries Department,  
Fort St. George,  
MADRAS - 600 009

2. The District Collector,

Trichy District,  
Trichy. . Respondents

Petition under Article 226 of Constitution for the issuance of Writ of  
Declaration for the reasons stated therein.

W.P. Nos.33326 of 2003

R. Vasantha . Petitioner

Vs.

1. State of Tamil Nadu,  
rep. by the Secretary,  
Industries Department,  
Fort St. George,  
MADRAS - 600 009

2. The District Collector,  
Sivagangai District,  
Sivagangai. . Respondents

Petition under Article 226 of Constitution for the issuance of Writ of  
Declaration for the reasons stated therein.

W.P. Nos.34148 of 2003

K.C. Palanisamy . Petitioner

Vs.

1. State of Tamil Nadu,  
rep. by the Secretary,  
Industries Department,  
Fort St. George,  
MADRAS - 600 009

2. The District Collector,  
Dharmapuri District,  
Dharmapuri. . Respondents

Petition under Article 226 of Constitution for the issuance of Writ of  
Declaration for the reasons stated therein.

!For Appellants and Respondents in : Mr. N.R. Chandran,  
Writ Petitions Advocate General, assisted by

Mr. V. Raghupathi, G.P.,  
Mr. P. Gunaraj, Spl. G.P.  
and  
Mr. S. Srinivasan, G.A.

^For Respondents in W.A. and : Mr. K. Ramakrishna Reddy  
Petitioners  
Mr. M.Ravindran,  
Sr. Counsel,  
For Mr. K.R. Krishnan

Mr. R. Thiagarajan,  
Sr. Counsel  
For M/s. M. Muthappan

Mr. K. Alagiriswamy,  
Sr. Counsel  
For Mr.PTS Narendranathan

Mr. R. Viduthalai

Mr. V. Sanjeevi

Mr. K. Muthukumaraswamy

Mr. AR. L. Sundaresan

For Respondents/Impleaded Parties : Mr. P.V. Bakthavatchalam  
in the Writ Appeals.  
Mr. M.S. Umapathy

Mr. T. Mohan

## :J U D G M E N T

### THE HONOURABLE THE CHIEF JUSTICE

These writ appeals and writ petitions arise out of Mines and Minerals (Development and Regulation) Act, 1957 and the Tamil Nadu Minor Mineral Concession Rules, 1959 framed thereunder. The matter relates to sand quarry leases. Sand quarry leases were being granted on the terms and conditions stipulated by the Government. The said terms and conditions are stipulated pursuant to the Tamil Nadu Minor Mineral Concession Rules, 1959, which have been framed in exercise of the rule-making power contained in Section 15 of the Mines and Mineral (Development and

Regulation) Act, 1957, which is hereinafter referred to as the Act and the above rules as Rules. The leases are granted with 3 years tenure, subject to the deposit of such amount towards royalty, dead rent, etc. The leases to quarry sand are granted both in respect of Government lands and patta lands. Lease for quarrying in Government lands is governed by Rule-8 of the Rules, while for that of the patta lands, Rules 17 and 18, thereof, govern it. While in Rule 17 quarrying is permitted free of charge by the owner on a small scale for his own use for a specific bona fide domestic or agricultural

purpose, but if it is for business purposes Rule 18 is applicable, and then seigniorage fee or dead rent, etc., are payable. Procedure for leases under Rule 18 is prescribed in Rule 19 of the Rules.

2. There are 135 sand quarries in Government lands and 52 in patta lands. Leases, which have been granted earlier, expire in the years 2 003, 2004, 2005 and 2006. Such numbers are 19, 102, 33 and 33 respectively. May be in some cases sand quarry is being done under the orders of the Court when the leases were either not granted or due to delay by the government in disposal of applications. Still there are number of applications pending seeking for lease, but that is a question apart as we are required to decide only the rights of the existing lessees or the persons quarrying under court orders.

3. This litigation arose because of the issuance of G.O. Ms. No. 95, Industries (MMC.I) Department, dated 01.10.2003 inserting Rule 38A to the Rules, making it enforceable from the next day i.e., 02.10.2003. The same reads as follows:

"GOVERNMENT OF TAMIL NADU

ABSTRACT

Mines and Quarries - Minor Minerals - Tamil Nadu Minor Mineral Concession Rules, 1959 - Introduction of Rule - 38A - Amendment to Tamil Nadu Minor Mineral Concession Rules, 1959 - Notification - Issued.

