

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30-09-2005

C O R A M

THE HONOURABLE Mr.JUSTICE P.K.MISRA

A N D

THE HONOURABLE MR.JUSTICE N.KANNADASAN

W.P.Nos.1251, 21171, 21172, 21370, 31085, 34784 OF 2004

A N D 390 OF 2005

A N D

WPMP Nos.1310, 25564, 25565, 25815, 41985,
37694 of 2004 and 455 of 2005

AND

WVMP Nos.1050 and 1308 of 2005

1. M/s.Seven Star
rep. by its Proprietor
Mr.R.Krishnamurthy. ... Petitioner in
W.P.No.1251 of 2004.
2. M.Palanisamy ... Petitioner in W.P.Nos.
21171, 21172, 21370, 31085,
34784 of 2004 and 390 of 2005.

Vs

Respondents in W.P.No.1251 of 2004

1. The District Collector
Karur District, Karur.
2. The Assistant Director of
Geology and Mining
Karur.
3. The District Collector
Dindigul District, Dindigul.
4. The Assistant Director of
Geology and Mining
Dindigul.

Respondents in W.P.No.21171 of 2004.

1. The District Collector
Karur District, Karur.
2. The Assistant Director of
Geology and Mining
Karur.
3. The District Collector
Namakkal District, Namakkal.
4. The Assistant Director of
Geology and Mining
Namakkal.
5. The District Collector
Dindigul District, Dindigul.
6. The Assistant Director of
Geology and Mining
Dindigul.
7. The District Collector
Coimbatore District,
Coimbatore.
8. The Assistant Director of
Geology and Mining
Coimbatore.
9. The District Collector
Nilgiri District, Nilgiri.
10. The Assistant Director of
Geology and Mining
Nilgiri.
11. The District Collector
Erode District, Erode.
12. The Assistant Director of
Geology and Mining
Erode.

Respondents in W.P.No.21172 of 2004

1. The District Collector
Kancheepuram District, Kancheepuram.
2. The Assistant Director of
Geology and Mining
Kancheepuram.
3. The District Collector
Tiruvallur District
Tiruvallur.
4. The Assistant Director of
Geology and Mining
Tiruvallur.
5. The District Collector
Office of the District Collector
Chennai.

Respondents in W.P.No.21370 of 2004

1. The District Collector
Tiruvallur District.
2. The Assistant Director of
Geology and Mining
Tiruvallur.
3. The District Collector
Kancheepuram District, Kancheepuram.
4. The Assistant Director of
Geology and Mining, Kancheepuram.
5. The District Collector
Office of the District Collector
Chennai.
6. Aminjikai Lorry Owners
Welfare Association
rep. by its President
Mr.V.S.Yuvaraj.

R6 impleaded as per order of court dated 24.08.2005
in WPMP NO. 14135/05

Respondents in W.P.No.31085 of 2004

1. The District Collector
Coimbatore District
Coimbatore.
2. The Assistant Director of
Geology and Mining
Coimbatore.
3. The District Collector
Erode District, Erode
4. The Assistant Director of
Geology and Mining
Erode
5. The District Collector
Karur District, Karur
6. The Assistant Director of
Geology and Mining
Karur
7. The District Collector
Salem District.
Salem
8. The Assistant Director of
Geology and Mining
Salem
9. The District Collector
Nilgiris District
Nilgiris.
10. The Assistant Director of
Geology and Mining
Nilgiris.
11. The District Collector
Dindigul District
Dindigul
12. The Assistant Director of
Geology and Mining
Dindigul

Respondents in W.P.No.34784 and 390 of 2004

1. The District Collector
Kancheepuram District
Kancheepuram.
2. The Assistant Director of
Geology and Mining
Kancheepuram.
3. The District Collector
Thiruvallur District
Thiruvallur.
4. The Assistant Director of
Geology and Mining
Thiruvallur.
5. The District Collector
Chennai District
Chennai.
6. The Assistant Director of
Geology and Mining
Chennai.

