

M/S.Kumaran Mines vs Page 1 Of 86 on 6 February, 2024

Author: S.M.Subramaniam

Bench: S.M. Subramaniam

2024:MHC:6213

WP No.3303

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06-02-2024

CORAM

THE HONOURABLE MR.JUSTICE S.M. SUBRAMANIAM

WP No.3303 of 2021

And

WMP Nos.3759 and 3760 of 2021

M/s.Kumaran Mines,
Represented by M.Ilangovan,
S/o.T.K.P.Manikannu,
2/52, D1, Main Road,
Siviya Nagar,
Alagapuram,
Salem-636 004.

.. Petitioner

- vs -

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<https://www.mhc.tn.gov.in/judis>

The District Collector,
Virudhunagar District,
Virudhunagar.

.. Responde

Writ Petition is filed under Article 226 of the
India praying for the issuance of a Writ of Certiorari, calling for
of the respondent in his proceedings in Na.Ka.No.KV1/319/2019 dated
30.06.2020, quash the same in so far as it relates to period from 2
to 14.01.2016.

For Petitioner : Mr.K.P.Krishnan

For Respondent : Mr.E.Vijayanand,
Additional Government P

ORDER

The present writ petition has been filed challenging the order <https://www.mhc.tn.gov.in/judis>
dated 30.06.2020 passed by the District Collector, Virudhunagar, demanding compensation for the
illegal mining established.

2. The issues raised in the present writ petition by the petitioner, are no more res integra.

3. This Court has elaborately considered the issues relying on the judgment of the Hon'ble Supreme
Court of India in a batch of writ petitions in WP No.26808 of 2019 etc., batch dated 12.06.2020 and
the relevant portions of the abovesaid judgment of this Court, read as under:-

"164. In 2012 (4) SCC 629 (Deepak Kumar and others Vs. State of Haryana and
others), the Department of Mines and Geology, Government of Haryana had issued
an auction notice dated 03.06.2011 to auction the extraction of miner minerals,
boulders, gravel and sand quarries of an area not exceeding 4.5 hectares in each case
in the District of Panchkula. Auction notices were also issued for similar quarrying of
land exceeding 5 hectares in several other Districts. The auction notices were
challenged before the Hon-ble Supreme Court. There was
<https://www.mhc.tn.gov.in/judis> also a complaint of illegal mining in the States of

Rajasthan and Uttar Pradesh.

165. The Hon-ble Supreme Court had directed local inspection with prior notice to the Ministry of Environment and Forest to examine the allegations raised. A report was also submitted. But the Hon-ble Supreme Court observed that it was silent with respect to ?disturbing trend? of serious illegal mining operations, upstream and instream and the degradation of the sites and environment. The report stated that since the lease was for an area of less than 5 hectares, Environment Clearance was not required as per the notification dated 14.09.2006 by the Ministry of Environment and Forest (MoEF). The Hon-ble Supreme Court suspected that the area was sub divided into pieces of less than 5 hectares only to ?flout the notification?. The Hon-ble Supreme Court sought a detailed report from MoEF. Finally, the Hon-ble Supreme Court had held as follows:

“26. We are of the considered view that it is highly necessary to have an effective framework of mining plan which will take care of all environmental issues and also evolve a long term rational and sustainable use of natural resource base and also the bio~assessment protocol. Sand mining, it may be noted, may have an adverse effect on bio~diversity as loss <https://www.mhc.tn.gov.in/judis> of habitat caused by sand mining will effect various species, flora and fauna and it may also destabilize the soil structure of river banks and often leaves isolated islands. We find that, taking note of those technical, scientific and environmental matters, MoEF, Government of India, issued various recommendations in March 2010 followed by the Model Rules, 2010 framed by the Ministry of Mines which have to be given effect to, inculcating the spirit of Article 48A, Article 51A(g) read with Article 21 of the Constitution.

27.The State of Haryana and various other States have not so far implemented the above recommendations of the MoEF or the guidelines issued by the Ministry of Mines before issuing auction notices granting short term permits by way of auction of minor mineral boulders, gravel, sand etc., in the river beds and elsewhere of less than 5 hectares. We, therefore, direct to all the States, Union Territories, MoEF and the Ministry of Mines to give effect to the recommendations made by MoEF in its report of March 2010 and the model guidelines framed by the Ministry of Mines, within a period of six months from today and submit their compliance reports.

28. Central Government also should take steps to bring into force the Minor Minerals Conservation and Development Rules 2010 at the earliest. State Governments and UTs also should take immediate steps to frame necessary rules under Section 15 of the Mines and Minerals (Development <https://www.mhc.tn.gov.in/judis> and Regulation) Act, 1957 taking into consideration the recommendations of MoEF in its Report of March 2010 and model guidelines framed by the Ministry of Mines, Govt. of India. Communicate the copy of this order to the MoEF, Secretary, Ministry of Mines, New Delhi, Ministry of Water Resources, Central Government Water

Authority, the Chief Secretaries of the respective States and Union Territories, who would circulate this order to the concerned Departments.

29. We, in the meanwhile, order that leases of minor mineral including their renewal for an area of less than five hectares be granted by the States/Union Territories only after getting environmental clearance from the MoEF. Ordered accordingly."

166. The direction that the leases of minor minerals including their "renewal" for an area of less than 5 hectares can be granted only after getting Environment Clearance is the issue now before this Court. The petitioners herein have continued to mine without getting Environment Clearance and have not stopped their mining activity. They continued merrily. The judgment of the Hon^{ble} Supreme Court in Deepak Kumar (referred supra) directly let to insertion of Rules 41 and 42 of the Tamilnadu Minor Mineral Concession Rules, 1959.

167. By G.O.Ms.No.79, Industries (MMC~1) Department, dated 06.04.2015, published in the Tamilnadu <https://www.mhc.tn.gov.in/judis> Government Gazette in Part III, Section 1 (a), Issue No.16, Pages 22~24 dated 22.04.2015, Rules 41 and 42 were added after Rule 40 of the Tamilnadu Minor Mineral Concession Rules, 1959.

168. The Tamilnadu Minor Mineral Concession Rules, 1959, was brought about by G.O.Ms.No.3757, Industries, Labour and Co~operation, dated 24.09.1959, in exercise of the power conferred under Section 15 of the Mines and Minerals (Development and Regulation) Act, 1957 and in supersession of the Tamilnadu Minor Mineral Concession Rules, 1959. These Rules related to grant of quarrying permits to Government lands, in which, the minerals belonged to the Government and in Ryotwari lands, in which, the minerals belonged to the Government and in lands, in which, the minerals do not belong to the Government.

169. Rule 36 (A) relates to penalties and Rule 36 (C) relates to appeal and second appeal. Rule 38 relates to reservation of area for exploitation in the public sector, namely, by the Government, a Corporation established by any Central, State or Provincial Act or a Government Company. Rule 38 (A) relates to quarrying of sand by the State Government. Newly inserted Rule 41 stipulated that mining plan is a pre~requisite to the grant of lease and also related to submission and approval of mining plan for minor minerals other than Granite.

<https://www.mhc.tn.gov.in/judis>

170. During the course of arguments, the learned counsel for the petitioners, in unison, stated that the present writ petitions do not relate to Rule 41 but relate to Rule 42 and more particularly to Rule 42 (iii) and (iv).

171. I disagree.

172. Rule 41 is very much essential for deciding the issues raised in the writ petitions. Rule 41 of the said Rules is as follows:-

41. Mining plan is a pre-requisite to the grant of lease and submission and approval of mining plan for minor minerals other than Granite:-

1) No lease shall be granted or renewed by the District Collector concerned unless there is a mining plan duly approved by the concerned Assistant Director or Deputy Director of Geology and Mining, as the case may be, of the district concerned by way of a proceedings under rules 6, 7, 8, 8-A, 12, 17, 18, 19 and 38-A of these rules.

2) The Assistant Director or Deputy Director of Geology and Mining, as the case may be, of the district is vested with the powers to approve the mining plan for the precise area communicated by the District Collector for the grant of lease for minor minerals except granite.

3) Mining Plan to be prepared by a recognized person:-

i) No mining plan shall be approved unless it is prepared by a qualified person recognized in this behalf by the State <https://www.mhc.tn.gov.in/judis> Government or by a qualified person recognized by the Indian Bureau of Mines;

ii) No person shall be granted recognition for the purpose of clause (i) by the State Government or by the Indian Bureau of Mines in respect of minor minerals unless he holds-

a) a degree in Mining Engineering or a Post-Graduate Degree in Geology granted by a University established or incorporated by or under a Central Act or State Act or any Institution recognized by the University Grants Commission established under Section 4 of the University Grants Commission Act, 1956 (Central Act 3 of 1956) or any qualification equivalent thereto; and

b) Professional experience of three years of working in a supervisory capacity in the field of mining or mineral administration after obtaining a degree or equivalent prescribed under clause (a);

4) Approval and submission of mining plan:-

On submission of application for grant of quarry lease under these rules, the District Collector shall take a decision on the grant of lease and communicate the precise area to the applicant if the application is in order in all respects and the area is available for grant of mining lease.

5) On receipt of the precise area communication from the District Collector, the applicant shall submit the draft mining <https://www.mhc.tn.gov.in/judis> plan for approval to the Assistant Director or Deputy Director of Geology and Mining, as the case may be, of the District within a period of ninety days. The draft mining plan

submitted by the applicant shall be scrutinized and accorded approval or returned to the applicant for modification and resubmission within a period ninety days from the date of receipt of the draft mining plan.

6) If no decision is conveyed to the applicant within the stipulated period, the draft mining plan or the modified draft mining plan furnished by the applicant shall be deemed to have been provisionally approved and such approval shall be subject to the final decision whenever communicated.

7) While considering the approval of mining plan, the Assistant Director or Deputy Director of Geology and Mining, as the case may be of the district concerned has to consider the

(i) level of production, (ii) level of mechanization, (iii) type of machinery used in the mining of minor mineral, (iv) quantity of diesel consumption, (v) number of trees uprooted due to mining operation, (vi) export and import of the minor mineral, and (vii) storage of mine waste or dump, etc.

8) The draft mining plan should contain the following details namely;-

(i) the plan of the precise area showing the nature and extent of the minor minerals;

(ii) spot or spots where the excavation is to be done in the <https://www.mhc.tn.gov.in/judis> first five year plan period and its extent;

(iii) a tentative scheme of mining for the first five years of the lease;

(iv) details of the geology and lithology of the precise area including mineral reserves of the minor mineral;

(v) the extent of manual mining or mining by the use of machinery and mechanical devices on the precise area. The plan of the precise area showing natural water courses, limits of reserved and other forest areas and density of trees, if any, assessment of impact of mining activity on forest land surface and environment including air and water pollution; details of scheme for restoration of the area by afforestation, land reclamation, use of pollution control devices and of such other measures;

(vi) annual programme and plan for excavation on the precise area from year to year for five years;

(vii) environmental clearance for cluster of minor mineral leases from the core area of mining for 5 kilometers radius having area less than 50 hectares must be obtained from the State Environmental Impact Assessment Authority; and

(viii) any other conditions which are necessary to be imposed by the State Government and the same should be incorporated in the mining plan;

9) Review of mining plan:-

(i) every mining plan duly approved under these rules shall be valid for a period of five years. The lessee shall review the mining plan and submit the scheme of mining for the next five years of the lease, if any, for approval wherever mining/ quarrying lease is required beyond 5 years;

(ii) if the approved mining plan requires modifications within the lease period, the lessee shall carry out such modifications and resubmit the modified mining plan to the Assistant Director or Deputy Director of Geology and Mining, as the case may be, of the district concerned for approval;

(iii) the Assistant Director or Deputy Director of Geology and Mining, as the case may be, of the district concerned shall, within a period of ninety days from the date of receipt of the modified mining plan, convey his approval or disapproval to the lessee and in case of disapproval, he shall also convey the reasons for disapproving the said modified mining plan;

