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SLP(C)No. 13564 OF 1998
ITEM No.5

Court No. 3

SECTION XII
A/N MATTER

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (Civil) No.13564/1998

(From the judgement and order dated 27/04/1998 in WP 5876/98
of The HIGH COURT OF JUDICATURE AT MADRAS)

TAMILNADU BLDG.MATERIAL MFRS.&TPT.ASOCN.

Petitioner (s)

VERSUS

STATE OF T.N. & ORS.

Respondent (s)

(With prayer for interim relief and office report)
(With Appln(s). for impleading party and directions)
(For Final Disposal)
With

W.P(C)No.257/1999
[Siruthozil E.K. Jelly U. Nala Sangam]
(With appln. for directions)

Date : 25/09/2001 These Petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE B.N. KIRPAL
HON'BLE MR. JUSTICE N. SANTOSH HEGDE
HON'BLE MR. JUSTICE P. VENKATARAMA REDDI

For Petitioner (s) Mr. M.L. Verma, Sr. Adv.
in SLP 13564 Mr. K. Ramakrishna Reddy, Adv.
Mr. K.K. Mani, Adv.

in WP 257 Mr. K.V. Viswanathan, Adv.
Mr. Kunwar Ajit Mohan Singh, Adv.
Mr. Atul Kumar Sinha, Adv.
Mr. K.V. Venkataraman, Adv.

For Respondent (s) Mr. Ranjit Kumar, Sr. Adv.
State of TN in SLP Mr. V. Balaji, Adv.
and W.P. Mr. P.N. Ramalingam, Adv.

For TNPCB Mr. V.G. Pragasam, Adv.

For Intervenor/
Respondent Mr. S. Sivasubramaniam, Sr. Adv.
Mr. R. Nedumaran, Adv.

UPON hearing counsel the Court made the following
O R D E R

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SLP(C) 13564/1998@@
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Leave granted.

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The appeal is disposed of.
Impleadment application is dismissed.

W.P.(C) 257/99@@
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The Writ Petition is dismissed as withdrawn.

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Kalyani. (S.L. GOYAL)@@
AA
COURT MASTER @@
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(Signed Order is placed on the file.)

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IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 6742 OF 2001@@
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(Arising out of S.L.P.(C) 13564 of 1998)

Tamil Nadu Bldg. Material Mfrs. & Tpt. Asocn. ..Appellant

Versus

State of T.N. & Ors. ..Respondents

WITH
W.P.(C) No. 257 of 1999@@
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Siruthozil E.K. Jelly U. Nala Sangam ..Petitioner

Versus

State of T.N. & Ors. ..Respondents

O R D E R@@
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Civil Appeal No. 6742 of 2001@@
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[arising out of SLP(C) No. 13564/1998]

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Special leave granted.
With the passage of time and in view of the amendments made in the provisions of the Tamil Nadu Minor Minerals Concession Rules, 1959, this appeal has really become infructuous.
The appellants had filed a writ petition in the High Court of Madras in relation to a Rule under the Tamil Nadu Minor Minerals Concession Rules which had

stipulated a distance from habitation within which quarrying operations could not be carried out. The writ petition was dismissed by the High Court. It was contended in appeal here that the distance of 500 metres which was stipulated under the said Rules was not correct.2/-

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By an order dated 22nd February, 1999, it was observed that a question which had come up for consideration was as to what should be done where stone crushing unit or quarry is established and there is no habitation around it at that time, but people come and start residing in the vicinity thereafter. By another order dated 8th August, 2000, the applicability of the decision of this Court in Kennedy Valley Welfare@@
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Association Vs. Ceylon Repatriates Labourers Welfare@@
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Service Society & Others was clarified. It was observed@@
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that the decision in Kennedy Valley's case in Civil Appeal@@
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No. 10732 of 1995 decided on 25th April, 1996 was rendered when there was only one Expert Committee Report, but now another Expert Committee Report having been received by the State Government, it was not bound by the observations of this Court in Kennedy Valley's case. In other words, on the basis of the reports received by it, it was for the State Government to decide what would be the appropriate distance, to be stipulated in the Rules, between the habitation and the quarrying of stone.

In an affidavit which has been filed by the State of Tamil Nadu dated 17th August, 2001 with regard to the clarification sought by this Court, it has been stated as follows:

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Clarification sought for by Views of the Government
Supreme Court

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1. Whether decision being made by the State Government would be prospective in its nature and whether it will apply to existing quarries and crushers and if so, to what extent? The decision taken by the Government will be applicable from the date of order with a saving clause to protect the existing quarries till the expiry of lease period. However, pollution control measures (i.e. Dust Control Measures) will apply to both new as well as existing units

2. Whether licenses granted for crusher units or lease granted for quarry would be cancelled, if they are within the prohibited distance as per policy that may be made or whether they would apply to The licences already granted for the quarries will not be cancelled as the new policy will be given effect from the date of order. It will be enforced from the date of the expiry of the existing lease

only fresh licences/leases.

period. It will apply to all licences from the date of order.