Petitions presented to the Court under Article 226 of the Constitution of India to issue writ of Prohibition Prohibiting the respondents from insisting the petitioner and the petitioners customers either to obtain transport permits or to get mentioning of the final place of destination in the bills issued by the Public Works Department to transport the processed/filtered sand from the stockyard of the petitioner (i) to the place of the petitioner's purchasers destination (WP NO. 1251/04)

ii) measuring 2.41 acres comprised in S.NO. 226 situated at Somur Village, karur Taluk, Karur District to the place of the petitioner's purchasers destination (WP NO. 21171/04),

(iii) totally measuring 4.89 acres comprised in S.NO. 164/1, 164/3, 164/4, 164/5, 164/6, 164/7, 164/8, 164/10, 164/11, 164/12 and 165/3 situated at No. 24 Pazhaiyanur Village Madurantagam Taluk, Kancheepuram District and totally measuring 1.50 acre comprised in S.NO. 391/1B and 391/2 situated at No. 7 Pazhamathur Village, Chengalpattu Taluk, Kancheepuram District to the place of the petitioner's purchasers destination (WP NO. 21172/04);

(iv) measuring 2.83 acres out of the total extent of 8.50 acres comprised in No.49 and 0.30 acres comprised in S.No.49/3 totally measuring 3.13 acres situated at Melmaligaipattu village, Uthukottai Taluk, Tiruvallur District to the place of the petitioner's purchasers destination (WP NO. 21370/04);

(v) measuring 1.00 acres comprised in S.NO. 369/2B situated at Idumbankulam Village, Paramathivelur Taluk, Namakkal District to the place of the Petitioner's purchasers destination (WP 31085/04);

(vi) totally measuring 1.73.5 hectares comprised in S.NO. 653/1A1 and 653/1A2, situated at No.5 Maiyur Village, Maduranthakam Taluk, Kancheepuram District to the place of the petitioner's purchasers destination (WP 34784/04); and

(vii) measuring 1.06.0 hectares comprised in S.NO. 56/3 and totally measuring 2.35.0 hectares comprised in S.No.58/1, 58/2, 58/3 and 59/1 situated at Padalam Village, Madhuranthagam Taluk, Kancheepuram District to the place of the petitioner's purchasers destination (WP NO. 390/05) respectively

For petitioners... Mr.R.Thiagarajan,
Sr.Advocate
for
Mr.K.Ramakrishna Reddy.

For respondents... Mr.V.Raghupathy, GP
in W.P.Nos.1251, 21171, 21172,
34784, 31085/04 and 390/05.
In W.P.Nos.34784, 31085/2004
and 390 of 2005.

as for respondents 1 to 5 in
WP NO. 21370/04
Mr.V.Mohan for
Mrs.G.Ladys Daniel
for R.6 in W.P.No.21370/2004.

C O M M O N O R D E R

The above writ petitions are filed seeking a direction as against the respondents whereby, the respondents should be prohibited from insisting the petitioner and petitioner's customers, either to obtain transport permit or to indicate the final place of destination in the bills issued by the Public Works Department, to transport the processed/filtered sand from the stockyards of the petitioner.

2. The issue involved in these writ petitions are relating to the method of transport of sand, consequent to the amendment introduced under Rule 38 A of the Tamil Nadu Minor Minerals Concession Rules, 1959 (hereinafter called as 'Rules'). The Government by G.O.Ms.No.95 Industries (MMC.I) Department dated 1/10/2003 has introduced the above said amendment 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) (herein after called as Act).

3. By virtue of the said amendment, all existing lessees 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 the said rule and the right to exploit sand in the State shall vest with the State Government to the exclusion of others.

4. Originally, the sand quarry lessees were granted under Rule 8 of the Rules and the private parties were permitted to obtain lease, who shall transport the sand after quarry, on payment of necessary seigniorage fees and by obtaining transport permits along with despatch slips. The despatch slips to transport sand from the quarry site is contemplated as per Rule 36 (5) (b) of The Tamil Nadu Minor Mineral Concession Rules, 1959. The despatch slips contain the place of destination namely, the consumers place or the stockyard. After the introduction of the above said amendment, direct loading by the intending buyers was permitted from the quarry site. Subsequently, the loading of sand of the loading contractors have been introduced and contractors have been awarded by the tender system.

