

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.02.2019

CORAM:

THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

W.P. (MD) No. 557 of 2019

and

W.M.P. (MD) No. 1314 of 2019.

N. Pauldurai @ Perumal
President,

Beach Mineral Producers Association. Petitioner

Vs.

1. Union of India,
Represented by its Secretary
to the Government,
Ministry of Mines, Shastri Bhawan,
Dr. Rajendra Prasad Road, New Delhi - 110 001.

2. The Chief Controller of Mines,
Indian Bureau of Mines,
Ministry of Mines,
2nd Floor, Indira Bhawan, Civil Lines,
Nagpur - 440 001.

3. The Controller of Mines,
Indian Bureau of Mines,
29, Industrial Suburb,
II Street, Tumkur,
Yeshwantpuram,
Bangalore - 560 022.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, to direct the second respondent to consider the submissions of the members of the petitioner Association, by affording a personal hearing based on the representation given on 04.01.2019 and submit their report to the first respondent.

For Petitioner : Mr. V. Lakshmi Narayanan
for Mr. Kingsly Solomon
For R1 to R3 : Mr. V. Kathirvelu
Assistant Solicitor General
Assisted by Mr. S. Subbiah
Central Government Standing Counsel

Proposed R4 : Mr. N. Dilip Kumar

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ORDER

Heard the learned counsel appearing for the writ petitioner and the learned Assistant Solicitor General of India appearing for the respondents 1 to 3 and the learned counsel for the impleading petitioner.

2.The Chief Controller of Mines, Indian Bureau of Mines, issued an order dated 01.01.2019 constituting a Committee. In the said order, it was specifically mentioned that the Committee will enquire into all cases of mining leases operated by private mining lessees in the State of Tamil Nadu for the period from 2010 and onwards. The Committee was directed to submit its report within 30 days from the date of issue of the notice to the Ministry of Mines. The writ petitioner who is the President of Beach Mineral Producers Association has filed this writ petition for directing the second respondent to consider their submissions by affording a personal hearing and thereafter submit a report to the first respondent.

3.In this writ petition, one D.Dhaya Devadas wants to implead himself. When the matter was taken up for disposal, the learned counsel appearing for the proposed respondent submitted that this writ petition should have been filed before the Division Bench and that the matter should have been heard by the Special Bench that is hearing W.P.No.1592 of 2015 and etc., batch. It is being heard as *suo motu* Public Interest Litigation petition.

4.The learned counsel for the writ petitioner would point out that the Committee in question was not constituted pursuant to the direction of the Honourable Special Bench of this Court. He would further submit that the impleading respondent set up one Dr.Victor Rajamanickam to file W.P.No.1592 of 2015 and that he was strongly censured by the Hon'ble Special Bench. However, the learned Counsel for the impleading proposed respondent would deny that Dr.Victor Rajamanickam was his agent. The learned Counsel for the writ petitioner wants that they should be heard by the Chief Controller of Mining before the submission of the report to the first respondent.

5.The learned Assistant Solicitor General of India appearing for the official respondents based on written instructions submitted that the enquiry report had already been submitted to the Chief Controller of Mining on 08.02.2019 and that the matter has become infructuous.

6.A mere look at the order dated 01.01.2019 would reveal two aspects. The report is to be made ready only by the Committee constituted by the second respondent and that the second respondent would only forward the report to the Ministry. In other words, the second respondent will only forward the report already made ready by the Committee. Therefore, I am of the view that this writ petition has in fact become infructuous. I refrain from

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going into the other controversies in this writ petition. But then, there is another aspect that is to be taken note of. It is emphasized by the learned Assistant Solicitor General of India that the scope of the Committee is only to enquire into the roles and responsibility of the officers of Indian Bureau of Mining and therefore as such the rights of the members of the writ petitioner association would not be infringed in any manner.

7. This Court makes it clear that if on the strength of the said report action is to be taken against the members of the petitioner association, this will have to be necessarily heard. In fact, the Hon'ble High Court of Kerala in W.P.(C)No.17432 of 2014 (C), had made an identical observation. The writ petitioner should be given an opportunity of personal hearing or raise an objection to any finding of facts set out in the enquiry report. It is made clear that no action shall be taken based on the said report without hearing the parties concerned. Of course, this observation or direction is made only to secure consonance with the principles of natural justice and no exception can be taken to such direction.

8. In this view of the matter, the writ petition is closed and the impleading petition is also closed. It is made further clear that the observation or direction made in this writ petition is only for the benefit of the members of the writ petitioner association and it cannot be taken advantage by any official whose conduct has been found fault with. No costs.

Sd/-

Assistant Registrar (T & P)

// True Copy //

P. Law Chinnian
Sub Assistant Registrar (CS)
12-13-19

+1CC TO MR.N.DILIP KUMAR, Advocate Sr. No.46183
+2CC TO MR.P.SUBBIAH, Advocate Sr. No.46061
+1CC TO MR.KINGSLY SOLOMON, Advocate Sr. No. 46041

TR (12.03.2019) 3P 5C

W.P. (MD) No. 557 of 2019
11.02.2019

C 1022615

MADRAS HIGH COURT
MADRAS BENCH

S. R. No. 460 of 2019

Carbon Copy Application
made 13.03.2019

Application Returned.....2019

Application Represented.....2019

Copy made ready 13.03.2019

Copy delivered 13.03.2019

[Signature]
13.03.19
Section Officer
C. C. Section