3. Whether licences earlier granted and not within the prohibited distance as per new policy that may be made would be required to comply with other conditions in regard to Pollution Control Measures, etc.

The licences earlier granted and not within the prohibited distance as per new policy that may be made would necessarily be required to comply with other conditions in regard to Pollution Control Measures.

4. What is the normal duration of license for quarrying/crusher.

The quarry lease in respect of virgin stone quarries is ten years whereas the normal period of other stone quarries is five years.

5. The policy that may be brought into effect based on a decision on the recommendations of the Expert Committee would in any event

As there is no provision of renewal of stone quarry leases, the question of considering the renewal on the basis of rules existing

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be relevant and would be taken into consideration and applied while the question of renewal of an existing license comes up for consideration and renewal cannot be on the basis of rules existing at the time of original grant.

at the time of original grant does not arise.

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From the aforesaid affidavit, it is clear that the rights of the subsisting licensees are protected and if renewal of lease is sought then, of course, the lessee will have to comply with the rules then prevalent. In this affidavit, it has also been stated that an Expert Committee had been constituted by the Government of Tamil Nadu which had submitted its report and on the basis thereof the following decision has been taken:

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(a) No lease shall be granted within 300 metres (Three hundred metres) from any inhabited site.

(b) In respect of blasting operation, the lessees should strictly comply with the provisions laid down in Rule 164 of Metalliferous Mines Regulations, 1961. The lessees whose quarry lie within a radius of 100 metres and 300 metres from the inhabited site shall undertake blasting operations only after getting permission

from Director of Mines Safety, Oorgaam as required under Rule 164 of Metalliferous Mines Regulations, 1961 read with the Mines Act, 1952(Central Act 35 of 1952).

(c) No new layout, building plans falling within 300 mts. from any quarry should be given approval by any agency unless prior clearance of Director of Geology and Mining is osbtained.

(d) The dust emissions are from the quarrying operations by drilling, blasting and fugitive
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emissions from hauling of trucks. Hence, the following methodology has to be adopted in respect of the particulate emission sources and typical control measures for rock quarrying operations.

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OPERATIONAL SOURCES METHODOLOGY TO BE ADOPTED
FOR CONTROLLING THE DUST
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- 1. Drilling Liquid injection (water or water with a wetting agent) of capturing and venting emissions to a control device.
2. Blasting Adoption of good blasting practices
3. Loading(at Mines) Water wetting
4. Transport Watering treatment with surface agents, soil stabilisation on paving.

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Mr. Ranjit Kumar, the learned senior counsel appearing for the State of Tamil Nadu states that because of the pendency of this case the Rules have not so far been amended even though the Government of Tamil Nadu has taken the aforesaid decision on the basis of the Report of the Expert Committee. He submits that after the disposal of this appeal, necessary amendments to incorporate the aforesaid decision of the State of Tamil Nadu would be made.

By a notification which came into operation with effect from 1.4.99, amendment has been made in the Tamil Nadu Minor Minerals Concession Rules, 1959. This has
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provided that there shall be no quarrying of stone within a radial distance of 500 metres from any inhabited site. The expression, "inhabited site" has been defined in the said

notification as follows:

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"inhabited site" shall mean a village site or town site or a house site as referred to in the revenue records or a house site or layout approved by a Local Body or Town or Country or Metropolitan Planning Authority, where the said Body or Authority is created under a statute and empowered to approve such an area as a house site or layout area."

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It is clear from the aforesaid that any unauthorised habitation or construction shall not come in the way of the grant of quarrying lease or renewal thereof. The inhabited site shall obviously mean the site as defined in the said Rules after its amendment with effect from 1.4.99 and, therefore, the apprehension of the appellants that they may be deprived of grant or renewal of lease because of unauthorised habitation taking place does not now arise.

With the aforesaid observations, this appeal is disposed of.

Impleadment application is dismissed.

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W.P.(C) 257/1999@@
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The Writ Petition is dismissed as withdrawn with liberty to the petitioner to take recourse to such other action including the filing of a writ petition in the High Court as may be available to it in accordance with law.

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.....J.
(B.N. KIRPAL)

.....J.
(N. SANTOSH HEGDE)

.....J
(P. VENKATARAMA REDDI)

New Delhi
September 25, 2001.