5. The writ petitioners, who are loading contractors,

have filed the above writ petitions under the following circumstances:-

According to the petitioners, they are purchasing the sand by buying D.D. for a sum of Rs.626/- (Rupees six hundred and twenty six only), for the value of the lorry load of two units of sand which includes sales tax of 4% to first sales and loading charges. The lorries will have to stand in queue and after making necessary payment, the Officers of Public Works Department will issue the sale bill and the sale bill discloses the starting point and the destination, as per the choice of the purchaser, which is mostly stockyard.

6. It is contended that since Public Works Department operates quarries between 8.00 a.m. to 6.00 p.m., one has to wait for several hours to load the sand at the quarry site and in view of the traffic restrictions in the movement of lorries, in the city of Madras and other places, wherein the vehicles would not be allowed during the day time, after purchase of the sand, they would accumulate it at the stockyard and it would be more convenient to transport thereafter to the customers during the night hours from the said stockyard.

7. It is further contended that the sand which was purchased, cannot be used as it is, since it has to be processed and filtered to cater to the needs of the customers. It is further contended that once the sand is purchased from the Public Works Department, the ownership of the sand, passes on to the purchasers and they can deal with the same in what ever manner they like, subject to the payment of sales tax towards second sales, which is being complied with.

8. It is further contended that in the absence of specific regulations, directing the petitioners to indicate the place of destination of the consumers, such insistence is not permissible in law. Further, the respondents have not even chosen to issue any orders in this regard but however, the officers of the Government are insisting such a condition orally when the sand is being transported, which necessitated for filing the above writ petitions.

9. In W.P.No.21370 of 2004, the sixth respondent

therein has got themselves impleaded, who on an earlier occasion, has filed a Writ Petition No.12934 of 2005, seeking a direction as against the State of Tamil Nadu, rep. by its Secretary to Government, Public Works Department, St. George, Chennai 600 009, to permit the Members of the petitioner-association, viz., Aminjikai Lorry Owner's Welfare association, to directly load the sand from the quarry under the supervision of the staff of Public Works Department on receiving the cost of the sand from the members of the petitioner Association, by dismantling the stockyard set up by the loading contractor i.e., writ petitioner therein, M. Palanisamy. Even though the writ petition filed by the said association in W.P.No.12934 of 2005 was dismissed by the Division Bench wherein the right of the petitioner therein as well as others who were similarly placed like him to transport the sand in quarry for ulterior reasons, the said association got themselves impleaded which does not have any locus standi to oppose the relief claimed by the petitioners.

10. The learned Government Pleader contended that in as much as Rule 36 (5) (b) of the Tamil Nadu Minor Mineral Concession Rules, 1959 contemplates, transport permits along with despatch slips, there is nothing wrong on the part of the respondents in insisting that such despatch slip should contain the final place of destination of the customers.

11. The learned Government Advocate further contended that as per Section 4 (1A) of The Mines and Minerals (Development and Regulation), Act 1957, no person shall transport or store or cause to be transported or stored any mineral otherwise than in accordance with the provisions of this Act and the Rules made thereunder.

12. The learned counsel Mr.T.Mohan appearing for the impleaded party has raised the following contentions:-
(a) The prayer as made in the writ petition cannot be granted and if at all the petitioners are aggrieved, they can seek only for a writ of mandamus and not for a writ of prohibition. No specific instances have been pointed out about the insistence on the part of the respondents to indicate the place of destination and no representation what so ever is said to have been made before approaching this Court; (b) The petitioners cannot espouse the cause of the customers; (c) The proviso 1 A of Section 4 of the Act, is an independent provision and it should be read independently without reference to the other provisions of the said Section. Since the said provision prohibits

transport or storage of minerals unless as provided under the Act and Rules and in the absence of specific provision, enabling the petitioners to store the sand in the stockyard, the same is not permissible in law. (d) Since Rule 36 of the Rules contemplates obtaining despatch slips to transport sand, the said condition has to be complied with by the petitioners, since the said provision was not repealed even after introduction of Rule 38-A; (e) The object of the introduction of the amendment in Rule 38-A is to ensure that the benefit should reach the end user and the petitioners who are acting as middlemen should not enrich themselves. In support of the above contentions, the learned counsel has placed reliance upon the decision in SATISH KUMAR SHARMA vs. BAR COUNCIL OF H.P. (2001 (2) SCC 365) and in S.SHAMSHUDDIN vs. STATE OF KARNATAKA (1984 (III) SCC 583).

