



IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 11-01-2022

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THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

WP No.36418 of 16

And

WMP No.1031 of 2017

Dalmia Refractories Limited,
(Formerly Shri Natraj Ceramic and
Chemical Industries Limited),
Represented by its Authorised Signatory,
S.Sankar Dalmiapuram, PO Kallakudi-621 651,
Tiruchirappalli District.

..

Petitioner

VS.

1.State of Tamil Nadu,
Represented by the Secretary to Government,
Industries Department,
Secretariat,
Fort St. George,
Chennai – 600 009.

2.Union of India,
Represented by the Secretary to Government,
Ministry of Mines,
3rd Floor, 'A' Wing,
Shastri Bhavan,
New Delhi.



3. The Commissioner of Geology and Mining,
Industrial Estate,
Guindy,
Chennai.

.. Respondents

Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, directing the first and third respondents to grant necessary transport permits in favour of the petitioner for mining and transporting mined minerals in terms of the mining lease granted vide G.O.No.3(D) No.23 dated 22.02.1999 and G.O.3(D) No.67 dated 01.06.1998 in respect of lands situated at Therani Village, Kunnam Taluk, Perambalur District to its factory at Dalmiapuram, Trichy District in respect of the petitioner's mining lease areas.

For Petitioner	: Mr.Rahul Balaji
For Respondents-1 and 3	: Mr.R.Shanmugasundaram, Advocate General Assisted by Mr.K.M.D.Muhilan, Government Advocate.
For Respondent-2	: Mr.B.Rabu Manohar, Senior Central Government Standing Counsel.



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ORDER

The relief sought for in the present writ petition is to direct the first and third respondents to grant necessary transport permits in favour of the petitioner for mining and transporting mined minerals in terms of the mining lease granted vide G.O.No.3(D) No.23 dated 22.02.1999 and G.O.3(D) No.67 dated 01.06.1998 in respect of lands situated at Therani Village, Kunnam Taluk, Perambalur District to its factory at Dalmiapuram, Trichy District in respect of the petitioner's mining lease areas.

2. The learned counsel for the petitioner-Company made a submission that the Mining Operations in the subject field has already been suspended and further the mined minerals are also unable to be transported on account of various other reasons. However, the petitioner has to submit necessary 'Environmental Clearance Certificate' for grant of lease.

3. The learned Advocate General made a submission that Environmental Clearance Certificate becomes mandatory pursuant to the



judgment of the Hon'ble Supreme Court of India in the case of **Common Cause vs. Union of India and Others [(2016) 11 SCC 455]**. Thus, in the

absence of furnishing the Environmental Clearance Certificate, the State will not be in a position to consider the case of the petitioner for grant of lease.

4. This apart, the petitioner-Company is bound to comply with all other requirements under the provisions of the Act and the Rules, which all are mandatory.

5. In view of the said submission made by the learned counsel for the petitioner and the learned Advocate General appearing on behalf of the State, the petitioner-Company is at liberty to submit all the required documents, including the Environmental Clearance Certificate and comply with the norms and requirements as contemplated under the provisions of the Act and the Rules, enabling the Authorities to consider the case of the petitioner for grant of lease by strictly following the procedures as contemplated under law.



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6. The learned Advocate General made a submission that the question of suspension of mining operations does not arise in view of the fact that no lease was granted in favour of the petitioner-Company by the State. If at all, any such lease has been granted or the lease expired, it is for the petitioner-Company to submit the documents to the State Authorities for consideration.

7. While considering the writ petitions relating to Mining Operations, this Court would be able to trace out number of instances, where excess mining operations were carried on without adhering to the Rules and Regulations and in some cases by virtue of interim orders granted by this Court and by keeping the writ petitions long years, undue advantages are taken by the Mining Operators. All these things are to be seriously taken note of by the State also, as it involves the State Revenue, which is of paramount importance.

8. When large scale State Revenues are involved, more specifically, in mining operations, wherever writ petitions are entertained,



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the State must ensure that counter-affidavits and vacate stay petitions are filed immediately and the matter is taken up for hearing as expeditiously as possible by the High Court for early disposal as Nation's interest and Public Revenue is the consideration to be shown by all concerned, including the High Court.

9. The growing tendency on writ side is that such writ petitions involving large scale revenue, more specifically, Income Tax, Customs, Excise, Mines and Minerals etc., interim orders are in force for several years and the Nation's properties are being looted or misused or taken undue advantage of. Such a situation is absolutely unconstitutional and further anything under the earth belongs to the Government and it is the Nation's property, which belongs to 'We the People of India'. Thus, no one can be allowed to extract without adhering to the Act, Rules and Regulations and any violations are to be treated seriously and all these persons must be liable for all consequences.

10. This being the spirit to be followed, when such writ petitions



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are filed, there are many such instances, this kind of writ petitions are not even listed for hearing before the Courts, and it is yet another issue, which is to be taken note of by the Registrar General of High Court of Madras. There are several allegations that these writ petitions are not listed on account of bundles misplaced or on various other reasons, including corrupt activities and if these things are noticed, then serious actions are to be initiated against all officials, who all are responsible for lapses, negligence and dereliction of duty.

11. There is a Grouping Section, which is functioning in the High Court. The said Section must be utilised for collecting large scale revenue involved cases now pending before the High Court for many years and the Registry must place all those cases before the Hon'ble The Chief Justice for speedy disposal. Considering the fact that large scale State Revenues are in stake and many persons are taking undue advantage of the pendency of the writ petitions for unjust gains, which can never be tolerated and allowed by the Courts. Thus, the Registrar General of the Madras High Court is directed to issue appropriate instructions to the Registry to collect all those



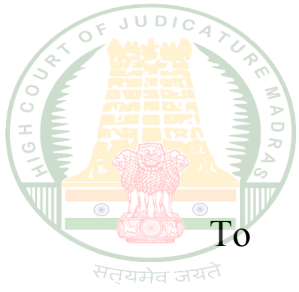
writ petitions, where large scale State and Central Revenues are involved and list those matters, without causing any undue delay by obtaining necessary orders from the Hon'ble The Chief Justice, if necessary by constituting Special Benches for speedy disposal of those cases..

12. With the abovesaid directions, the writ petition stands disposed of. However, there shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

13. Copy of this order to be communicated to the Registrar-General, High Court, Madras for necessary actions.

11-01-2022

Index : Yes/No.
Internet : Yes/No.
Speaking Order/Non-Speaking Order.
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To

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1. The Secretary to Government,
State of Tamil Nadu,
Industries Department,
Secretariat,
Fort St. George,
Chennai – 600 009.
2. Union of India,
Represented by the Secretary to Government,
Ministry of Mines,
3rd Floor, 'A' Wing,
Shastri Bhavan,
New Delhi.
3. The Commissioner of Geology and Mining,
Industrial Estate,
Guindy,
Chennai.
4. The Registrar-General,
High Court,
Madras.



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S.M.SUBRAMANIAM, J.

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