(iv) if no decision is conveyed on modified mining plan within the period stipulated, it shall be deemed to have been provisionally approved and such approval shall be subject to the final decision whenever communicated;

10) Quarrying operations to be in accordance with mining plan:-

(i) every holder of a lease shall carry out the quarrying operation for minor minerals in accordance with the approved mining plan;

(ii) if the mining operations are not carried out in accordance with the mining plan, the District Collector may order suspension of all quarrying operations and permit continuance of quarrying operations, by way of rectification to restore the conditions as may be necessary in the quarry as envisaged under the said mining plan;

(iii) where quarrying operations for minor minerals other than granites have been undertaken before the commencement of these rules without approved mining plan, such existing holder of minor mineral leases shall submit the draft mining plan to the Assistant Director or Deputy Director of Geology and Mining as the case may be of the district concerned within ninety days from the date of commencement of these rules;

(iv) the draft mining plan submitted by the applicant shall be scrutinized and accorded approval or returned to the applicant for modification and resubmission within a period of ninety days from the date of receipt of the mining plan;

(v) if no decision is conveyed to the applicant within the stipulated period, the draft mining plan or the modified draft mining plan furnished by the applicant shall be deemed to have been provisionally approved and such approval shall be subject to the final decision whenever communicated;

(vi) when the existing holders of minor mineral leases other than granite failed to submit the approved mining plan within the stipulated period, the District Collector shall cancel the minor mineral leases after giving as opportunity of personal <https://www.mhc.tn.gov.in/judis> hearing;”

173. To understand the impact of Rule 41, we must go back to the law laid down in Deepak Kumar (referred supra), more particularly to paragraphs 20, 21, 23 and 24. They are as follows:-

"20. The report clearly indicates that operation of mines of minor minerals needs to be subjected to strict regulatory parameters as that of mines of major minerals. It was also felt necessary to have a re-look to the definition of “minor” minerals per se. The necessity of the preparation of “comprehensive mines plan” for contiguous stretches of mineral deposits by the respective State Governments may also be encouraged and the same be suitably incorporated in the Mineral Concession Rules, 1960 by the Ministry of Mines.

21. Further, it was also recommended that States, Union Territories would see that mining of minor minerals is subjected to simpler but strict regulatory regime and carried out only under an approved framework of mining plan, which should provide for reclamation and rehabilitation of mined out areas. Mining Plan should take note of the level of production, level of mechanisation, type of machinery used in the mining of minor minerals, quantity of diesel consumption, number of trees uprooted, export and import of mining minerals, environmental impact, restoration of flora and host of other matters referred to in 2010 rules. A proper framework has also to be evolved on <https://www.mhc.tn.gov.in/judis> cluster of mining of minor mineral for which there must be a Regional Environmental Management Plan. Another important decision taken was that while granting of mining leases by the respective State Governments, location of any eco-fragile zone(s) within the impact zone of the proposed mining area, the linked Rules/Notifications governing such zones and the judicial pronouncements, if any, need to be duly noted.

22.

23. The Ministry of Mines, Govt. of India sent a communication No.296/7/2000/MRC dated 16.05.2011 called “Environmental aspects of quarrying

and of minor minerals - Evolving of Model Guidelines” along with a draft model guidelines calling for inputs before 30. 06. 2011. Draft rules called Minor Minerals Conservation and Development Rules, 2010 were also put on the website. Further, it may be noted Section 15(1A)(i) of the Act specifies:

"The manner in which rehabilitation of flora and other vegetation, such as trees, shrubs and the like destroyed by reasons of any quarrying or mining operations shall be made in the same area or in any other area once selected by the State Government, whether by way of reimbursement of the cost of rehabilitation or otherwise by the persons holding the quarrying or mining lease."

24. We are of the view that all State Governments / Union Territories have to give due weight to the above mentioned <https://www.mhc.tn.gov.in/judis> recommendations of the MoEF which are made in consultation with all the State Governments and Union Territories. Model Rules of 2010 issued by the Ministry of Mines are very vital from the environmental, ecological and bio-diversity point of view and therefore the State Governments have to frame proper rules in accordance with the recommendations, under Section 15 of the Mines and Minerals (Development and Regulation) Act, 1957."

174. It is seen that the Hon'ble Supreme Court after elaborately discussing the provisions of the MMDR Act, 1957 and the Rules and reports of the Expert Committee came to a conclusion that the operation of mines of minor minerals must also be subjected to strict regulatory parameters. They have very clearly stated in paragraph 20 extracted above that operation of mines of minor minerals must also be subjected to strict regulatory parameters as that of mines of major minerals. Therefore, a direction was issued that the State Governments / Union Territories must bring about a simpler but strict regulatory parameters and mining must be carried out only under an approved frame work of mining plan.

175. In view of all these observations extracted above, the State of Tamilnadu inserted Rules 41 and 42 to the Tamilnadu Minor Mineral Concession Rules, 1959.

176. A careful reading of Rule 41 shows that a mining plan is pre-requisite to the grant of lease.

<https://www.mhc.tn.gov.in/judis>

177. Rule 42 of the Tamilnadu Minor Mineral Concession Rules, 1959, is as follows:-

42. Submission of Environment Clearance for the grant of quarry lease for minor minerals including Granite:-

(i) the approved mining plan shall be forwarded to the applicant for obtaining environment clearance from the State Level Environment Impact Assessment Authority or the Ministry of Environment and Forest, as the case may be;

(ii) on submission of approved mining plan and environment clearance from the said authorities, the Government or the District Collector, as the case may be, shall grant the quarry lease;

(iii) where quarrying operations for minor minerals including granites have been undertaken before the commencement of these rules without environment clearance, such holder of minor mineral including granite leases shall submit the environment clearance within six hundred and thirty days from the date of commencement of these rules;

(iv) when the existing holders of minor mineral leases including granite failed to submit the environment clearance within the stipulated period, the District Collector or the Government, as the case may be, shall cancel the lease after giving an opportunity of personal hearing.

178. Under Rule 42, mining plan, which had been <https://www.mhc.tn.gov.in/judis> submitted under Rule 41 if approved, must be forwarded for obtaining Environment Clearance. Therefore, to obtain Environment Clearance, the mining industries should prepare a mining plan as stipulated under Rule 41.

179. In none of the affidavits, with respect to the present writ petitions have the petitioners stated that they have prepared a mining plan in accordance with the stipulations under Rule 41 of the said Rules. They have not done so. When they have not prepared the mining plan, they cannot be granted Environment Clearance. When G.O.Ms.No.79, (referred supra) was passed, under Rule 42 (iii), 180 days was granted to submit Environment Clearance. The industries were granted 180 days to first prepare a mining plan. This was a stipulation under the regulations insisted by the Hon'ble Supreme Court of India. The present writ petitioners flouted and deliberately disobeyed the directions of the Hon'ble Supreme Court. On this very ground itself, their plea of innocence and ignorance will have to be rejected.

180. Under Rule 41, a mining plan has to be prepared by a recognized / qualified person, recognized by the Indian Bureau of Mines.

181. In the affidavits, the petitioners have not stated that they have tried to prepare a mining plan and they were handicapped in any manner whatsoever. On submission of applications for grant of quarry lease, under Rule 42 (iv), the <https://www.mhc.tn.gov.in/judis> District Collector shall take a decision whether the applications are in order in all respects.

182. In Deepak Kumar (referred supra), the Hon'ble Supreme Court had specifically stated that there cannot be renewal without getting Environment Clearance. Environment Clearance cannot be obtained without submitting the mining plan. Under Rule 41 (8), a draft mining plan should contain the following details.

8) The draft mining plan should contain the following details namely:-

- (i) the plan of the precise area showing the nature and extent of the minor minerals;
- (ii) spot or spots where the excavation is to be done in the first five year plan period and its extent;
- (iii) a tentative scheme of mining for the first five years of the lease;
- (iv) details of the geology and lithology of the precise area including mineral reserves of the minor mineral;
- (v) the extent of manual mining or mining by the use of machinery and mechanical devices on the precise area. The plan of the precise area showing natural water courses, limits of reserved and other forest areas and density of trees, if any, assessment of impact of mining activity on forest land surface and environment including air and water pollution; details of scheme for restoration of the area by aforestation, land <https://www.mhc.tn.gov.in/judis> reclamation, use of pollution control devices and of such other measures;
- (vi) annual programme and plan for excavation on the precise area from year to year for five years;
- (vii) environmental clearance for cluster of minor mineral leases from the core area of mining for 5 kilometers radius having area less than 50 hectares must be obtained from the State Environmental Impact Assessment Authority; and
- (viii) any other conditions which are necessary to be imposed by the State Government and the same should be incorporated in the mining plan;

183. The above obligations have to be first satisfied by the writ petitioners. They can not complain that they have not been given Environment Clearance, holding out there was no Authority, namely the State Level Environmental Impact Assessment Authority (SEIAA), in place.

184. The learned counsels for the writ petitioners put forth a very strange argument. They claimed that under G.O.Ms.No.79, Industries (MMC~1) Department, dated 06.04.2015, in Rule 42 (iii), a total period of 180 days was granted to submit Environment Clearance and this period was successively extended by the State Government to ultimately 630 days. Therefore, they stated that till the expiry of 630 days, all the mining operations are perfectly legal. They also stated that till the expiry of 630 days, there was no obligation to produce <https://www.mhc.tn.gov.in/judis> Environment Clearance.

185. These arguments are rejected by me. They do not withstand legal scrutiny. The minute Rules 41 and 42 were introduced by G.O.Ms.No.79, (referred supra), on 06.05.2015 and published in the Tamilnadu Government Gazette on 22.04.2015, the time had begun to run to provide a mining plan for approval to obtain Environment Clearance. Merely because the Government had given them 180

days and extended the period to 630 days, the petitioners herein cannot put forth an argument that they would wait for 629 days and 23 hours and 59 minutes without submitting the mining plan and without obtaining Environment Clearance and that only on the 630th day, can their operations be termed as illegal. The petitioners have advanced arguments before a Court of law and not before a public platform. The rules were incorporated by the State of Tamilnadu in the Tamilnadu Minor Mineral Concession Rules, 1959. The Rules are binding on the petitioners unless held ultravires.

186. In fact, the petitioner, M.Duraisamy, in W.P.No.27735 of 2019, in his affidavit, stated that he had not even filed an application seeking Environment Clearance. Such a petitioner does not deserve any leverage from this Court.

187. The learned Additional Advocate General in the course of her arguments stated that even if the applications were submitted they were half filled and such incomplete applications submitted by the petitioners made it impossible for the Authorities to grant Environment Clearance. In this connection, the details of the applications pending and processed by the SEIAA had been submitted to the Court by the learned Standing Counsels for the said Authority and the entire list is produced below for reference.

Sl.No	Details of the case	Applicant Name, Address & Respondent	
		Salem District	..vs.. The
		The State of Tamil Nadu applied for seeking Rep by its Secretary to Environment Government Industries Clearance.	
		Department and 2 others.	
		Krishnagiri District	
		..vs.. The State of Tamil Violation project File Nadu Rep by its recorded.	
		Secretary to Government Industries Department and 2 others.	
3	W.P.No.27743/2019	Thiru.M.Senthil Kumar, As per a	
		Salem District .vs.. The Notification State of Tamil Nadu Rep S.O.No.141 (E), by its Secretary to dated 15.01.2016 - Government, Industries File transferred to Department and 2 DEIAA-Krishnagiri others. District.	
4	W.P.No.27746/2019	Thiru.S.P.Ramasamy, Thiruppur District .vs..	Vio Min

<https://www.mhc.tn.gov.in/judis> Rep by its Secretary to Government, Industries File recorded.