13. We have considered the rival contentions of the learned counsels appearing for either side.

14. On the materials available on record, it is not in dispute that after the introduction of Rule 38-A to the Tamil Nadu Minor Mineral Concession Rules, 1959, there is a major shift with regard to the policy in the grant of quarry lease. By the said rule, the right to quarry is exclusively reserved for the State. For the purpose of reference, the said rule is extracted hereunder:-

"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 judgement 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 lease and the unadjusted seigniorage fee, if any, will be refunded."

After the introduction of the above rule, the Government thought it fit to supply sand by selling the same from the sales depots. Subsequently, the above method of sale of sand from the sales depots established by the Government was abolished, which is evident from G.O.Ms.No.403 Public Works (W-Special) Department dated 18.6.2004. It is not in dispute that any intending purchaser/customer can directly purchase sand from the quarry site which fact is admitted by the learned Government Pleader. Though the counsel for the impleaded party also admitted the above factual aspect, has chosen to add that the customers have to stand in the queue in view of the bulk purchase made by the persons like the writ petitioners. Inasmuch as the petitioners are also entitled to purchase sand like any other customer, they store it in the stockyard established by them with a view to sell the same, after processing and filtering, to cater to the needs of the customers who approached them. It is also not in dispute that while they purchase sand, they are required to pay sales tax at the rate of 4% applicable to the first sales and while effecting second sales, they make necessary payment of sales tax to the second sales also. The stand taken by the petitioners that they are required to sell sand as per the needs of the customers after processing and filtering the same is not disputed by the State. Then the main issue which is to be resolved hereafter is to see as to whether the petitioners are required to disclose the place of destination of the customer's place when they transport the sand from their stockyard.

15. A perusal of the various provisions of the Tamil Nadu Minor Minerals Concession Rules, 1959, deals with several issues which are in five headings as set out hereunder:-

Section-I - PRELIMINARY

Section-II - GOVERNMENT LANDS IN WHICH
THE MINERALS BELONG TO THE
GOVERNMENT

Section-III- RYOTWARI LANDS IN WHICH THE
MINERALS BELONG TO GOVERNMENT

Section-IV - LANDS IN WHICH THE MINERALS
DO NOT BELONG TO GOVERNMENT

Section-V - MISCELLANEOUS

Under the Heading-Section-V, the following rules are

existed prior to the introduction of rule 38-A and they are:-

Rule-36. General restrictions in respect of quarrying operations.

Rule-36-A Penalties.

Rule-36-B Levy of interest and recovery of arrears.

Rule-36-C Appeal and Second Appeal.

Rule-36-D Settlement of questions or disputes regarding an agreement.

Rule-36-E Refund of lease amount, etc., in certain cases.

Rule-36-F Transfer of lease.

Rule-37 Savings.

Rule-38 Reservation of area for exploitation in the public sector, etc.

A perusal of the entire rules would reveal that the said rules are framed with a view to regulate the manner in which the lease/permission should be granted for sand quarry and the manner in which the quarrying operations are to be effected. Though Rule 36(b) refers about the despatch slip, the said proviso makes it clear that the person who was permitted to quarry in any area or his men in turn should issue the despatch slips to the vehicles used for removal or transportation of the mineral by furnishing the particulars in the despatch slip by indicating the details as set out therein. The relevant portion is extracted as hereunder:-

"The person who has been permitted to quarry in any area or his men in turn shall issue the facsimiled despatch slips to the vehicles used for removal or transportation of the mineral furnishing the particulars in the despatch slips specifically indicating the vehicle number the quantity of the mineral allowed to be transported by the vehicle by using that despatch slip and the time of issue of the despatch slip to the vehicle."