-----  
INDUSTRIES (MMC.I) DEPARTMENT

G.O.Ms.No.95

Dated:01.10.2003

Read:

G.O.2(D) No.46, Industries Department dated 25.09.2003  
-----

ORDER:

Taking cognizance of the indiscriminate quarrying in the river systems of Tamil Nadu in a Public Interest Litigation, the Hon'ble High Court in their order dated 26.7.2002 had directed the State Government to constitute a Committee of Experts consisting of geologist, environmentalist and scientist to study the river and river beds in the State with reference to the impact of sand quarrying.

Accordingly, the Government in the G.O. read above constituted a six member High Level Committee. The Committee after extensive touring of the river systems of the State has submitted its report to the Government. A copy of the report has been furnished to the Hon'ble High Court. The High Court, while ordering the Government to constitute the High Level Committee had also directed -

"The Government on receipt of the report from the Committee shall act in conformity with the guidelines and take all necessary further steps to arrest the exploitation and to protect and improve the situation and restore status quo-ante. The Government shall pass suitable regulatory legislation in this regard. The action on the part of the Government after the receipt of the report should not brook any delay, it should act fast."

2. The High Level Committee in its report has pointed out that illicit and haphazard sand mining has led to deepening of the river beds, widening of the rivers, damage to civil structures, depletion of groundwater table, degradation of groundwater quality, sea water intrusion in coastal areas, damages to the river systems and reduction in biodiversity. Moreover, sewage and other effluents let into the rivers cause health hazards and environmental degradation.

3. Some of the major observations of the High Level Committee are,

(a) In all the areas, mining of river sand has been done in a haphazard, irregular and unscientific manner causing environmental degradation.

(b) Sand quarrying has created pools of water stagnation in the riverbed, impairing the water flow down stream, which in turn will have grave consequences on agricultural production.

(c) The usage of machinery like porcelain for removal of sand has caused river bed erosion, collapse of banks, damages to infrastructure like bridges, transmission power lines and drinking water systems.

(d) The lessees have generally exceeded the area of grant and quarried more than the permissible depth.

(e) There is no responsibility of a single department in respect of sand mining. Three departments that are involved are Geology and Mining, Revenue and Public Works Department.

4. The High Level Committee has concluded that

(a) illicit and haphazard sand mining has led to deepening of the river beds, widening of the rivers, damage to civil structures, depletion of groundwater table, degradation of groundwater quality, sea water intrusion in coastal areas, damages to the river systems and

reduction in biodiversity. Moreover, sewage and other effluents let into the rivers cause health hazards and environmental degradation. Tamil Nadu has several river basins with good potential of sand. Proper scientific approach of exploitation and utilization are needed to remove this resource. This will not only ensure good revenue to the Government, but will also be in harmony with nature.

(b) Even though several rules on sand mining exist, illegal quarrying of sand is out of control. Authority for regulating sand mining is vested with several organisation, such as, State Geology and Mining Department, Revenue Department and Public Works Department. Hence, implementation and monitoring of rules and regulations regarding sand quarrying are not effective. This important task of sand mining therefore, should be entrusted to a SINGLE AGENCY.

5. The observations and conclusions of the High Level Committee clearly indicate the emergent need for a framework for regulation of sand quarrying in the State in Public Interest.

6. Hence, detailed discussions were held by Government at various levels. After taking cognisance of the pernicious practice of unsustainable over exploitation of sand in the State, it was decided in Public Interest that the quarrying of sand in Government poramboke lands and private patta lands by private agencies will cease to be effective with immediate effect and sand quarrying henceforth will be undertaken only by the Government through a single department namely., the Public Works Department. In order to meet the above requirements, suitable amendment to the Tamil Nadu Minor Mineral Concessions Rules, 1959 is necessary.

7. In accordance with the directions of the Hon'ble High Court and the recommendations of the High Level Committee constituted in pursuance of the directions of the Hon'ble High Court, Government has taken these initiatives in public interest to ensure

(a) elimination of indiscriminate and unscientific sand quarrying.