		Department and 2 others.	
		Salem District ..vs. The State of Tamil Nadu Rep by its Secretary to Government, Industries Department and 2 others.	Vio Fi
6	W.P.No.27788/2019	Mrs.G.Chitra(deceased) Mr.K.Ganesan, S/o.Kailasam, Mr.Gokulkrishnan, S/o.K.Ganesan, Villupuram District ..vs.. The State of Tamil Nadu Rep by its Secretary to Government, Industries Department and 2 others.	Violation rec
7	W.P.No.27790/2019	Thiru.K.Ravikumar, Salem District .vs.. The State of Tamil Nadu Rep by its Secretary to Government, Industries Department and 2 others.	Env Clea
8	W.P.No.27791/2019	Thiru.A.Palaniappan, Salem District ..vs.. The State of Tamil Nadu Rep by its Secretary to Government, Industries Department and 2 others.	Vio Fi
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<https://www.mhc.tn.gov.in/judis> yet to submit the hard copy of the application along with the necessary documents as per Environment Impact Assessment Notification 2006 for Thiru.S.Palanivelu, processing the Salem District, ..vs. The application under W.P.No.27792/2019 State of Tamil Nadu Rep violation notification by its Secretary to issued by the MoEF& Government, Industries CC dated 14.03.2017 Department and 2 and subsequent others. MoEF & CC O.M dated 15.03.2018 and also the project proponent not remitted one time processing fee of Rupees One lakh to SEIAA in the format of Demand Draft favour of Member Secretary, SEIAA-TN 10 the project proponent yet to submit the hard copy of the application along with the necessary documents as per Environment Impact Assessment Notification 2006 for processing the Thiru.P.Thirugnanam, application under Salem District .vs. The violation notification W.P.No.27794/2019 State of Tamil Nadu Rep issued by the MoEF& by its Secretary to CC dated 14.03.2017 <https://www.mhc.tn.gov.in/judis> Government, Industries and subsequent Department and 2 MoEF & CC O.M others. dated 15.03.2018 and also the project proponent not remitted one time processing fee of Rupees One lakh to SEIAA in the format of Demand Draft favour of Member Secretary, SEIAA-TN 11 Thiru.M.Selladurai, Salem District ...vs.. Violation project W.P.No.27795/2019 The State of Tamil Nadu Mining lease also Rep by its Secretary to expired.

Government, Industries File recorded.

12

Department and 2
others.
Thiru.T.P.S.Sadasivam,
Salem District. ..vs..

The State of Tamil Nadu Environmental W.P.No.27796/2019 Rep by its Secretary to Clearance Issued.

13

Government, Industries
Department and 2
others.
Thiru.M.Raji Gounder
Salem District, vs.. The

State of Tamil Nadu Rep Violation project. W.P.No.27806/2019 by its Secretary to File recorded.

14

Government, Industries
Department and 2
others.
Tmt.B.Vasanthi,
Salem District ..vs... Violati

W.P.No.27812/2019 The State of Tamil Nadu Mining lease also Rep by its Secretary to expired.

Government, Industries File recorded.

<https://www.mhc.tn.gov.in/judis> Department and 2 others.

15 Thiru.S.Sakthivel.

Salem District ...vs. The State of Tamil Nadu Violation project. W.P.No.27817/2019 Rep by its Secretary to File recorded.

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Government, Industries
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others.

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Thiru.R.Murugan,
Salem District ..vs..

W.P.No.27822/2019 The State of Tamil Nadu violation notification Rep by its Secretary to issued by the MoEF& Government, Industries CC dated 14.03.2017 Department and 2 and subsequent others. MoEF & CC O.M dated 15.03.2018 and also the project proponent not remitted one time processing fee of Rupees One lakh to SEIAA in the format of Demand Draft favour of Member Secretary, SEIAA-TN 17 Thiru.K.Ganesh, Namakkal District, ..vs.. Violation project W.P.No.27913/2019 The State of Tamil Nadu Mining lease also <https://www.mhc.tn.gov.in/judis> Rep by its Secretary to expired.

Government, Industries File recorded.

18

Department and 2
others.
Tmt.Indira,
Namakkal District ..vs.. Violation

W.P.No.27915/2019 The State of Tamil Nadu Mining lease also Rep by its Secretary to expired.

Government, Industries File recorded.

19

Department and 2
others.
Thiru.C.Sivakumar,
Namakkal District, Violation
..vs.. The State of Mining leas

W.P.No.27927/2019 Tamil Nadu Rep by its expired.

Secretary to File recor
Government, Industries

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Department and 2
others.
Thiru.R.Ganesan, As per ame

Namakkal District ..vs. Notification The State of Tamil Nadu S.O.No.141 (E), W.P.No.27928/2019
Rep by its Secretary to dated 15.01.2019 Government, Industries -File transferred to Department
and 2 DEIAA-Namakkal others. District.

21

W.P.No.28065/2019

Thiru.N.Chellappan,
Salem District ..vs...
The State of Tamil Nadu Mining
Rep by its Secretary to Expired.

Government, Industries File Recorded.

22

Department and 2
others.
Thiru.K.M.Ramasamy, As per the ame
..vs.. EIA N

W.P.No.28070/2019 The State of Tamil Nadu S.O.No.141(E) dated Rep by its Secretary to
15.01.2016 -File Government, Industries transferred to DEIAA <https://www.mhc.tn.gov.in/judis>
Department and 2 – Namakkal District. others.

23

Thiru.K.Venkatachalam,
Namakkal District
..vs.. The State of Tamil Mining

W.P.No.28071/2019 Nadu Rep by its Expired.

24

Secretary to File Re
Government, Industries
Department and 2
others.
Thiru.S.Rangasamy,
Namakkal District
..vs.. The State of Tamil Mining

W.P.No.28073/2019 Nadu Rep by its Expired.

25

Secretary to File Re
Government, Industries
Department and 2
others.
Thiru.K.N.Rangasamy,
Namakkal District
..vs.. The State of Tamil Mining

W.P.No.28091/2019 Nadu Rep by its Expired.

26

Secretary to File Re
Government, Industries
Department and 2
others.
Thiru.S.Thangarasu,
Namakkal District

..vs.. The State of Tamil Environmental W.P.No.28096/2019 Nadu Rep by its Clearance Issued.

27

Secretary to
Government, Industries
Department and 2
others.
Thiru.R.Muthuvel
Namakkal District

W.P.No.28099/2019 ..vs.. The State of Tamil Environmental Nadu Rep by its Clearance Issued.

<https://www.mhc.tn.gov.in/judis> Secretary to Government, Industries Department and 2 others.

28 Thiru.T.Kesavamoorthy Krishnagiri District The petitioner not W.P.No.280104/2019 ..vs.. The State of Tamil applied for seeking Nadu Rep by its Environment Secretary to Clearance.

29

Government, Industries
Department and 2
others.
Thiru.S.R.Sivalingam
Salem District ..vs.. Mining

W.P.No.28125/2019 The State of Tamil Nadu Expired.

Rep by its Secretary to File Recorded.

30

Government, Industries
Department and 2
others.
Thiru.K.S.Senthil
Kumar Salem

W.P.No.28126/2019 District ..vs.. The State Environmental of Tamil Nadu Rep by Clearance Issued.

31

W.P.No.28129/2019

its Secretary to
Government, Industries
Department and 2
others.
M/s.Sri Parasakthi Violati
Crushers Pvt Ltd Salem Mining
District .vs.. The State exp
of Tamil Nadu Rep by
its Secretary to File r

32

Government, Industries
Department and 2
others.
Thiru.T.P.S.Sekar,
Salem District ..vs.. Mining

W.P.No.28130/2019 The State of Tamil Nadu Expired.

<https://www.mhc.tn.gov.in/judis> Rep by its Secretary to File Recorded.

33

Government, Industries
Department and 2
others.
Thiru.M.S.Manivasaka
m Tiruppur District

W.P.No.28234/2019 ..vs.. The State of Tamil Environmental Nadu Rep by its Clearance Issued.

34

Secretary to
Government, Industries
Department and 2
others.
Thiru.K.Thangamuthu,
Erode District ..vs.. Mining

W.P.No.28239/2019 The State of Tamil Nadu Expired.

Rep by its Secretary to File Recorded.

35

W.P.No.28241/2019

Government, Industries
Department and 2
others.
Thiru.R.Palanisamy Violat
Coimbatore District Mining
..vs.. The State of Tamil ex
Nadu Rep by its
Secretary to File
Government, Industries
Department and 2
others.
Mrs.P.Suseela, Tiruppur
District ..vs.. The State

36

W.P.No.28245/2019 of Tamil Nadu Rep by Environmental its Secretary to Clearance Issued.

37 W.P.No.28293/2019

Government, Industries
Department and 2
others.
Thiru.R.K.Selvakumar, As per amend
Coimbatore District Notifica

.vs.. The State of Tamil S.O.No.14
Nadu Rep by its dated 15.01.2016 -

<https://www.mhc.tn.gov.in/judis> Secretary to File transferred to Government, Industries DEIAA -
Coimbatore Department and 2 District.

others.

38

Thiru.M.Shanmugam,
Perambalur District

W.P.No.28297/2019 ..vs.. The State of Tamil Environmental Nadu Rep by its Clearance Issued.

Secretary to
Government, Industries
Department and 2
others.

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Thiru.Mathavakannan processing
Salem District, ..vs. The applicat

W.P.No.28300/2019 State of Tamil Nadu Rep violation notification by its Secretary to issued by the
MoEF& Government, Industries CC dated 14.03.2017 Department and 2 and subsequent others.
MoEF & CC O.M dated 15.03.2018 and also the project proponent not remitted one time processing
fee of Rupees One lakh to SEIAA in the format of Demand Draft favour of Member Secretary,
SEIAA-TN <https://www.mhc.tn.gov.in/judis> 40 Thiru.A.R.Suriyaprakas am Perambalur District
W.P.No.28304/2019 ..vs.. The State of Tamil Terms of Reference Nadu Rep by its issued.

41

Secretary to
Government, Industries
Department and 2
others.
Thiru.P.Senthil Kumar,
Permbalur District Mining

W.P.No.28645/2019 ..vs.. The State of Tamil Expired.

Nadu Rep by its File Recorded.

42

Secretary to
Government, Industries
Department and 2
others.
Thiru.S.Armstrong
Fernando Chennai Mining

W.P.No.28650/2019 District ..vs.. The State Expired.

of Tamil Nadu Rep by File Recorded.

43

its Secretary to
Government, Industries
Department and 2
others.
Thiru.P.Ponnusamy,
Trichy District ..vs.. Mining

W.P.No.28652/2019 The State of Tamil Nadu Expired.

Rep by its Secretary to File Recorded.

44

Government, Industries
Department and 2
others.
Thiru.G.Natarajan,
Perambalur District

W.P.No.28657/2019 ..vs.. The State of Tamil Terms of Reference Nadu Rep by its issued.

Secretary to
Government, Industries
Department and 2

<https://www.mhc.tn.gov.in/judis> others.

District ..vs.. The State The Petitioner not of Tamil Nadu Rep by applied for seeking its Secretary to
Environment Government Industries Clearance.

46 W.P.No.28714/2019

Department and 2
others.
Thiru.R.Kolandaivel, As per ame

Namakkal District .vs.. Notification The State of Tamil Nadu S.O.No.141 (E), Rep by its Secretary to dated 15.01.2016 - Government, Industries File transferred to Department and 2 DEIAA- Namakkal others. District.

47

Thiru.C.Baskar,
Perambalur District

W.P.No.28718/2019 ..vs.. The State of Tamil Environmental Nadu Rep by its Clearance Issued.

48

Secretary to
Government, Industries
Department and 2
others.
Thiru.S.Nallathambi,
Permbalur District

W.P.No.28720/2019 ..vs.. The State of Tamil Environmental Nadu Rep by its Clearance Issued.

49

Secretary to
Government, Industries
Department and 2
others.
Thiru.M.Dhandapani, As per a
Perambalur District Notifica
W.P.No.28733/2019 .vs.. The State of Tamil S.O.No.14
Nadu Rep by its dated 15.01.2016 -
Secretary to File tra

Government, Industries DEIAA- Perambalur Department and 2 District.

