

WP NO.3475 OF 2021

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12 / 01 / 2022

CORAM:

THE HON'BLE MR.JUSTICE M.GOVINDARAJ

WP NO.3475 OF 2021
AND WMP NO.3983 OF 2021

Under Secretary to Government
Public Information Officer
Industries Department
Secretariat, Fort St.George,
Chennai - 600 009.

... Petitioner

Vs.

1.K.Murugesan

2.State Information Commissioner
Tamil Nadu Information Commission
Teynampet,
Chennai - 600 018.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari, to call for the records in connection with the order dated 30.09.2020 in Case No.SA.1128/D/2019 on the file of the Tamil Nadu Information Commission, Chennai and to quash the same.



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For Petitioner : Ms.Narmadha Sampath
Additional Advocate General
Assisted by Mr.V.Kadhirvelu
Special Government Pleader

For Respondent-1 : Mr.S.Venkatesh

ORDER

Challenging the order of the State Information Commissioner, the second respondent herein, Industries Department, Government of Tamil Nadu has preferred this Writ Petition.

2.According to the writ petitioner, the first respondent sought for an information by his application dated 17.09.2018. By letter dated 15.10.2018, he was informed that the information requested by him was under examination by the Government of Tamil Nadu and Government of India and that the information / records sought for by him cannot be disclosed at this juncture. Thereafter, the first respondent preferred a First Appeal on 01.12.2018 before the Appellate Authority.



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3.The Ministry of Mines, Government of India formed a Granite Development Council under the Chairmanship of the Secretary (Mines). Subsequently, a Sub-Committee was formed to resolve the problems faced by the Granite Industry. The Sub-Committee sent a draft report on 09.09.2016 and requested the State Government to send comments on the draft report for consideration during Granite Development Council Meeting. The State Government among other State Governments have made certain comments relating to lease period of mining, details of royalty, royalty collection etc., to safeguard the economic interest of the State. In the meantime, the Central Government have also sought for the comments of certain private companies and federation, who are doing Granite Mining business on the report of the Sub Committee. Therefore, the information requested by the first respondent, if disclosed, would prejudicially affect the economic interest of the State and there shall be no obligation to provide such information requested, as per Section 8(1)(a) of the Right to Information Act, 2005.



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4. Therefore, by Government Letter dated 09.01.2019, the first respondent was informed that the information sought for by him could not be furnished since the issue is under examination. Subsequently, the first respondent preferred a Second Appeal dated 05.02.2019 before the second respondent and the second respondent / State Information Commissioner passed an order dated 30.09.2020 directing the writ petitioner to furnish the information within 15 days. Aggrieved over the same, the petitioner is before this Court.

5. Heard the submissions made on either side and perused the materials available on record.

6. The crucial issue in this writ petition is as to whether the information sought for by the first respondent is exempted under Section 8(1)(a) of the Right to Information Act, 2005, and that would it prejudicially affect the economic interest of the State.



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7.It is pertinent to note that a Resolution was published in the Gazette dated 01.09.2015, in No.1/17/2015-MVI (Volume-iii). A Granite Development Council (GDC) for overseeing the development of the Granite Industry was re-constituted by the Government of India for a period of three years from the date of issue of the resolution. The Secretary, Ministry of Mines, Government of India is the Chairman and Several State Governments including the writ petitioner are the Members. It is also pertinent to note that M/s.Gem Granites, Chennai (Tamil Nadu), M/s.Krishna Sai Granites (Andhra Pradesh) M/s.Pallava Granites Industry (India) Private Limited (Tamil Nadu) M/s.Pokarna Limited (Andhra Pradesh) were also made as Members. The terms of reference of the Granite Development Council reads as follows:-

"(i) To assess and review periodically the status of granite mines and recommend measures for speedy development of the mineral.

(ii) To assess technology employed in the mines and recommend measures for up-gradation of technology and scientific exploitation of the mineral.



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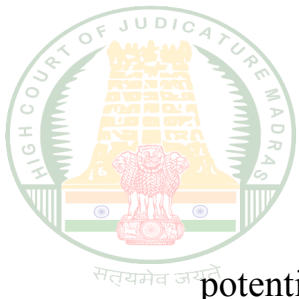
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(iii) *To assess present taxation and royalty structure on granite and suggest measures to make investment in granite more attractive.*

(iv) *To recommend measures for increasing value addition in granite and to realize its export potential.*

(v) *Any other aspect which the Council deems important in the interest of development of granite mining and industry in the country."*