(b) Uninterrupted availability and supply of sand in a regular and orderly manner to the common public.

(c) Availability of the sand at affordable prices to common public thereby effecting reduction in the cost of construction.

(d) Augmentation of the revenue of the State Government.

(8) The Notification appended to this order will be published in the Tamil Nadu Government Gazettee and in the District Gazettes. The Works Manager, Government Central Press, Chennai - 79 is requested to publish the Notification in the Tamil Nadu Government Gazettee and supply 75 copies of the Notification to this Department

and Commissioner of Geology and Mining, Chennai -32 and to all District Collectors.

9. The Director, Tamil Development and Culture and Religious Endowments (Translation) Department is requested to send the Tamil translation of the Notification appended to this order to the Works Manager, Government Central Press, Chennai - 79 for publishing in the Tamil Nadu Government Gazettee and to the Collectors of all Districts for publishing it in the District Gazettes immediately.

(By Order of the Governor)  
D.RAJENDRAN,  
SECRETARY TO GOVERNMENT.(I/c.)"

The abovesaid notification runs as follows:

#### "NOTIFICATION

In Exercise of the powers conferred by sub-sections (1) and (1-A) of Section 15 of the Mines and Minerals (Development and Regulation) Act, 1957 (Central Act 67 of 1957), the Governor of Tamil Nadu hereby makes the following amendment to the Tamil Nadu Minor Mineral Concession Rules, 1959: -

2. The amendment hereby made shall come into force on the 2nd day of October, 2003.

#### AMENDMENT

In the said Rules, after Rule 38, the following Rule shall be inserted, namely:-

##### 38-A. Quarrying of sand by the State Government:-

Notwithstanding anything contained in these rules, or any order made or action taken thereunder or any judgment or decree or order of any Court, all existing leases for quarrying sand in Government lands and permissions/leases granted in ryotwari lands shall cease to be effective on and from the date of coming into force of this rule and the right to exploit sand in the State shall vest with the State Government to the exclusion of others. The proportionate lease amount for the unexpired period of the lease and the unadjusted seigniorage fee, if any, will be refunded."

D.RAJENDRAN,  
SECRETARY TO GOVERNMENT (I/c)"

4. Pursuant to the above G.O., operations of all the leases have been stopped on the ground that the leases or even the Court orders ceased to have effect and that the Government is fully empowered to deal with the sand quarrying. Writ Petitions have been filed questioning the G.O. and interim orders are sought for.

5. The learned single Judge, before whom the writ petitions came up for hearing, was of the opinion that prima facie case is made out as the leases cannot be terminated otherwise than by Section 4A (1) of the Act and if Section 4A (1) of the Act is not applicable, even then the leases cannot be terminated enblock by issuance of the impugned notification.

6. Against the interim order passed, W.A. Nos.3241 and 3242 of 2003 have been filed by the Government and the Writ Petitions have been tagged on to the Writ Appeals for final hearing. Pending the disposal of the Writ Appeals and Writ Petitions, this Division Bench, by order dated 8.10.2003, directed that neither the writ petitioners nor the Government should quarry sand on the lands in question which are either covered by leases or court orders. The Government was given liberty to deal with other lands as it deemed fit.

7. Because of the disputed facts and figures, this Court has on 20.10.2003, posed 9 interrogatories to the Government as follows:

- i. Totally how many sand sites are there in the whole of Tamil Nadu?
- ii How many sites have been granted by way of lease in the Government lands?
- iii. How many sites are being quarried under the orders of the courts and state the particulars of the orders of the court and the stage of the cases pending?
- iv. How many sites have been granted lease for quarrying in the patta lands?
- v. How many sites out of the patta lands are being quarried under the courts' orders and state the particulars thereof?
- vi. How many cases are pending enquiry on issuance of notice for alleged violations of conditions of lease?
- vii. How many cases are pending in the court consequent to the cancellation of the lease? State the particulars.
- viii. How many quarries are affecting the ecological balance and what is the material to form basis for such an opinion?
- ix. How many sites are being quarried by the Government through Public Works Department as permitted by this Division Bench in its interim order dated 8.10.2003?

8. The Government has submitted its replies to the above interrogatories on 27.10.2003. Some of the petitioners have filed objections to the reply of the Government contending that no show cause notice has been issued before cancelling the lease, that question of loss of ecological balance does not arise etc.