<https://www.mhc.tn.gov.in/judis> others.

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Thiru.M.Senthil Kumar processing
Salem District, ..vs. The applicat

W.P.No.28740/2019 State of Tamil Nadu Rep violation notification by its Secretary to issued by the MoEF& Government, Industries CC dated 14.03.2017 Department and 2 and subsequent others. MoEF & CC O.M dated 15.03.2018 and also the project proponent not remitted one time processing fee of Rupees One lakh to SEIAA in the format of Demand Draft favour of Member Secretary, SEIAA-TN 51 Tmt.J.Sujatha, Ariyalur District ..vs.. The State W.P.No.28745/2019 of Tamil Nadu

Rep by Environmental its Secretary to Clearance Issued.

52

Government, Industries
Department and 2
others.
Thiru.P.Senthil Kumar,
Permabalur District

W.P.No.28749/2019 ..vs.. The State of Tamil Environmental Nadu Rep by its Clearance Issued.

<https://www.mhc.tn.gov.in/judis> Secretary to Government, Industries Department and 2 others.

53

Thiru.J.Saravanan,
Chennai District

W.P.No.28911/2019 ..vs.. The Government Environmental of Tamil Nadu, Rep by Clearance Issued.

54

its Additional Chief
Secretary to
Government, Industries
Department and 3
others.
Thiru.V.Chandran,
Kancheepuram

W.P.No.28915/2019

District ..vs.. The Environment

Government of Tamil Clearance Issued.

55

Nadu, Rep by its
Additional Chief
Secretary to
Government, Industries
Department and 3
others.
Thiru.P.Thiruvengadam
, Chennai District

W.P.No.28917/2019 ..vs.. The Government Environmental of Tamil Nadu, Rep by Clearance Issued.

56

its Additional Chief
Secretary to
Government, Industries
Department and 3
others.
Thiru.C.Kandasamy,
Kancheepuram

W.P.No.28918/2019

District ..vs.. The Environment

Government of Tamil Clearance Issued.

Nadu, Rep by its
Additional Chief

<https://www.mhc.tn.gov.in/judis> Secretary to Government, Industries Department and 2 others.

57 Thiru.K.P.Saravanan, Perambalur District File recorded.

W.P.No.28931/2019 ..vs.. The State of Tamil Nadu Rep by its Secretary to Government, Industries Department and 2 others.

58 Thiru.G.Thangamani, Perambalur District Mining Lease W.P.No.28933/2019 ..vs... The State of Tamil Expired.

Nadu Rep by its File Recorded.

59

Secretary to
Government, Industries
Department and 2
others.
Thiru.A.Ramadurai,
Tiruppur District Violat

W.P.No.28987/2019 ..vs... The State of Tamil File Recorded.

60

Nadu Rep by its
Secretary to
Government, Industries
Department and 2
others.
Thiru.S.Palanisamy,
Tiruppur District

W.P.No.28989/2019 ..vs... The State of Tamil Violation project.

Nadu Rep by its File Recorded.

61

Secretary to
Government, Industries
Department and 2
others.
Thiru.E.C.Senniappan
Erode District ..vs..

<https://www.mhc.tn.gov.in/judis> W.P.No.28992/2019 The State of Tamil Nadu Terms of Reference Rep by its Secretary to issued.

62

Government, Industries
Department and 2
others.
Thiru. E.C.Senniappan , As per ame

Erode District .vs.. The Notification W.P.No.28997/2019 State of Tamil Nadu Rep S.O.No.141 (E), by its Secretary to dated 15.01.2016 - Government, Industries File transferred to Department and 3 DEIAA - Erode others. District.

63 Thiru.T.Ganesan, Thiruvavur District Mining Lease W.P.No.29003/2019 ..vs... The State of Tamil Expired.

Nadu Rep by its File Recorded.

64

Secretary to
Government, Industries
Department and 2
others.
Thiru. K.Mathiyalagan , As per ame

Thanjavur District .vs.. Notification W.P.No.29147/2019 The State of Tamil Nadu S.O.No.141 (E), Rep by its Additional dated 15.01.2016 - Chief Secretary to File transferred to Government, Industries DEIAA -Perambalur Department and 4 District.

others.

65 Thiru. S.Suresh Babu , As per amended EIA Thanjavur .vs.. The Notification W.P.No.29149/2019 State of Tamil Nadu Rep S.O.No.141 (E), by its AdditionalChief dated 15.01.2016 -

Secretary to File transferred to Government, Industries DEIAA -Perambalur Department and 4 District.

others.

66 Tmt.Oviyam, The Terms of Dharmapuri District Reference has been <https://www.mhc.tn.gov.in/judis> W.P.No.29166/2019 ..vs... The State of Tamil issued under Nadu Rep by its violation as per the Secretary to MoEF & CC Government, Industries Notification Department and 2 dated:14.03.2017 and others. 08.03.2018.

67 Thiru.R.M.Raja, The Terms of Dharmapuri District Reference has been W.P.No.29168/2019 ..vs... The State of Tamil issued under Nadu Rep by its violation as per the Secretary to MoEF & CC Government, Industries Notification Department and 2 dated:14.03.2017 and others. 08.03.2018.

68 the project proponent has filed application through online dated 18.03.2018 and the hard copy received by this office of SEIAA-TN 25.07.2018 for Terms of Reference under Thiru.I.D.Alavudden the MoEF & CC basha, Notification dated:

W.P.No.29171/2019 Dharmapuri District, 14.03.2017 and ..vs. The State of Tamil 08.03.2018. Since Nadu Rep by its the project falls Secretary to under violation Government, Industries category, the Department and 2 application attracts others. one time processing fee of Rupees One Lakh which the proponent failed to remit in favour of SEIAA in the format of Demand Draft favour of Member Secretary, SEIAA - <https://www.mhc.tn.gov.in/judis>

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69 the project proponent has filed application through online dated 18.03.2018 and the hard copy received by this office of SEIAA-TN 25.07.2018 for Terms of Reference under Thiru.B.C.Karunakaran, the MoEF & CC Dharmapuri District, Notification dated:

W.P.No.29172/2019 ..vs. The State of Tamil 14.03.2017 and Nadu Rep by its 08.03.2018. Since Secretary to the project falls Government, Industries under violation Department and 2 category, the others. application attracts one time processing fee of Rupees One Lakh which the proponent failed to remit in favour of SEIAA in the format of Demand Draft favour of Member Secretary, SEIAA -

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70 the project proponent has filed application through online dated 18.03.2018 and the hard copy received by this office of SEIAA-TN 25.07.2018 for Terms of Reference under Thiru.N.Sivakumar, the MoEF & CC <https://www.mhc.tn.gov.in/judis> Krishnagiri District, Notification dated:

W.P.No.29175/2019 ..vs. The State of Tamil 14.03.2017 and Nadu Rep by its 08.03.2018. Since Secretary to the project falls Government, Industries under violation Department and 2 category, the others. application attracts one time processing fee of Rupees One Lakh which the proponent failed to remit in favour of SEIAA in the format of Demand Draft favour of Member Secretary, SEIAA -

TN.

W.P.No.29260/2019 ..vs.. The State of Tamil Environmental Nadu Rep by its Clearance Issued.

72 W.P.No.29261/2019 Secretary to Government, Industries Department and 2 others. Thiru. Yogaraj, As per am

Salem District .vs.. The Notification State of Tamil Nadu Rep S.O.No.141 (E), by its Secretary to dated 15.01.2016 -

Government, Industries File transferred to Department and 2 DEIAA-Salem others. District.

73 Thiru.K.Balasubramani an, Tiruppur District

W.P.No.29264/2019 ..vs.. The State of Tamil Environmental Nadu Rep by its Clearance Issued.

Secretary to Government, Industries <https://www.mhc.tn.gov.in/judis> Department and 2 others.

74 Thiru.R.Ravi, Tiruppur District ..vs... The Mining Lease W.P.No.29456/2019 Government of Tamil Expired.

Nadu Rep by its File Recorded.

75 Additional Secretary to Government, Industries Department and 4 others. Thiru.S.Vijayakumar, Trichy District ..vs..

W.P.No.29469/2019 The State of Tamil Nadu Environmental Rep by its Additional Clearance Issued.

76 Chief Secretary to Government, Industries Department and 3 others. Thiru.N.Ayyadurai, Tiruppur District

W.P.No.29489/2019 ..vs.. The State of Tamil Environmental Nadu Rep by its Clearance Issued.

Additional Secretary to

77 Government, Industries
Department and 3
others.
Thiru.M.Venkatachalam Violation pr
Mining l
W.P.No.29490/2019 Tiruppur District
.vs.. The State of Tamil File n
Nadu Rep by its
Secretary to
Government, Industries
Department and 3
others.
78 W.P.No.29494/2019 Thiru.R.Anandan, As per

<https://www.mhc.tn.gov.in/judis> Vellore District .vs.. Notification The State of Tamil Nadu
S.O.No.141 (E), Rep by its Secretary to dated 15.01.2016 - Government, Industries File transferred to
Department and 3 DEIAA- Vellore others. District.

79 Thiru.C.Rakkiyappan,
Coimbatore District

W.P.No.29495/2019 ..vs.. The State of Tamil Environmental Nadu Rep by its Clearance Issued.

Secretary to
Government, Industries
Department and 2
others.

Coimbatore District The Pet

..vs.. The State of Tamil applied for seeking Nadu Rep by its Environment Secretary to Clearance.

81 W.P.No.29512/2019 Government Industries
Department and 2
others.
Thiru.Silver As per ame
C.Venkatachalam, Notificati
Tiruppur District .vs.. S.O.No.141

The State of Tamil Nadu dated 15.01.2016 - Rep by its Secretary to File transferred to Government,
Industries DEIAA- Tiruppur Department and 2 District.

others.

82 W.P.No.29514/2019 Thiru.P.E.Thangavel, As per amended EIA Tiruppur District .vs.. Notification The State of Tamil Nadu S.O.No.141 (E), Rep by its Secretary to dated 15.01.2016 - Government, Industries File transferred to Department and 2 DEIAA- Tiruppur others. District.

83 Thiru.E.Marimuthu, <https://www.mhc.tn.gov.in/judis> Tiruppur District ..vs..

W.P.No.29515/2019 The State of Tamil Nadu Environmental Rep by its Secretary to Clearance Issued.

	Government, Industries Department and 2 others.	
84 W.P.No.29516/2019	Thiru.A.Kumar,	As per ame

Tiruppur District .vs.. Notification The State of Tamil Nadu S.O.No.141 (E), Rep by its Secretary to dated 15.01.2016 - Government, Industries File transferred to Department and 2 DEIAA- Tiruppur others. District.

85 W.P.No.29518/2019 Thiru.M.Ramasamy, As per amended EIA Tiruppur District .vs.. Notification The State of Tamil Nadu S.O.No.141 (E), Rep by its Secretary to dated 15.01.2016 - Government, Industries File transferred to Department and 2 DEIAA- Tiruppur others. District.

Tiruppur District The Petitioner not ..vs.. The State of Tamil applied for seeking Nadu Rep by its Environment Secretary to Clearance.

	Government Industries Department and 2 others.
87	Thiru.T.N.Manickamoor thy, Tiruppur District

W.P.No.29521/2019 ..vs.. The State of Tamil Environmental Nadu Rep by its Clearance Issued.

	Secretary to Government, Industries Department and 2 others.
88 W.P.No.29522/2019	Thiru.M.Balasubramani

an, Tiruppur District The Petitioner not <https://www.mhc.tn.gov.in/judis> ..vs.. The State of Tamil applied for seeking Nadu Rep by its Environment Secretary to Clearance.

	Government Industries Department and 2 others.
89	Thiru.R.Manoharan, Karur District ..vs..