A perusal of the above makes it clear that such a despatch slip has to be issued at the time of transporting sand by the vehicle, that is to say, any person who purchases sand from the permit-holder or lessee, either directly or through lorry owner, can transport the said sand along with the despatch slip furnished by the permit-holder. After the introduction of Rule 38-A, the abovesaid provision cannot be made applicable, inasmuch as no permit-holder or lessee is entitled to sell sand. Since the quarry right of the sand is exclusively reserved for the State and in the absence of any similar provision directing the State to issue despatch slip while selling the sand, it cannot be construed that the above rule should be made applicable even after the introduction of Rule 38-A. Further, it is always open to any individual to purchase sand by indicating the particulars viz., the place of destination and he can use the said sand in a manner as he thinks fit, that is to say, the persons like the petitioners are expected to indicate their place of destination, viz., the stockyard while purchasing sand at the first instance from the quarry site. Neither any Rule of the Rules nor any provision of the Act prohibits any individual to buy sand in bulk quantity and store it in his place of business viz., stockyard and resale it to third parties after processing and filtering. Admittedly, all the petitioners are required to purchase sand through bills issued by the Public Works Department, wherein the place of destination/stockyard is indicated. The Rule 36(b) cannot have any force in the light of the subsequent introduction of Rule 38-A, since the said provision applies only to the old system whereby the individuals were permitted to quarry sand and sell the same, directly to the customers by transporting the same through vehicles. In such an event, the lessees are expected to indicate the place of destination to which the sand is transported. Merely because the said rule is not repealed, it cannot be construed that it has to be applied even in situation wherein the entire policy is changed after the introduction of new rule.

16. Similarly, Section 4(1A) of The Mines and Minerals (Development and Regulation) Act, 1957 proceeds to the effect that no person shall transport or store or cause to be transported or stored any minerals otherwise than in accordance with provisions of the Act and the Rules made thereunder. The main Section viz., Section 4 is captioned under the following heading:-

"Prospecting or mining operations

to be under licence or lease"

Under the above caption, the provision proceeds to the manner in which the permit, prospecting license or mining lease shall be granted and the method of transport or storage of the minerals. A perusal of the entire provisions of Section 4 do not restrict the storage of minerals at the stockyard or transportation of the same from the said stockyard without any despatch slip. Assuming Section 4(1A) has to be read independently without reference to the other provisions, the said provision only emphasis to the effect that transport or storage of mineral can be done only in accordance with the provisions of the Act and the Rules. If that is so, in the absence of any prohibition in any other provision in the Act or the Rules, to the effect that nobody shall purchase the mineral and store it in a stockyard and thereafter sell the same to the third parties, the said provision cannot be put as against the petitioners.

17. Even though a contention is urged to the effect that Rule 38-A was introduced to ensure that the benefit should reach the end user, no material is placed to substantiate the said contention that if the petitioners are prevented from storing sand in their stockyard after purchasing the same along with any other customer, the benefit would not reach the end user. As pointed out earlier, along with the petitioners, any individual/customer can purchase sand directly from the Public Works Department. As long as no special treatment is given to the persons like the petitioners when they purchase sand from the quarry site in preference than the other customers who intended to purchase directly, the petitioners cannot be faulted for the simple reason that they are purchasing it in bulk quantity and thereafter selling the same to the customers after processing and filtering.

18. As regards the next contention urged by the impleaded party to the effect that the prayer is not properly worded, the said plea is highly technical and the said argument will not advance the case of the impleaded party. Assuming that the prayer is not properly worded, the Court can always mould the relief in the circumstances of the case.

19. Similarly, the contention to the effect that the petitioners cannot seek the relief in the guise of espousing the cause of the customers, it has no relevance to decide the limited issue involved in the writ petitions. It is not the case of the petitioners that they are seeking the relief as stated therein to espouse the cause of the customers. On the other hand, what is highlighted by them is to the effect that the petitioners cannot transport the sand as and when an order is placed by the customers, since there are traffic restrictions in the City and other places for the movement of the lorries during day time and as such, it would be convenient to meet the demand of the customers if the present method of transportation is adopted. Further, by adopting the present method, the petitioners are in a position to supply the sand after processing and filtering to enable the customers to use the same more conveniently. Similarly, the contention to the effect that though the amendment was introduced to ensure that the benefit should reach the end user, no material is placed in this regard as to how and in what manner the interest of the customers would be protected if the petitioners are directed to sell the sand directly by indicating the place of destination of the customers.