9. (a) Mr. K. Ramakrishna Reddy, learned counsel appearing for some of the petitioners, submitted that the Act is traceable to Entry 54 of

List 1 of 7th Schedule to the Constitution and the State has got no right and cannot take any decision independent of the Central Government and for any decision, the State Government has to seek prior permission from the Central Government. For this, he cites not only the above Entry in List 1 but also Entry 23 of List 2, which is a legislative field empowering the State Government to legislate regulating the mines and minerals subject to the provisions of list 1 with respect to regulation and development under the control of the Union. He submits that the Public Works Department, which is invested with the power of sand quarrying on behalf of the State, is not one found in Section 4 of the Act and that termination of any prospecting lease or mining lease can be done only in accordance with Section 4A of the Act, that under the rule-making power under Section 15 of the Act, there is only power for regulation and not for prohibition and the State Government is not entitled to exploit the minerals by itself. Even if it is permissible, Sections 17 and 17-A of the Act empower the State Government or the Central Government to reserve any area not covered by prospecting or mining leases, which are in operation, and that in the process of regulating the mineral development, Section 18 empowers the Central Government to take measures for protection of environment by preventing or controlling any pollution, which may be caused by prospecting or mining operations and the impugned notification does not conform to Section 18. He takes us to Rule 8 of the Rules containing the procedure for granting sand quarry leases and Rule 17 under which an owner, for his own use for a bona fide domestic or agricultural purpose, can quarry; then, Rule 18, which empowers the owner to quarry on a large scale for commercial purpose, then other Rules 19 and 19-A dealing with the grant of quarry leases. He further submits that while granting the sand quarry leases, conditions have been imposed and even the Rules like Rule 36 contained restrictions and if there is a violation of any of the conditions or restrictions, then Rule 36-A provides for penalties, which has got the provision of Appeal and Second Appeal and also provision for settlement of disputes etc. and all these are pointers for regulating the sand quarrying but not for prohibiting the same. In so far as machinery used for quarrying, he draws our attention to sub-Clause 6 of Rule 36-A which restricts using any machinery for quarrying sand from river beds. What all he submits is that several conditions have been imposed while granting leases and several restrictions were placed while exercising the quarry rights and these are sufficient to safeguard the public interest, that sand quarrying cannot be prohibited and can only be regulated, that in any event the leases having been granted cannot be terminated without notice even according to the conditions of lease. He takes us to Appendix I of the Rules prescribing the form of lease. Clause 11 reads that the leases may be terminated in respect of whole or any part of the premises by six months notice in writing on either side and under Clause 12, no compensation is payable to lessee on such termination. He also takes us to Appendix IV, which is a different form of agreement for quarrying and carrying away minor minerals from ryotwari lands, in which the minerals belong to Government. He seeks us to see the distinction between the quarrying in Government land to that of the patta land and points out that while in

Government land, the lease can be terminated by either side by six months notice, the lease cannot be so terminated in the case of patta land and under clause 12, the lease can be terminated only for the breach of the conditions of the agreement and that too the Government has a choice either to enhance the seigniorage fee or to cancel the lease. He also draws our attention to clause (h) of sub-Rule (5) of Rule 36, which reads,

'in case of breach by the quarrying permit holder or quarrying lease holder or his transferee or assignee, of any of these Rules or of the conditions of lease, Director of Geology and Mining or the Chief Conservator of Forests as the case may be, or District Collector or District Forest Officer, as the case may be, without prejudice to any other penalty, which may be posed in respect of such breach, may cancel the lease after granting an opportunity of hearing to the said person'.

He submits that in most of the cases, no notices have been issued and in some cases, where notices have been issued, they have been questioned in this Court and quarrying is being done under Court orders; in some cases, where the applications had been pending for grant of lease or renewal thereof, as no orders have been passed, this Court has been approached and quarrying is being done under the orders of the Court. The sum and substance of the arguments of Mr. K. Ramakrishna Reddy, learned counsel is that the Government cannot exploit the sand quarrying by itself and even if it does so, it has to have the prior permission of the Central Government and that the leases, which have been granted, cannot be terminated and even if it is to be terminated, then audi alteram partem rule has to be followed, both in the case of Government lands and patta lands and that there cannot be any prohibition of sand quarrying and there can only be a regulation. He submits that there is no environmental pollution and even if there is one, then steps can be taken on issuance of notice but nothing of that sort has been done, that the reliance of the Government on the report of the High Level Committee or the previous orders of this Court has got no relevance for cancellation of lease or issuance of the impugned notification.