W.P.No.29523/2019 The State of Tamil Nadu Environmental Rep by its Secretary to Clearance Issued.

90

Government, Industries
Department and 2
others.
Thiru.S.Jegadeesan,
Tiruppur District Mining

W.P.No.29526/2019 ..vs... The State of Tamil Expired.

Nadu Rep by its File Recorded.

91 W.P.No.29528/2019

Secretary to
Government, Industries
Department and 2
others.
Tmt.P.Sownthari, As per ame

Tiruppur District .vs.. Notification The State of Tamil Nadu S.O.No.141 (E), Rep by its Secretary to dated 15.01.2016 - Government, Industries File transferred to Department and 2 DEIAA- Tiruppur others. District.

92 W.P.No.29561/2019 Thiru.M.Govindaraj, As per amended EIA Tiruppur District .vs.. Notification The State of Tamil Nadu S.O.No.141 (E), Rep by its Secretary to dated 15.01.2016 - Government, Industries File transferred to Department and 2 DEIAA- Tiruppur others. District.

93 Thiru.M.K.Rasappan, Tiruppur District ..vs..

W.P.No.29563/2019 The State of Tamil Nadu Environmental <https://www.mhc.tn.gov.in/judis> Rep by its Secretary to Clearance Issued.

94

Government, Industries
Department and 2
others.
Thiru.M.Vijayakumar,
Tiruppur District ..vs..

W.P.No.29564/2019 The State of Tamil Nadu Environmental Rep by its Secretary to Clearance Issued.

95

Government, Industries
Department and 2
others.
Thiru.K.Karuppasamy,
Tiruppur District ..vs..

W.P.No.29567/2019 The State of Tamil Nadu Environmental Rep by its Secretary to Clearance Issued.

96 W.P.No.29568/2019 Government, Industries Department and 2 others.
Thiru.K.Balasubramani As per amend

an, Tiruppur District Notification .vs.. The State of Tamil S.O.No.141 (E), Nadu Rep by its dated 15.01.2016 -

97 Secretary to File tran
Government, Industries DEIAA-
Department and 2 District.
others.
Thiru.R.Shanmugam,
Tiruppur District ..vs..

W.P.No.29570/2019 The State of Tamil Nadu Environmental Rep by its Secretary to Clearance Issued.

98 Government, Industries Department and 2 others.
Thiru.P.Eswaran, Violat
Tiruppur District Mining
W.P.No.29846/2019 .vs.. The State of Tamil ex
Nadu Rep by its
Secretary to File

<https://www.mhc.tn.gov.in/judis> Government, Industries Department and 4 others.

99 Tmt.J.Yamuna, Tiruppur District ..vs.. The State W.P.No.30006/2019 of Tamil Nadu Rep by Environmental its Secretary to Clearance Issued.

100 Government, Industries Department and 4 others.
Thiru.S.Ganeshmoorthi,
Tiruppur District ..vs..

W.P.No.30184/2019 The State of Tamil Nadu Environmental Rep by its Secretary to Clearance Issued.

101

Government, Industries
Department and 4
others.
Thiru.Nagendiran,
Krishnagiri District

W.P.No.30188/2019 ..vs.. The State of Tamil Terms of Reference Nadu Rep by its issued.

102 W.P.No.30190/2019

Secretary to
Government, Industries
Department and 2
others.
Thiru.S.Gopalakrishnan
, The Petitioner

Tiruppur District ..vs.. applied for seeking The State of Tamil Nadu Environment Rep by its Secretary to Clearance.

103 W.P.No.30195/2019

Government Industries
Department and 2
others.
Tmt.P.Vijayalakshmi,

Tiruppur District ..vs.. The Petitioner not The State of Tamil Nadu applied for seeking Rep by its Secretary to Environment Government Industries Clearance.

<https://www.mhc.tn.gov.in/judis> Department and 2 others.

104 W.P.No.30198/2019 Tmt.B.Vijayalakshmi, Tiruppur District ..vs.. The Petitioner not The State of Tamil Nadu applied for seeking Rep by its Secretary to Environment Government Industries Clearance.

105 W.P.No.30254/2019

Department and 2
others.
Thiru.K.Venkatachalam,

Tiruppur District ..vs.. The Petitioner not The State of Tamil Nadu applied for seeking Rep by its Secretary to Environment Government Industries Clearance.

Department and 2
others.

Tiruppur District ..vs.. The Petitioner not The State of Tamil Nadu applied for seeking Rep by its Secretary to Environment Government Industries Clearance.

Department and 2
others.

107

Thiru.P.K.Krishnasamy,
Tiruppur District

W.P.No.30259/2019 ..vs.. The State of Tamil Environmental Nadu Rep by its Clearance Issued.

108

Secretary to
Government, Industries
Department and 2
others.
Thiru.G.Govindan,
Dharmapuri District

W.P.No.30262/2019 ..vs.. The State of Tamil Terms of Reference Nadu Rep by its issued.

Secretary to
Government, Industries
Department and 2
others.

<https://www.mhc.tn.gov.in/judis> others.

109 W.P.No.30267/2019 Thiru.M.Dhanraj, Salem As per amended EIA District .vs.. The State Notification of Tamil Nadu Rep by S.O.No.141 (E), its Secretary to dated 15.01.2016 -

Government, Industries File transferred to Department and 2 DEIAA - Salem others. District.

Coimbatore District The Petitioner not ..vs.. The Government of applied for seeking Tamil Nadu Rep by its Environment Secretary to Clearance.

Government Industries
Department and 2
others.

111 W.P.No.32017/2019 Velumani, Coimbatore As per amended EIA District ..vs.. The Notification Government of Tamil S.O.No.141 (E), Nadu Rep by its dated 15.01.2016 -

Secretary to File transferred to Government Industries DEIAA- Coimbatore Department and 2 District.

others.

112 W.P.No.32213/2019 Jasmine Demand was made.

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113 W.P.No.32498/2019 R.Ganesan

114 W.P.No.32820/2019 P.Kasinathan, Vellore As per amended EIA District ..vs.. The Notification Government of Tamil S.O.No.141 (E), Nadu Rep by its dated 15.01.2016 -

<https://www.mhc.tn.gov.in/judis> Secretary to File transferred to Government Industries DEIAA-Vellore Department and 2 District.

others.

115 W.P.No.32889/2019 M.Balachandran

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116 Thiru.V.Velmurugan,
Tiruppur District

W.P.No.33394/2019 ..vs.. The State of Tamil Environmental Nadu Rep by its Clearance Issued.

Secretary to
Government, Industries
Department and 2
others.

117 W.P.No.33397/2019 Tmt.M.Saraswarhi, As per am

Tiruppur District ..vs.. Notification The Government of S.O.No.141 (E), Tamil Nadu Rep by its dated 15.01.2016 -

Secretary to File trans

Government Industries DEIAA-
Department and 2 District.

<https://www.mhc.tn.gov.in/judis> others.

118

Thiru.P.K.Subramanian,
Tiruppur District

W.P.No.33400/2019 ..vs.. The State of Tamil Environmental Nadu Rep by its Clearance Issued.

119

W.P.No.33403/2019

Secretary to
Government, Industries
Department and 2
others.
Tmt.N.S.Agilandesswari
, Tiruppur District Mining

..vs.. The State of Tamil Expired.

Nadu Rep by its File Recorded.

120

Secretary to
Government, Industries
Department and 2
others.
S.Lavanya, Coimbatore
District ..vs.. The State

W.P.No.33506/2019 of Tamil Nadu Rep by Terms of Reference its Secretary to issued.

Government, Industries
Department and 2
others.

Tiruvannamalai District The Petitioner not ..vs.. The Government of applied for seeking Tamil Nadu
Rep by its Environment Secretary to Clearance.

Government, Industries
Department and 2
others.

188.As seen from the above, the writ petitioners have not taken even a baby step towards satisfying the obligations imposed by the Hon'ble Supreme Court of India.

<https://www.mhc.tn.gov.in/judis>

189.The entire issue came up for consideration once again before the Hon'ble Supreme Court in (2017) 9 Supreme Court Cases 499 (Common Cause Vs. Union of India and others) with (Prafulla Samantra and another Vs. Union of India and others).

190. The Hon'ble Supreme Court very categorically stated that illegal mining does not mean mining outside the area leased, but also mining inside the area leased without a mining plan. It had been stated that the purpose of the MMDR Act, 1957, is to ensure scientific mining, balanced utilisation of natural resources and protection and preservation of environment by adhering to statutory provisions. This judgment was referred to in all the impugned notices by the respective District Collectors.

191. Even before examining this judgment, a further peculiar argument put forth by the learned counsel for the petitioner in W.P.Nos.889 and 894 of 2020 will have to be examined. The learned counsel stated that the judgment in Common Cause (referred supra) is not applicable to the writ petitioners, more particularly to the writ petitioner in W.P.Nos.889 and 894 of 2020, because the judgment, according to him, was lessee specific, product specific, territory specific and related only to major minerals. Therefore, the learned counsel stated that the judgment should not have been referred by the District Collectors, since it is not applicable to the State <https://www.mhc.tn.gov.in/judis> of Tamilnadu or rather it cannot give a cause of action to initiate the proceedings by the District Collectors through the impugned notices in the State of Tamilnadu.

192.The said arguments are rejected. Article 141 of the Constitution of India is as follows:-

“141. Law declared by Supreme Court to be binding on all courts:-

The law declared by the Supreme Court shall be binding on all courts within the territory of India”.

193. Article 142 of the Constitution of India is as follows:-

“142. Enforcement of decrees and orders of Supreme Court and unless as to discovery, etc:-

(1) The Supreme Court in the exercise of its jurisdiction may pass such decree or make such order as is necessary for doing complete justice in any cause or matter pending before it, and any decree so passed or orders so made shall be enforceable throughout the territory of India in such manner as may be prescribed by or under any law made by Parliament and, until provision in that behalf is so made, in such manner as the President may by order prescribe.

(2) Subject to the provisions of any law made in this behalf by Parliament, the Supreme Court shall, as respects the whole of the territory of India, have all and every power to make any order for the purpose of securing the attendance of <https://www.mhc.tn.gov.in/judis> any person, the discovery or production of any documents, or the investigation or punishment of any contempt of itself.?

194. The law declared by the Hon'ble Supreme Court is binding on all Courts within the territory of India. The Madras High Court is a Court within the territory of India. It is unfortunate that this aspect has to be reminded to the learned counsels for the petitioners. Further, when the Hon'ble Supreme Court, in exercise of its jurisdiction, passes orders for doing complete justice in any cause, they shall be enforceable throughout the territory of India.

195. I very emphatically state that the judgment in Common Cause (referred supra) is directly binding on each and every one of the writ petitioners herein. It is directly binding on each and every one of the respondents herein. It is directly binding on each and every one of the learned counsels who entered appearance on behalf of the petitioners herein. It is directly binding on the learned Additional Advocate General, Special Government Pleader, Additional Government Pleader, Government Advocate and each and every one of the other counsels, who entered appearance on behalf of the respondents herein. It is directly binding on this Court.

196. In (2004) 5 SCC 568 (State of Orissa Vs. Dhaniram Luhar), the Hon'ble Supreme Court had stated as follows:-

“Judicial discipline to abide by declaration of law by the Supreme Court, cannot be forsaken, under any pretext by any <https://www.mhc.tn.gov.in/judis> authority or Court, be it even the highest Court in a State, oblivious to Art, 141 of the Constitution.”

197. In (2006) 4 SCC 1 (the Secretary, State of Karnataka Vs. Umadevi), the Hon'ble Supreme Court had stated as follows:-

“The Supreme Court is not only the constitutional Court, it is also the highest Court in the country, the final Court of appeal. By virtue of Art 141 of the Constitution, what the Supreme Court lays down is the law of the land. Its decisions are binding on all Courts. Its main role is to interpret the constitutional and other statutory provisions bearing in mind the fundamental philosophy of the Constitution. We have given unto ourselves a system of governance by rule of law. The role of the Supreme Court is to render justice according to law.”