8.By Official Memorandum No.1/17/2015-M.IV dated 23.12.2015, the Minutes of the Meeting of the Granite Development Council held on 01.12.2015 was communicated. As per the Resolution, a Sub-Committee was formed to look into the problems being faced in implementation of Granite Conservation and Development Rules (GCDR) 1999, by the concerned State Governments and Dr.Niranjana Kumar Singh, Joint Secretary of Ministry of Mines was appointed as Chairman. The Sub-Committee has submitted its report in December 2016, in which, the



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potentiality of the Granite Industry and its development were discussed and it recommended measures for speedy and scientific development of Granite Mining. In that process, the resources of Granite of various states were assessed and in respect of State of Tamil Nadu is concerned, the resources were mentioned as 1.68 million. Remaining resources was shown as 557.75 million and total resources was shown as 559.43 million. The Granite production of Tamil Nadu was shown as 234.19 million for a value of Rs.47.37 Crores for the year 2010-2011; 266.89 million for a value of 75.72 Crores for the year 2011-2012 and for the year 2012-2013, it was shown as 273.96 million for a value of Rs.74.85 Crores. It was also informed that the Government of Tamil Nadu was granted 855 quarries for a total area of 3497.26 Ha. with an average quarry size of 4.09 Ha. In respect of State-wise production of Granite Mining lease sizes, the Tami Nadu has minimum has minimum size of Granite Mining lease for 1.0 Hectares and the maximum size of Granite Mining lease size was 50.0 Hectares. The initial lease period is 20-30 years and renewals of 20 years at a time with no limits on number of renewals in respect of Tamil Nadu is concerned. Further, the royalty of



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Granite fixed by Tamil Nadu was Rs.3675 per M3 for Black Granite and Rs.2210/- per M3 for Coloured Granite. The annual rate of dead rent for Granite leases was Rs.15,000/- for Black Granite and Rs.10,000/- for Coloured Granite. Apart from this, dumping of mineral wastes, issue of recovery percentage from Granite quarries, environmental issues and other issues were considered and recommendations were made for developing the Granite Industry.

9.From the report of the Sub-Committee, dated Nil December 2016, it is noted that all the information including the information with regard to royalty were also made public and it is not a secret information any further.

10.As observed in the previous paragraphs, the private Granite Industries like M/s.Gem Granites, Chennai, M/s.Pallava Granites Industry (India) Pvt. Ltd., Tamil Nadu, M/s.Krishna Sai Granites, Andhra Pradesh and M/s.Pokarna Limited, Andhra Pradesh were also parties to the Sub-



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Committee. Any opinion, recommendation, information, which were issued by the Central Government will be circulated to all the State Governments as well as private members. The private members represents the contradiction of private industries before doing Granite business. In that view of the matter, the exemption sought for by the writ petitioner under Section 8(1)(a) of the Right to Information Act is not available to the writ petitioner and that they cannot claim that it will affect the economic interest of the State.

11. In that view of the matter, the reply letter sent to the first respondent that the matter is under consideration of the State Government as well as the Central Government is misleading and false. In fact, the first respondent himself produced the report of the Sub-Committee, containing all the details extracted above and therefore, it is no more a secret. Therefore, the order passed by the second respondent / State Information Commissioner has to be duly complied with and challenge to the said order is without any basis and not sustainable.



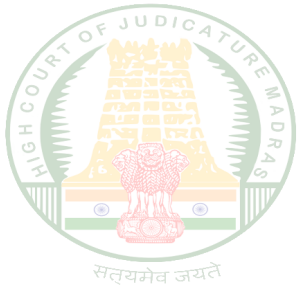
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12. More so, the reply under the Right to Information Act was given that the information cannot be disclosed, but, it does not state specifically that as to how it will prejudicially affect the economic interest of the State. It is well settled that the petitioner cannot improve the order impugned before the State Information Commissioner by filing affidavits. The issue of economic interest which is raised in the writ petition is not a subject matter while rejecting the application under Right to Information Act. The writ petition on those grounds also is not sustainable. Therefore, the writ petition merits no consideration and it is dismissed accordingly. No costs. Consequently, connected miscellaneous petition is closed.

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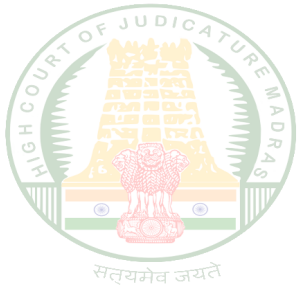
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Internet : Yes/No
Speaking / Non-speaking order
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To
State Information Commissioner
Tamil Nadu Information Commission
Teynampet,
Chennai - 600 018.



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M.GOVINDARAJ, J.

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