(b) Mr. M. Ravindran, learned senior counsel appearing for some of the petitioners, has drawn our attention that only in W.P. No.2867 of 2003, the lease deed has not been executed but in so far as W.P. Nos.28606 and 28079 of 2003 are concerned, lease deeds have been executed. ( He refers to clause 11 on the termination of leases by six months notice in writing by either side.

(c) Mr. R. Thiagarajan, learned senior counsel appearing for some of the petitioners, submits that they are patta lands.

(d) Mr. Alagirisamy, learned senior counsel appearing for some of the petitioners, makes the same submissions and refers to Sections 4, 4A and 18 of the Act and also submits that lease was granted on 29.9.2003 and Rs.2 Crores have been received and it is too unreasonable to cancel the lease just two days thereafter and if the Government had not wanted to grant the lease, then it ought to have withheld the grant of lease and his client would not

have invested so much money for nothing.

(e) Mr. R. Viduthalai, learned counsel, submits that the impugned G.O. is arbitrary as two unequals are treated equally i.e. lessees of patta lands and that of Government lands, that there is no nexus for the object to be achieved and submits that lease has been granted on 13.6.2003 and lease deed has been executed on 10.9.2003 and that in just 20 days, the impugned G.O. has been issued cancelling the lease and it is arbitrary. He submits that what is granted to the petitioner is a virgin area and there cannot be any allegation or accusation of violation or breach of conditions of lease.

(f) Mr. K. Muthukumaraswamy, learned counsel appearing for some of the petitioners, submits that the impugned notification is not one permissible under Section 15 (1) of the Act. He also relies on Section 4A of the Act and submits that the lease that was granted on 12.8.2003 could not have been annulled just two months thereafter.

(g) Mr. Sanjeevi, learned counsel appearing for some of the petitioners, submits that the report of the Committee is ex parte. It is also submitted on behalf of the petitioners that there is no complaint regarding patta lands.

10. Countering the above arguments of the learned counsel for the petitioners, Mr. N.R. Chandran, learned Advocate General, appearing for the State Government, submits that there is no vested right on the petitioners to quarry sand, that there is power in the State Government to take over the exploitation of sand quarrying by itself, that audi alteram partem rule is not applicable as the rule under which the quarrying lease has been granted has been substituted by another subordinate legislation and that Section 4A is applicable only whenever individual leases have to be cancelled and not when a policy decision is taken by which sand quarrying is taken over by the State Government. He further submits that action has been taken because of the orders of this Court in Writ Petitions taking cognizance of the breach of the conditions of the lease and also the adverse environmental aspects and basing upon the recommendation of the High Power Committee, which was appointed on 25.6.2003 by G.O-2(D) No.46/Industries/MMC1, dated 25.6.2002. He also submits that frustration of contract under Section 56 of Indian Contract Act applies to this case. He submits that the report of the Higher Power Committee having been received in July 2003, action has been taken resulting in the issuance of the impugned notification and that in any event, he submits, right to quarry flows from the Rule and when the Rule disappears so also the contract.

11. On the above submissions of either party, the contentious issues are framed as hereunder:

(i) Is the State Government entitled to exploit sand to the exclusion of the private individuals and if yes, whether the prior consent of Central Government is necessary?

(ii) is 'audi alteram partem' rule inapplicable? And

(iii) is there any frustration of contract?

12. Issue No. (i) - WHETHER PRIOR CONSENT OF CENTRAL GOVERNMENT IS NECESSARY

-----

The Act is a Central enactment. Section 4 of the Central Act ordains that no person shall undertake mining operations except in accordance with the terms and conditions of licence granted under the Act or the Rules made thereunder.