198. It is thus clear that the judgment in Common Cause (referred supra) is directly relevant to the issues raised now before this Court and it is only proper that the District Collectors had referred to the judgment in the impugned notices.

199. In Common Cause (referred supra), the Hon'ble Supreme Court examined the report of the Central Empowered Committee (CEC). It referred to lessees in the Districts of Keonjhar, Sundergarh and Mayurbhanj in Odisha, wherein, mining of Iron ore and Manganese ore destroyed the forests and caused untold misery to the tribals in the area.

<https://www.mhc.tn.gov.in/judis>

200. The Hon'ble Supreme Court in the course of its discussion widened the ratio laid down to not just lessee specific or territory specific as pointed out by the learned counsel for the petitioners in W.P.Nos.889 and 894 of 2020, but had laid down the law of the land. In paragraph No.130, it had been stated as follows:-

“130. It is not, as suggested by learned counsel, that illegal mining is confined only to mining operations outside a leased area. Such an activity is obviously illegal or unlawful mining. Illegal mining takes within its fold excess extraction of a mineral over the permissible limit even within the mining lease area which is held under lawful authority, if that excess extraction is contrary to the mining scheme, the mining plan, the mining lease or a statutory requirement. Even otherwise, it is not possible for us to accept the narrow interpretation sought to be canvassed by learned counsel for the mining lease holders particularly since we are dealing with a natural resource which is intended for the benefit of everyone and not only for the benefit of the mining lease holders.”

201. In paragraph No.151, it had been stated as follows:-

“150. In our opinion, Section 21(5) of the MMDR Act is applicable when any person raises, without any lawful authority, any mineral from any land. In that event, the State Government is entitled to recover from such person the mineral so raised or where the mineral has already been disposed of, <https://www.mhc.tn.gov.in/judis> the price thereof as compensation. The words “any land” are not confined to the mining lease area. As far as the mining lease area is concerned, extraction of a mineral over and above what is permissible under the mining plan or under the EC undoubtedly attracts the provisions of Section 21(5) of the MMDR Act being extraction without lawful authority. It would also attract Section 21(1) of the MMDR Act. In any event, Section 21(5) of the Act is certainly attracted and is not limited to a violation committed by a person only outside the mining lease area - it includes a violation committed even within the mining lease area. This is also because the MMDR Act is intended, among other things, to penalize illegal or unlawful mining on any land including mining lease land and also preserve and protect the environment. Action under the EPA or the MCR could be the primary action required to be taken with reference to the MCR and Rule 2(ii-a) thereof read with the Explanation but that cannot preclude compensation to the State under Section 21(5) of the MMDR Act. The MCR cannot be read to govern the MMDR Act.

202. In paragraph 184, the Hon'ble Supreme Court extracted the portion of the report of the CEC, which recommended that for violating 70% of the notional value may be directed to recover from the respective lessees. However, in paragraph 185, they have very categorically stated that the recovery should be to the extent of 100%. Paragraphs 184 and <https://www.mhc.tn.gov.in/judis> 185 are as follows:-

“184.The CEC in this regard has observed as follows:

“It will be seen that in the above cases the mining operations have been done in the forest land in violation of the Forest (Conservation) Act, 1980 and consequently also in violation of this Hon'ble Court order dated 12.12.1996. The CEC recommends that 70% of the notional value of the iron ore and manganese produced by the lessees by undertaking mining operations in the forest land in violation of the Forest (Conservation) Act, 1980 may be directed to be recovered from the respective lessees. Wherever the mineral production is both from the forest land as well as non-forest land then in such cases the notional value of the production from the forest land may be calculated on pro rata basis of the extent of the forest land and non-forest land involved. The notional value of the mineral, time limit for payment of the compensation, use of the amount received as compensation and other conditions as decided by this Hon'ble Court in respect of the production without/in excess of the environmental clearance may be directed to be followed on pari-passu basis.”

185. For the reasons that we have already expressed above, we are not in agreement with the CEC that only a part of the notional value (in this case 70%) of the iron ore and manganese ore produced by the mining lease holders should be recovered. We are of the view that Section 21(5) of the MMDR <https://www.mhc.tn.gov.in/judis> Act should be given full effect and so we reiterate that the recovery should be to the extent of 100%.”

203. The learned counsel for the petitioners interpreted the judgment in Common Cause (referred supra) as applicable only to mining leases with lease area of more than 5 hectares.

204. I disagree.

205. The judgment in Common Cause (referred supra) is equally applicable to every mining lease holder, irrespective of the area of the land quarried. This judgment is directly applicable to the petitioners. Under this judgment, the writ petitioners have to pay 100% compensation towards the cost of minerals extracted and transported with Environment Clearance.

206.In the background of this, the impugned notice may now be examined. The impugned notice in W.P.No.27735 of 2019 is extracted below:-

“Roc.No.45/2018-45/Mines-A Collectorate, Salem-636 001.

Dated .0

MEMO

Sub:- Mines and Minerals - Hon'ble Supreme Court of India Direction - Mines operated without Environment Clearance - Thiru M.Duraisamy S/o. M.P.Mariappa Nadar, Salem treated as violation category - levying of cost of minerals excavated <https://www.mhc.tn.gov.in/judis> from 15.01.2016 to 10.01.2017 - Notice issued to remit the cost of mineral - Reminder - Reg.

Ref:- 1. The Commissioner of Geology and Mining, Chennai, letter No.6731/LC/2015 dated 11.01.2017.

2. G.O.(D) No.27 Ind (MMC2) Dept. dt.24.02.2017.

3. S.O.No.804(E) dated 14.03.2017 Govt. of India, (Ministry of Environment, Forest and Climate Change)

4. Office Memorandum F.No.3-50/2017-1A III (Pt.) IA-

III, dated 30.05.2018 (Ministry of Environment, Forest and Climate Change).

5. Order of Hon'ble Supreme Court Civil No.114/2014 dated 02.08.2017.

6. The Director of Geology and Mining, Chennai letter No.1375/LC/2016 dated 20.08.2018.

7. This office even letter No dated 08.12.2018 and 08.02.2019.

.....

Thiru M.Duraisamy S/o. M.P.Mariappa Nadar, Salem is having quarrying lease to quarry Roughstone in S.F.No.383/2B (P-7) in Erumapalayam Village, Salem Taluk and District. Thiru.M.Duraisamy S/o.M.P.Mariappa Nadar, Salem have operated the mines without prior Environmental Clearance from the Ministry of Environment and Forest, Government of India.

2. In these circumstances, as per the direction of Supreme <https://www.mhc.tn.gov.in/judis> Court of India in W.P.No.114/2014 order dated 02.08.2017 in page No.97 says “(9) in the event of any overlap that is illegal or unillegal mining without an EC or without both would attract act only 100% compensation and not 200% compensation” and as per reference 6th cited, wherein it was instructed to comply the orders of the Hon'ble Supreme Court of India.

3.Thiru.M.Duraisamy, S/o.M.P.Mariappa Nadar, Salem having paid to royalty and other statutory due to the Government have removed Roughstone listed below in the G.O. wise annexure.

4. Hence, it is instructed to pay 100% cost of the mineral lifted for the period from 15.01.2016 to 10.01.2017 is amounting to Rs.8,33,625/=~ (Rupees Eight Lakhs Thirty Three Thousand and Six Hundred Twenty Five only) towards the cost of mineral and that may be paid to State Government in the following head of account.

0853 Non Ferrous Mining and Metallurgical Industries 00 Non Ferrous Mining and Metallurgical Industries 800 Miscellaneous Receipts AC Miscellaneous Receipts 29 97-Fines and Penalties-Forfeiture, Seizure Confiscation, etc., D.P.code-0853-00-800-AC-2997 Cost working sheet for the minerals excavated from 15.01.2016 to 10.01.2017.

Sl.No. <https://www.mhc.tn.gov.in/judis> G.O.No Extent (in hecets) Name of the Mineral Permitted quantity (in cbm) 100% of cost of the minerals (in Rs.) Collector Proceedings Roc.No.112/2011/Mines A dated 01.03.2011 1.00.0 Roughstone 8,33,625/-

Total 8,33,625/=~

Sd/-

For Collector, Salem.

To:

Thiru.M.Duraisamy, S/o.M.P.Mariappa Nadar, 4/78, Bye pass Main Road, Erumapalayam Village, Salem District.

Copy submitted to The Director, Department of Geology and Mining, Guindy, Chennai - 32”

207. I hold that reference made to Common Cause (referred supra) is perfectly justified and valid. However, the learned counsels for the petitioners have raised an objection regarding the locus of the District Collectors to issue the <https://www.mhc.tn.gov.in/judis> notices. In this connection, Section 21 (5) of the MMDR Act, 1957 will have to be first examined. Section 21 (5) of the MMDR Act, 1957 is as follows:-

“(5) Whenever any person raises, without any lawful authority, any mineral from any land, the State Government may recover from such person the mineral so raised, or, where such mineral has already been disposed of, the price thereof, and may also recover from such person, rent, royalty or tax, as the case may be, for the period during which the land was occupied by such person without any lawful authority.”

208. By G.O.Ms.No.626, Industries (K) Department, dated 11.06.1986, in exercise of the powers conferred by Sub Section (1) of Section 15 of the Mines and Minerals (Development and Regulation) Act, 1957, (Central Act 67 of 1957), the Governor of

Tamilnadu made the following amendment to the Tamilnadu Minor Mineral Concession Rules, 1959.

“Notification - III In exercise of the powers conferred by sub-section (2) of section 26 of the Mines and Mineral (Regulation and Development) Act, 1957 (Central Act 67 of 1957), the Governor of Tamilnadu hereby directs that the powers exercisable by the State Government under sub-section (5) of section 21 of the said Act shall be exercisable by the District Collectors concerned.”

209. The above notification is crystal clear. It requires <https://www.mhc.tn.gov.in/judis> no explanation. The District Collectors have the authority to issue the impugned notices on behalf of the State Government. The arguments to the contrary advanced by the learned counsel for the petitioners are rejected.

210. In AIR 1963 SC 1503 (Roop Chand Vs. State of Punjab), the Hon'ble Supreme Court had held as follows:-

“The question then arises, when the Government delegates its power, for example, to entertain and decide an appeal under Section 21 (4) to an officer and the officer pursuant to such delegation hears the appeal and makes an order, is the order an order of the officer or of the Government? We think it must be the order of the Government. The order is made under a statutory power. It is the statute which creates that power. The power can, therefore, be exercised only in terms of the statute and not otherwise. In this case the power is created by Section 21 (4). That section gives the power to the Government. it would follow that an order made in exercise of that power will be the order of the Government for no one else has the right under the statute to exercise the power. No doubt the Act enables the Government to delegate its power but such a power when delegated remain,; the power of the Government, for the Government can only delegate the power given to it by the statute and cannot create an independent power in the officer. When the delegate exercises the power, he does so for <https://www.mhc.tn.gov.in/judis> the Government. It is of interest to observe here that Wills, J., said in Huth vs. Clarke (1) that “the word delegate means little more than an agent”. An agent of course exercises no powers of his own but only the powers of his principal. Therefore, an order passed by an officer on delegation to him under Section 41 (1) of the power of the Government under Section 21 (4), is for the purposes of the Act an order of the Government. If it were not so and it were to be held that the order had been made by the officer himself and was not an order of the Government-

and of course it had to be one or the other-then we would have an order made by a person on whom the Act did not confer any power to make it. That would be an impossible situation. There can be no order except as authorised by the Act. What is true of Section 21 (4) would be true of all other provisions in the Act conferring powers on the Government which can be delegated to an officer under Section 41 (1). If we are wrong in the view that we have taken, then in the case of an order made by an officer as delegate of the Government's power under Section 21 (4) we would have an

appeal entertained to and decided by one who had no power himself under the Act to do either. Plainly, none of these things could be done.”