20. Though the lorry owners' association got themselves impleaded, when a question was put by the Court to the counsel about their locus standi to oppose the relief of the petitioners, it was replied that the business of the members of the said association is affected due to the method of transportation of the sand by the petitioners. We do not think that such a contention can be countenanced in the light of the discussions made above. As stated above, any customer is entitled to purchase the sand directly from the Public Works Department at the quarry site which fact is admitted by the learned Government Pleader. If that being the case, the above submission is without any basis. Further, the very same association has already failed in their attempt in somewhat similar circumstances by filing a writ petition viz., W.P.No.12934 of 2005, which was dismissed by a Division Bench of this Court. In the said writ petition, the relief is claimed to the effect that the members of the petitioner-association should be permitted to directly load the sand from the quarry by dismantling stockyard set up by the loading contractor, viz., M.Palanisamy, who was impleaded as one of the respondent therein. The Division Bench while dismissing the writ petition has observed as follows:-

"28. In our opinion, there is no

merit in these writ petitions. The petitioners have really challenged the policy decision of the State Government which had introduced the loading system for loading the sand at the quarry site.

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..
..

45. The said system had been introduced by the Government obviously in consultation with the administrative authorities who are specialists in the matter, and it is not for this Court to sit in appeal over such a decision. Hence, we are not inclined to accept the prayer of the writ petitioner that the Court should abolish the system of appointment of loaders.

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..
..

71. Mrs.Nalini Chidambaram, learned senior counsel for the petitioners has vehemently contended that the sixth respondent/M.Palanisamy, who is also a trader has set up his stockyard only about two kilometers from the quarry site. In our opinion, there is no rule or regulation that a stockyard cannot be set up within a few kilometers of the quarry site. At any event, even if there is any violation of any statutory rule or regulation, the petitioners can always make a complaint to the authorities concerned, who will then inquire into the matter, and pass appropriate orders in accordance with law."

After observing as above, in paragraph-79 of the judgment, the Division Bench found that the petitioners have made reckless allegations, many of which are false, and relevant facts have been concealed by them. In the light of the above observations, it is clear that though in the said writ petition, the insistence of obtaining a despatch slip by indicating the customer's place of destination was not dealt with, the right of setting up the stockyard was upheld. If such a right is upheld, it cannot be further contended in the present writ petitions that the loading contractors are not entitled to transport the sand to the

customers, from the point of stockyard.

21. Learned counsel for the impleaded party has placed reliance upon the decision of Apex Court in SATISH KUMAR SHARMA vs. BAR COUNCIL OF H.P. (2001 (2) SCC 365) by referring to the observation as contained in paragraph-19 of the said decision and contended that in the absence of any rule or provision in the Act or the Rules about the method of transportation of the sand, it should be construed that there is a specific prohibition in that regard. The said decision was rendered while interpreting the provisions of the Advocates Act, in a situation wherein the Bar Council has withdrawn the enrolment of the appellant therein who was initially appointed to the post of Assistant (Legal) to the Electricity Board and later on redesignated as 'Law Officer', who was later on permitted by the Electricity Board to appear and represent the Electricity Board on par with other Advocates. The said decision do not lend any support to the above contention. Similarly, the decision relied on by him in S.SHAMSHUDDIN vs. STATE OF KARNATAKA (1984 (3) SCC 583), cannot be made applicable to the facts of the present case.