Minerals, other than minor minerals, are governed by Sections 5 to 13 while Section 15 enables the State Governments to make Rules in respect of minor minerals. In exercise of the said provision, the Tamil Nadu Minor Minerals Concession Rules were framed. Rule 8 deals with the grant of licenses to quarry minor minerals on the land belonged to the Government and Rule 19 deals with the lease relating to patta lands. While the Government is entitled to reserve any area for quarrying itself on Government lands, in so far as the patta lands are concerned, the quarrying can be done only after obtaining the permission of the registered holder of the land or his tenant or lessee in actual possession of the same. Rule 38 of Tamil Nadu Minor Minerals Concession Rules, 1959, makes this position very clear. The same was also interpreted by the Supreme Court in

GEM GRANITES & ANOTHER v. STATE OF TAMIL NADU & OTHERS (1995) 2 SCC 413) to the effect that Rule 38 empowers the State Government to reserve any area for exploitation by itself. In so far as the State Government

Corporations or Companies only, the prior approval of the Central Government is necessary. Another judgment of significance is that of the Supreme Court in STATE OF T.N. v. M/S. HIND STONE (AIR 1981 SC 711) in which interpreting Rule 8 (c) of the Rules, it was held that the State Government can exploit the quarrying rights itself by prohibiting the private mining leases. This is the law holding the field as on date and we accordingly hold that the State Government is entitled to exploit the sand by quarrying through Public Works Department, as intended in this case, and the impugned notification cannot be faulted on the ground.

13. But reservation of any area by the State Government for exploitation of sand by itself can only of the lands not covered by any mining lease. In the instant cases, to the areas which are covered by mining leases and in respect of such of those writ petitioners in whose favour the mining leases are in operation with a tenure of three years from the date of execution of the lease deeds, the impugned G.O. cannot be made applicable. But this proposition cannot be extended to such of those writ petitioners who are not holding mining leases and whose mining leases are not in operation but are mining under the Court orders.

14. Issue No. (ii) - AUDI ALTEREM PARTEM rule.

With regard to applicability of audi alterem partem rule, we need not strain much as the statute itself makes it specific that the said rule has to be followed and that is mandatory in form. A reading of sub-Sections (2 ) and

(3) of Section 4A of the Act makes the said aspect clear. It may be apt to extract the sub-Sections.

4A. Termination of prospecting licences or mining leases -

(1) ...

(2) Where the State Government is of opinion that it is expedient in the interest of regulation of mines and mineral development, preservation of natural environment, control of floods, prevention of pollution or to avoid danger to public health or communication or to ensure safety of buildings, monuments or other structures or for such other purposes, as the State Government may deem fit, it may, by an order, in respect of any minor mineral, make premature termination of prospecting licence or mining lease with respect to the area or any part thereof covered by such licence or lease.

(3) 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.

The above statutory provisions empower the State Government to terminate the mining leases prematurely even before expiration of three years. Here there is a dichotomy. In so far as the ground for premature termination on the ground of environmental aspects or the safety aspects are concerned, there should be a reasonable opportunity to be afforded of being heard under sub-Section (3) of Section 4A as mentioned above. In response to the interrogatories, answers have been given by the Government that in respect of the quarrying sites mentioned in Annexure 'H', quarrying would affect the ecological balance. But to justify the premature termination of mining leases, the respondents/Government have to issue notices to such of those petitioners before us, whose mining leases come under the above ecological factors, and decide afresh after affording opportunity to them.

15. In so far as other lands, which are not covered by ecological imbalance, the Government can terminate the leases only after issuing six months notice as contemplated by Clause 11 of Appendix of Tamil Nadu Minor Mineral Concession Rules, 1959. The argument of the learned Advocate General that audi alterem partem rule is not applicable is untenable. The judgments cited by him in *BIHAR SCHOOL EXAMINATION BOARD v. SUBHAS CHANDRA SINHA & OTHERS* (1970) 1 SCC 648) and *UNION OF INDIA & OTHERS v. O. CHAKRADHAR* (JT 2002 (2) SC 191) are not applicable to the facts of this case. In the first case i.e. *BIHAR SCHOOL EXAMINATION BOARD v. SUBHAS CHANDRA SINHA & OTHERS* (supra), the whole of the Annual Secondary School Examinations of 1969 held in Hanswadih Centre in Shahbad District of Bihar was cancelled on account of mass copying and the Supreme Court held that it was not necessary for the Board to give an opportunity to the candidates when the examinations as a whole were being