211. It is thus seen that a delegate, in this case, the District Collector has the authority to do things, which otherwise the State Government would have to do by itself. At any rate, G.O.Ms.No.626, Industries (K) Department, dated <https://www.mhc.tn.gov.in/judis> 11.06.1986, is not under challenge. It has never been challenged. Therefore, I hold that the District Collectors have every right to issue the impugned notices.

212. The learned counsel for the petitioners then put forth a further argument in one voice that the impugned notice suffers from violation of principles of natural justice. I hold that the principles of natural justice cannot be extended for complying with the directions of the Hon'ble Supreme Court of India. Articles 141 and 142 of the Constitution of India have been extracted above. It is clear that any order passed by the Hon'ble Supreme Court is binding on every person. The date, when the Hon'ble Supreme Court directed that Environment Clearance is a pre-requisite for grant of extension of lease even for mining of lands of less than 5 hectares is the date when the petitioners were bound to get Environment Clearance. They do not require any further notice. The date, on which, Common Cause (referred supra), was pronounced and the Hon'ble Supreme Court had held that if mining activities are continued without obtaining Environment Clearance, then 100% compensation is leviable, then from that date onwards, the liability of the petitioners had arisen and they need not be put on any further notice. The law declared by the Hon'ble Supreme Court is binding on all Courts of the country. Further, <https://www.mhc.tn.gov.in/judis> issuing a show cause notice would only be an empty formality. The petitioners if at all they want to reply to any show cause notice, can only question the rationals of the Supreme Court Judgment. They cannot do so. They are bound by the judgment.

213. With respect to the reliance placed by Mr.K.Ramakrishna Reddy, on (2011) 5 Supreme Court Cases 553 (Radhy Shyam (dead) through legal heirs and others Vs. State of Uttar Pradesh and others) and on (2014) 16 Supreme Court Cases 392 (Nisha Devi Vs. State of Himachal Pradesh and others), for the proposition that the demand notices had been issued without prior show cause notice, I would state that the impugned notices in these writ petitions had been issued based on the judgment of the Hon'ble Supreme Court in Common Cause (referred supra) and as pointed out under Article 141 of the Constitution of India, any order of the Hon'ble Supreme Court is binding on all Courts. Issuing of a prior notice would only be an empty formality and therefore, I hold that the petitioners cannot complaint about non issuance of prior notice. Obligations had arisen the date the Hon'ble Supreme Court pronounced its judgment and the District Collectors were only following the mandate of the Hon'ble Supreme Court of India. I therefore hold that the impugned notices cannot be faulted on this ground.

214. Mr.K.Ramakrishna Reddy had also relied on (1990) <https://www.mhc.tn.gov.in/judis> 3 Supreme Court Cases 223 (Shri Sitaram Sugar Company Limited and another Vs. Union of India and others) and claimed that the notices were arbitrary.

215. I respectfully disagree with the said proposition put forth by Mr.K.Ramakrishna Reddy. Prior to issuance of the notification dated 15.01.2016, the Ministry of Environment, Forest and Climate Change had caused publications in newspapers, inviting objections and suggestions. The petitioners should have participated. They did not do. The notices had been issued pursuant to the directions of the Hon'ble Supreme Court of India. If the notices said to be arbitrary, then as a corollary it must be held that the judgment of the Hon'ble Supreme Court is also arbitrary. I am sure the learned counsel would not advocate such a proposition. Therefore, I am hold that the notices do not suffer from arbitrariness.

216. Mr.T.Ramesh, learned counsel relied on the judgment in AIR 1978 SC 851 (Mohinder Singh Gill and others Vs. The Chief Election Commissioner, New Delhi and others) for the proposition that public orders cannot be construed in the light of explanations subsequently given by the officers. With due respects, I hold that the impugned notices speak for themselves. There is reference to the judgment of the Hon'ble Supreme Court of India in Common Cause (referred supra). There is reference to the notification of the Ministry of Environment, Forest and Climate Change (MoEF) and the <https://www.mhc.tn.gov.in/judis> period, for which the demand is made and the amount demanded. No further details are required. Therefore, there is no occasion to expand the impugned notices in the counter affidavits.

217.The learned counsel also relied on AIR 2010 Supreme Court 2794 (East Coast Railway and another Vs. Mahadev Appa Rao and others with K.Surekha Vs. Mahadev Appa Rao and others), again for the proposition that reasons must be given in an order. The present impugned notices are executive memos / notices passed in pursuance of the directions of the Hon'ble Supreme Court. The judgment of the Hon'ble Supreme Court gives reasons why 100% compensation is payable and why compensation must be collected from defaulting lessees. Therefore, I again hold that the order does not suffer for want of reasons.

218. The learned counsel also relied on AIR 2005 Supreme Court 3520 (Hindustan Petroleum Corporation Limited Vs. Darius Shapur Chennai and others). Again, holding that the impugned notices have placed reliance on the judgment in Common Cause (referred supra), I hold that naturally the reasons given in the Common Cause (referred supra) judgment would apply to the notice itself.

219. The learned counsel also relied on the judgment of the Jharkhand High Court in W.P.(C) No.7286 of 2017 <https://www.mhc.tn.gov.in/judis> (M/s.Hindalco Industries Limited Vs. The State of Jharkhand and others). The said writ petition is laid to be pending. This Court has been called upon to examine the issues raised. The writ petition is pending before the Jharkhand High Court and consequently, it would be highly inappropriate to invite this Court to express view on a matter pending before the Jharkhand High Court.

220. The principle of natural justice cannot be stretched to extreme limits when issue of notice would be an empty formality. The law is clear. The notices have been issued under directions of the Hon'ble Supreme Court. The judgment of the Hon'ble Supreme Court is binding on all Courts under Article 141 of the Constitution of India.

221. In (2000) 7 SCC 529, Aligarh Muslim University and Others Vs. Mansoor Ali Khan, the Hon'ble Supreme Court had an occasion to consider the effect of "useless formality" - a theory, which is an exemption to the principles of natural justice.

"21. As pointed recently in M.C. Mehta Vs. Union of India (1999 (6) SCC 237), there can be certain situations in which an order passed in violation of natural justice need not be set aside under Article 226 of the Constitution of India. For example where no prejudice is caused to the person concerned, interference under Article 226 is not necessary. Similarly, if the quashing of the order which is in breach of natural justice is <https://www.mhc.tn.gov.in/judis> likely to result in revival of another order which is in itself illegal as in Gadde Venkateswara Rao vs. Government of Andhra Pradesh [1966 (2) SCR 172 = AIR 1966 SC 828], it is not necessary to quash the order merely because of violation of principles of natural justice.

22. In M.C.Mehta {1999} 6 SCC 237 it was pointed out that at one time, it was held in Ridge vs. Baldwin (1964 AC 40) that breach of principles of natural justice was in itself treated as prejudice and that no other 'defacto' prejudice needed to be proved. But, since then the rigour of the rule has been relaxed not only in England but also in our country. In S.L. Kapoor Vs. Jagmohan (1980 (4) SCC 379), Chinnappa Reddy, J. followed Ridge vs. Baldwin and set aside the order of supercession of the New Delhi Metropolitan Committee rejecting the argument that there was no prejudice though notice was not given. The proceedings were quashed on the ground of violation of principles of natural justice. But even in that case certain exceptions were laid down to which we shall presently refer.

23. Chinnappa Reddy, J. in S.L.Kapoor's case [(1980) 4 SCC 379], laid two exceptions (at p.395) namely, "if upon admitted or indisputable facts only one conclusion was possible", then in such a case, the principle that breach of natural justice was in itself prejudice, would not apply. In other words if no other conclusion was possible on admitted or indisputable facts, it is not necessary to quash the order which <https://www.mhc.tn.gov.in/judis> was passed in violation of natural justice. Of course, this being an exception, great care must be taken in applying this exception.

24. The principle that in addition to breach of natural justice, prejudice must also be proved has been developed in several cases. In K.L. Tripathi Vs. State Bank of India (1984(1) SCC 43), Sabyasachi Mukherji, J. (as he then was) also laid down the principle that not mere violation of natural justice but de facto prejudice (other than non-issue of notice) had to be proved. It was observed: quoting Wade Administrative Law, (5th Ed.PP.472-475) as follows: (para 31) "...it is not possible to lay down rigid rules as to when principles of natural justice are to apply, nor as their scope and extentThere must have been some real prejudice to the complainant; there is no such thing as a merely technical infringement of natural justice. The requirements of natural justice must depend on the facts and circumstances of the case, the nature of the inquiry, the rules under which the tribunal is acting, the subject matter to be dealt with and so forth".

Since then, this Court has consistently applied the principle of prejudice in several cases. The above ruling and various other rulings taking the same view have been exhaustively referred to in State Bank of Patiala Vs. S.K. Sharma (1996(3) SCC 364). In that case, the principle of 'prejudice' has

been further elaborated. The same principle has <https://www.mhc.tn.gov.in/judis> been reiterated again in *Rajendra Singh Vs. State of M.P.* (1996(5) SCC 460).

25.The 'useless formality' theory, it must be noted, is an exception. Apart from the class of cases of “admitted or indisputable facts leading only to one conclusion” referred to above,- there has been considerable debate of the application of that theory in other cases. The divergent views expressed in regard to this theory have been elaborately considered by this Court in *M.C. Mehta* referred to above. This Court surveyed the views expressed in various judgments in England by Lord Reid, Lord Wilberforce, Lord Woolf, Lord Bingham, Megarry, J. and Straughton L.J. etc. in various cases and also views expressed by leading writers like Profs. Garner, Craig, De. Smith, Wade, D.H. Clark etc. Some of them have said that orders passed in violation must always be quashed for otherwise the Court will be prejudging the issue. Some others have said, that there is no such absolute rule and prejudice must be shown. Yet, some others have applied via-media rules. We do not think it necessary, in this case to go deeper into these issues. In the ultimate analysis, it may depend on the facts of a particular case.”

222. The same position had been reiterated in 2006 (8) SCC 647 [*Punjab National Bank and Others*]:

“In an industrial dispute referred to by the Central Government which has an all-India implication, individual <https://www.mhc.tn.gov.in/judis> workman cannot be made parties to a reference. All of them are not expected to be heard. The Unions representing them were impleaded as parties. They were heard. Not only the said Unions were heard before the High Court, as noticed hereinbefore from a part of the judgment of the High Court, they had preferred appeals before this Court, Their contentions had been noticed by this Court. As the award was made in presence of the Unions, in our opinion, the contention of Respondents that the award was not binding on them cannot be accepted. The principles of natural justice were also not required to be complied with as the same would have been an empty formality. The court will not insist on compliance of the principles of natural justice in view of the binding nature of the award. Their application would be limited to a situation where the factual position or legal implication arising thereunder is disputed and not where it is not in dispute or cannot be disputed. If only one conclusion is possible, a writ would not issue only because there was a violation of the principles of natural justice.”

223. A Division Bench of this Court in a Judgement reported in 2006 4 LLN 358 [*Dr.C.Chendroyaperumal Vs. National Institute of Port Management*] had also expressed their views on this aspect.

“9. Coming to the legal aspects canvassed by the learned counsel for the appellant, it is seen that they revolve around violation of the principles of natural justice. Even at the outset, <https://www.mhc.tn.gov.in/judis> we are not impressed with the said argument, since in our opinion, “Principles of natural justice is for thoroughbred horses and not wild horses.” Wild horses

understand only the language of the whip and hence there is no use trying to tame them with persuasion. The principles of natural justice themselves have traversed a long way from the stage at which they were treated as a “tharaka manthra” or panacea for all diseases, to the present stage where the Courts have started looking at the credentials of the person using them as a shield or sword and accepting the fact that they are not indispensable.”