22. A Division Bench of this Court in KAVERI CHETTY, M.P.P. vs. STATE OF TAMIL NADU AND ANOTHER (Vol.10 1993 WLR 63) has observed that on payment of royalty and seigniorage fee to the Government, the mining lease holder becomes the owner of the mineral and he is free to sell them in the domestic market or export the same, subject only to the law made by a competent authority. When the said decision was considered by the Apex Court, which is reported in AIR 1995 SC 858 (STATE OF TAMIL NADU vs. M.P.P.KAVERI CHETTY), it is observed as follows:-

"24. There is no power conferred upon the State Government under the said Act to exercise control over minor minerals after they have been excavated. The power of the State Government, as the subordinate rule making authority, is restricted in the manner set out in S.15. The power to control the sale and the sale price of a minor mineral is not covered by the terms of clause (o) of sub-sec.(1A) of S.15. This clause can relate only to the regulation of the grant of quarry and mining leases and other mineral concessions and it does not confer the power to regulate the sale of already

mined minerals."

A perusal of the above makes it clear that no power is conferred upon the State to exercise control over the minerals after they have been excavated, more particularly, with regard to the sale and transportation in the absence of any specific provisions.

23. On earlier occasion, when the authorities insisted production of way permits for the purpose of transporting minerals with reference to the then rules, a learned single Judge of this Court in W.P.No.5301 of 1973 held that the State is not justified in directing the petitioner therein to obtain way permit once he purchases minerals from the lessees or the minors, from its factory or place of business to other places. The learned senior counsel for the petitioner also draws our attention about the interim orders granted in a batch of writ petitions with regard to the insistence of the transport permits to transport the processed/filtered sand from the stockyard to the customers' destination. We do not propose to render any opinion about such insistence, since all such matters are pertaining to the period prior to the introduction of Rule 38-A of the Rules.

24. After completion of the hearing, the learned counsel appearing for the impleaded party has circulated a copy of the judgment of the learned single Judge rendered in W.P.No.5025 of 2005 dated 20.9.2005 wherein the similar relief claimed therein is not granted. A perusal of the said judgment discloses that the various submissions as raised in the present batch of cases were not made for consideration. Further the learned Judge, while disposing of the writ petition, has observed that it is open to the petitioner to establish the facts before the authorities about the fact that the petitioner is transporting only the second sale mineral for which no permission is required. In the light of the discussions made in the earlier paragraphs, the order of the learned single Judge in W.P.No.5025 of 2005 do not advance the case of the impleaded party.

25. For the reasons stated above, we are of the opinion that the authorities cannot insist the petitioner and the petitioner's customers either to obtain transport permit or to indicate the final place of destination in the bills issued by the Public Works Department to transport the processed/filtered sand from the stockyards of the petitioners. The writ petitions are allowed. Consequently,

connected WPMPs and WVMPs are closed.

Mvs/Svn.

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

TO

1. The District Collector
Karur District, Karur.
2. The Assistant Director of
Geology and Mining Karur.
3. The District Collector
Dindigul District, Dindigul.
4. The Assistant Director of
Geology and Mining Dindigul.
- 5.. The District Collector
Namakkal District, Namakkal.
6. The Assistant Director of
Geology and Mining Namakkal.
7. The District Collector
Coimbatore District, Coimbatore.
8. The Assistant Director of
Geology and Mining Coimbatore.
9. The District Collector
Nilgiri District, Nilgiri.
10. The Assistant Director of
Geology and Mining Nilgiri.
11. The District Collector
Erode District, Erode.
12. The Assistant Director of

Geology and Mining Erode.

13. The District Collector
Kancheepuram District, Kancheepuram.

14 The Assistant Director of
Geology and Mining Kancheepuram.

15 The District Collector
Tiruvallur District Tiruvallur.

16 The Assistant Director of
Geology and Mining Tiruvallur.

17. The District Collector
Office of the District Collector
Chennai.

18. The District Collector
Salem District.Salem

19. The Assistant Director of
Geology and Mining Salem

20. The Assistant Director of
Geology and Mining, Chennai

+ five cc to Mr. K. Ramakrishna Reddy, Advocate (sr no. 40980)

+ one cc to Mrs. Glayds Daniel, Advocate sr no. 40873

JRG(CO)
NM(05.10.2005)

सत्यमेव जयते

Common Judgment in
W.P.Nos.1251, 21171, 21172,
21370, 31085, 34784 OF 2004 A N D
390 OF 2005.

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