cancelled. It was held by the Supreme Court that the Board has not charged anyone with unfair means so that he can claim to defend himself. As the examination was vitiated by adoption of unfair means on a mass scale, the Supreme Court held that audi alterem partem rule was not applicable. Same is the proposition in the second case in O. CHAKRADHAR's case (supra) where entire selection process was cancelled by the Railway Board and consequent terminations of services of selectees were effected. The Supreme Court held that the mischief was so widespread and all pervasive so as to make it difficult to pick out the persons, who have been unlawfully affected or wrongfully deprived of their selection and as such, it was neither possible nor necessary to issue individual show cause notices to each selectee. But in the instant cases, allegations are being made against the persons as either affecting the environmental factors or ecological aspects or acting in breach of the conditions of lease. Another judgment in MRF LTD v. INSPECTOR OF KERALA GOVT. & OTHERS (1998) 8 SCC 227, cited by the learned Advocate General also is not helpful to accept his plea against the invocation of audi alterem partem rule. In the said case i.e. MRF LTD (supra), it was held that principles of natural justice are not applicable in the matter of legislative action. The number of national holidays were increased from 3 to 4 and festival holidays from 4 to 9 by enacting a law titled Kerala Industrial Establishments (National and Festival Holidays) (Amendment) Act, 1990 and the same was upheld repelling the arguments on the touchstone of audi alterem partem rule. But in the said case, it was also held that principles of natural justice may have to be followed in the case of subordinate legislation specially where the main legislation contemplates audi alterem partem rule.

16. Proposition in favour audi alterem partem rule in the instant case is further reiterated in view of the legal principles enunciated by the Supreme Court in STATE OF HARYANA v. RAMA KISHAN & OTHERS (AIR 1988 SC 1301). The said case is analogous to the instant case. It was held in that case that there can be premature termination of lease for the purpose of exploitation by the State Government. But that should only in accordance with Section 4A(1) of the Mines and Mineral (Regulation and Development) Act, 1957, so far as the Central Government is concerned and for the State Government, it is Section 4A(2) of the Act and that principles of natural justice have to be followed for premature termination of leases. But the above facility of premature termination is applicable to Government lands and not patta lands.

#### 17. Issue No.(iii) - FRUSTRATION OF CONTRACT

Frustration is recognized by the common law under Section 56 of the Indian Contract Act. That need not be considered as the special law i.e. Mines and Mineral (Regulation and Development) Act, 1957, which is the current and special Act covering the instant cases, itself provides for premature termination as mentioned above.

18. In view of what is stated supra, we uphold the impugned G.O. to the following effect:

1. The State is entitled to exploit the sand by quarrying itself on the Government lands, which are not covered by the mining leases of the writ petitioners. The same is applicable to patta lands subject to the

permission of the landholders or their tenants or lessees in occupation, which are not covered by the mining leases.

2. The writ petitioners whose Mining leases expired as on this day and which are covered by the Court orders shall not be entitled for any relief. This will not cover the Court orders passed to make up the deficiency of the lease period.

3. The respective District Collectors shall issue notices to the petitioners with regard to the mining leases where there is an allegation of infraction of environmental laws and if there is a contest, then hold an enquiry by affording opportunity to them and then pass orders basing on the material on record. The above exercise shall be made by the District Collector within a period of two months from the date of receipt of a copy of this order and until then, the status quo with regard to mining operations as obtained on this day, shall be maintained.

4. In so far as the cases not covered by environmental violations are concerned, the said writ petitioners shall be entitled to continue their sand quarry operations till the expiry of their respective lease periods. But this shall not preclude the respondents/Government from terminating their leases by issuing a prior notice of six months as contemplated under Clause 11 of Appendix I of the Rules in so far as the Government lands are concerned.

5. In the cases relating to the petitioners, where there is an allegation of breach of conditions of lease, then a notice has to be issued to them affording opportunity and then pass orders basing upon the material on record. But until then, they shall be entitled to quarry.

19. The writ appeals and the writ petitions are disposed of accordingly. Writ Petition No.28593 of 2003 filed by Kallapalli Panchayat, Karur District, is disposed of with the above direction. No costs. Consequently, connected W.A.M.Ps. and W.P.M.Ps. are dismissed.

sm/pv

Index : Yes

Internet: Yes

□