224. In AIR 2004 Supreme Court 2915 (Karnataka Rare Earth and another Vs. Senior Geologist Department of Mines and Geology and another), the Hon'ble Supreme Court had laid down the law for recovery of price of mineral under Section 21 (5) of the MMDR Act, 1957. It had been stated that the said recovery is to compensate the State for the loss of minerals caused by the person, held not eligible in law to raise the same.

225. In paragraph 2, it had been stated as follows:-

“2.The appellants before us were holding two quarry leases and were amongst the appellants in this Court in the appeals by special leave referred to hereinabove. On 19.11.1993, by an interim order, the Court directed that the renewals or existing grants in favour of the appellants would continue till the next date of hearing. On 21.11.1993, the Court <https://www.mhc.tn.gov.in/judis> modified the previous order by extending its operation -to continue till further orders of the Court-. The appellants brought to the notice of the Court that in spite of the previous interim order the appellants were not issued transport permits with the result that the renewal or grant of leases was of no avail to them as they were not able to remove the minerals quarried by them. In the opinion of the Court such action of the respondents resulted in frustrating the interim orders. It was clarified that the appellants in whose favour interim orders were granted, should be granted transport permits also by the appropriate authority on payment of royalty and complying with the rules. On 18.1.1996, the appeals came to be dismissed as already stated.”

226. The Hon'ble Supreme Court, rejecting the arguments that the compensation under Section 21 (5) of the MMDR Act, 1957, is a penalty, stated as follows:-

“7.In our opinion, the demand by the State of Karnataka of the price of the mineral cannot be said to be levy of penalty or a penal action. The marginal note of the Section ___ 'Penalties', creates a wrong impression. A reading of Section 21 shows that it deals with a variety of situations. Sub-Sections (1), (2), (4), (4A) and (6) are in the realm of criminal law. Sub-

Section (3) empowers the State Government or any authority authorized in this behalf to summarily evict a trespasser. Sub- Section (5) empowers the State Government to recover rent, <https://www.mhc.tn.gov.in/judis> royalty or tax from the person who has raised the mineral from any land without any lawful authority and also empowers the State Government to recover the price thereof where such mineral has already been disposed of inasmuch as the same would not be available for seizure and confiscation. The provision as to recovery of price is in the nature of

recovering the compensation and not penalty so also the power of the State Government to recover rent, royalty or tax in respect of any mineral raised without any lawful authority can also not be called a penal action. The underlying principle of sub-Section (5) is that a person acting without any lawful authority must not find himself placed in a position more advantageous than a person raising minerals with lawful authority.

.....

12. In sub-section (5) of Section 21 a penal enactment? Can the demand of mineral or its price thereunder be called a penal action or levy of penalty?

13. A penal statute or penal law is a law that defines an offence and prescribes its corresponding fine, penalty or punishment. (Blacks Law Dictionary, Seventh Edition, p.1421). Penalty is a liability composed as a punishment on the party committing the breach. The very use of the term 'penal' is suggestive of punishment and may also include any extraordinary liability to which the law subjects a wrong-doer in favour of the person wronged, not limited to the damages suffered. (See, The Law Lexicon, P. Ramanatha Aiyar, Second Edition, p.1431).

14. In support of the submission that the demand for the price of mineral raised and exported is in the nature of penalty, the learned counsel for the appellants has relied on the marginal note of Section 21 According to Justice G.P. Singh on Principles of Statutory Interpretation (Eighth Edition, 2001, at page147) though the opinion is not uniform but the weight of authority is in favour of the view that the marginal note appended to a Section cannot be used for construing the Section. There is no justification for restricting the Section by the marginal note nor does the marginal note control the meaning of the body of the Section if the language employed therein is clear and spells out its own meaning. In Director of Public Prosecutions Vs. Schildkamp, (1969) 3 All ER 1640, Lord Reid opined that a side note is a poor guide to the scope of a section for it can do no more than indicate the main subject with which the section deals and Lord Upjohn opined that a side note being a brief precis of the section forms a most unsure guide to the construction of the enacting section and very rarely it might throw some light on the intentions of Parliament just as a punctuation mark.

15. We are clearly of the opinion that the marginal note 'penalties' cannot be pressed into service for giving such colour to the meaning of sub-Section (5) as it cannot have in law. The recovery of price of the mineral is intended to compensate the State for the loss of the mineral owned by it and caused by a person who has been held to be not entitled in law to raise the same. There is no element of penalty involved and the recovery of price is not a penal action. It is just compensatory.”

227. The said judgment applies on all fours to the petitioners herein. The petitioners are bound to comply the demands raised in the impugned notices. As a matter of fact, the learned Additional Advocate General gave the details of the amounts calculated towards cost of mineral from Government undertakings for carrying out mining operations without Environment Clearance and it is seen that out of a total demand of Rs.1,26,06,67,922/-; from 24 lessees, the respondents had

collected a sum of Rs.1,55,98,04,576/- and there was a balance of Rs.8,63,346/-, alone due from Karur District. Out of the 24 lessees, 20 lessees have paid the demand in full.

228. The learned Additional Advocate General also gave the details of the amounts collected towards cost of minerals from the private lessees for carrying out mining operations without Environmental Clearance. It is seen that the total demand from 494 lessees was 2,03,56,56,506/- and a sum of Rs.2,86,80,369/- alone has been collected by the respondents and there was a balance of Rs.2,00,69,76,137/-. It is seen that the private lessees have defined the demands raised thought it is based on the judgment of the Hon'ble Supreme Court of India. I <https://www.mhc.tn.gov.in/judis> hold that the private lessees have to pay the amount demanded.

229. The learned counsel for the petitioners in W.P.No.2031 of 2020 stated that the said petitioner is carrying on operations in major mineral and therefore, the impugned notice should be interfered with. The learned counsel also stated that the quarry area is more than 5 hectares. The law of the land as stated by the Hon'ble Supreme Court of India applies to minor and major minerals. The law of the land as stated by the Hon'ble Supreme Court of India applies to lease area of less than 5 hectares and lease area of more than 5 hectares. On this one simple ground, the arguments are rejected. The learned counsel also put forth the arguments that the Authority of SEIAA was not functioning and therefore, they could not obtain Environment Clearance. The learned Additional Advocate General stated that for the period, when the Authority was not functioning, demands have not been raised. In the impugned notices the period has been stated. The amounts have been stated. These are based on records. A fact finding team or separate assessment is not required. The petitioner has to comply with the demand raised in the notice.

230. The learned counsels for the petitioners also questioned the impugned notices on the additional ground that the demand for payment of 100% cost of the mineral levied was for the period commencing from 15.01.2016. It was stated that this date termed as "Magic Date" could not be fixed as the <https://www.mhc.tn.gov.in/judis> commencement date. The dated ie., 15.01.2016 is referable to the notification of the Ministry of Environment, Forest and Climate Change, wherein, reference was drawn to the mandate directed in Deepak Kumar case (referred supra) that extension of lease or application of lease for mining miner minerals even in areas of less than 5 hectares, Environment Clearance is required. It was mentioned that amendments were made to the Environment Impact Assessment Notification, 2006 issued vide number S.O.1533(E), dated 14.09.2006, in exercise of the powers conferred by Sub-Section (1) and Clause (v) of Sub-Section (2) of Section 3 of the Environment (Protection) Act, 1986 r/w Clause (d) of Sub-Rule (3) of Rule (5) of the Environment (Protection) Rules, 1986.

231. In the notification, it had been stated that a draft notification for making certain amendments was published under Sub-Rule (3) of Rule (5) of the Environment (Protection) Rules, 1986, vide number S.O.2588(E), dated 22.09.2015, inviting objections and suggestions from all persons likely to be affected, within a period of 60 days from the date of publication on which copies of Gazette containing the said notification were made available to the public. If the petitioners were really interested, then they should have raise their objections at that time, when objections and suggestions were invited by the Ministry of Environment, Forest and Climate Change. To repeat, the

petitioners cannot claim ignorance or innocence.

<https://www.mhc.tn.gov.in/judis> They are in the business of mining minerals. They should be aware of the various notifications issued and the amendments carried out. They must be prepared to give their suggestions and objections. Having not done so, they cannot now cry foul of the stipulations imposed upon them.

232. In the notification, an amendment had been included to incorporate the procedure for application for prior Environment Clearance (EC). In the Appendix VII, the qualification and the terms for the experts in District Environmental Impact Assessment Authority and the District Level Expert Appraisal Committee had also been given. A proforma of the application for mining of miner minerals under category 'B2' for less than and equal to 5 hectares was also given. It must be mentioned that category 'B2' pertains to mining of minor minerals of lease area of less than or equal to 5 hectares. The notification is extremely detailed.

233. In Appendix IX, procedure for Environmental Clearance for mining of minor minerals including Cluster had been given. The burden had been shifted to the petitioners on 15.01.2016 itself to apply for Environment Clearance in the prescribed manner. Their claim that they can wait initially for a period of 180 days and finally for a period of 630 days, only shows that their intention was never to obtain Environment Clearance but to make profit by mining the minerals without any authority, illegally and to the detriment of the environment, <https://www.mhc.tn.gov.in/judis> without any care for the ecological impact. Such mining activities have to be prevented. If done, the lessees must, as rightly called upon by the District Collectors, pay compensation. The Hon'ble Supreme Court had directed that 100% compensation is leviable and payable. That direction has to be complied with. No question asked. No assurance given.

234. The notification has been questioned by the learned counsels for the petitioners on the further ground that the National Green Tribunal in the judgment in Satendra Pandey Vs. Ministry of Environment, Forest and Climate Change and another in O.A.No.186 of 2016, had stated that the notification dated 15.01.2016 was not consistent with the decision of the Hon'ble Supreme Court in the case of Deepak Kumar (referred supra). The National Green Tribunal actually expressed anguish that the notification was not strict enough as was expected. The National Green Tribunal did not find fault with the notification, insofar as conditions were imposed to obtain Environment Clearance, but only stated that the procedures laid down should be more stricter in nature. The arguments of the learned counsel that the date ie., 15.01.2016 is a magic date, are rejected by me. It is the date which very much existed in the calender. Therefore, I find no reason to accede to the arguments of the learned counsels for the petitioners.

235. For all the reasons stated above, I am not in agreement with the submissions made by any of the learned <https://www.mhc.tn.gov.in/judis> counsels for the petitioners.

236. As seen from the statistics provided by the learned Additional Advocate General, even though demand had been made to the lessees for a sum of Rs.203,56,56,506/- the petitioners had uniformly decided not to make any payment. Therefore, it would only be appropriate that a small pinprick is

imposed on the petitioners as costs, so that they should realize their responsibility in upholding the sanctity of the law as laid down by the Hon'ble Supreme Court of India and in maintaining the Ecology and Environment of the land from which they draw profit.

237. Accordingly, all the Writ Petitions are dismissed with cost of Rs.10,000/- each. The respective petitioners (including the petitioner in W.P.Nos.27812 & 27813 of 2019 and W.P.Nos.889 & 894 of 2020, who have to pay the costs twice over) are directed to pay the said costs of Rs.10,000/- to the credit of Chief Justice Relief Fund, on or before 31.07.2020. The Respective District Collectors are directed to ensure that the costs as directed by this Court is paid within the specified period to the Chief Justice Relief Fund, failing which, appropriate action may be initiated for recovery. Consequently, connected miscellaneous petitions are closed."

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4. The judgments, cited supra, had been followed by this Court in WP No.25722 of 2021 dated 23.12.2021. Thus the present writ petition stands dismissed in view of the judgments, cited supra. However, there shall be no order as to costs. Consequently, the connected miscellaneous petitions are also dismissed.

06-02-2024 Index : Yes/No Internet: Yes/No Speaking order/Non-Speaking order Neutral Citation : Yes/No Svn <https://www.mhc.tn.gov.in/judis> To The District Collector, Virudhunagar District, Virudhunagar.

<https://www.mhc.tn.gov.in/judis> S.M.SUBRAMANIAM, J.

Svn WP 3303 of 2021 06-02-2024 <https://www.mhc.tn.gov.in/judis>