

# Dalmia Bharat Sugar and Industries Limited

[ Formerly : Dalmia cement (Bharat) Limited ]  
SALEM - 636 012 TAMILNADU

To,  
The Director, IA Division (Non-Coal Mining)  
Ministry of Environment, Forest & Climate Change,  
Indira Paryavaran Bhawan,  
Jor Bagh Road, New Delhi- 110003.

SL:MM:26150  
Date: 19/02/2024

Dear Sir,

**Sub:** Chettichavadi Jaghir Magnesite and Dunite Mine of M/s. Dalmia Bharat Sugar and Industries Limited for Total Excavation of 1.4 million Tonne per annum (MTPA)/ [including 0.061 million tons of Magnesite, 0.12 million tons of Dunite, Waste, O.B, Inter Burden, Top Soil etc.] in the mine lease area of 449.364 ha, located at Chettichavadi Village, Salem Taluk, Salem District, Tamil Nadu - [File No: 23-227/2018-IA.III(V), Proposal No: IA/TN/MIN/241375/2018,- **submission of reply for Additional Details Sought- reg.**

**Ref:**

1. EC Proposal No: IA/TN/MIN/241375/2018; File No. 23-227/2018-IA.III(V).
2. Minutes of 20<sup>th</sup> EAC Meeting held on 22.09.2023.(Agenda Item No. 2.3).

Our subject Proposal cited under **Ref.No-1** was appraised for grant of Environmental Clearance (Violation category) in the EAC (Non-Coal Mining) Meeting cited under **Ref.No-2**. Hon'ble EAC deliberated on our proposal and it was deferred for want of additional detail as mentioned hereinbelow. With reference to the same we are hereunder submitting the additional details desired by Hon'ble Committee for further consideration.

S.no	Additional Details Sought (ADS)	Our Submissions
i.	The EAC asked the Project Proponent to submit the proof of payment of Rs. 18.69 crore as per Dept. of Geology and Mining, Guindy letter dated 09.12.2022 for further consideration of the instant proposal before the EAC.	<p>The said demands were being contested by the company before Hon'ble High Court of Madras in W.A.834 of 2020 (w.r.t to Rs.11.44 Crore demand) and W.P.32057 of 2023 (w.r.t to Rs.7.24 Crore demand). In this context, we are herewith submitting order of the Honorable Madras High Court dated 15.02.2024 in respect of W.A.834 of 2020 (w.r.t to Rs.11.44 Crore demand) and W.P.32057 of 2023 (w.r.t to Rs.7.24 Crore demand) heard along with W.A.671 and batch. (Copy of Judgement Enclosed).</p> <p>The operative portion of the said Order reads as under</p> <p><i>"(i) The impugned order passed by the learned Single Judge at the Principal Seat is quashed and set aside;</i></p> <p><i>(ii) The impugned orders/memos imposing 100% penalty/cost upon the appellants/petitioners shall be construed as show-cause notices;</i></p> <p><i>(iii) The appellants/petitioners shall file reply to the said show-cause notices, along with all the relevant documents on which they rely, within a period of four weeks from today; and</i></p> <p><i>(iv) The authority shall consider the reply filed by the appellants/petitioners individually and pass fresh orders with regard to imposing of penalty/cost or otherwise."</i></p>

The above aforesaid demands which were earlier imposed on us without opportunity of hearing have now been quashed. The aforesaid demands have now been kept in abeyance till the concerned State authorities pass fresh orders for payment of such demands upon submission of reply by us. Further we have already furnished our affidavit to pay the aforesaid demands once it is finally confirmed.

We would therefore most humbly request your goodself to process our application for issuance of the Environmental Clearance as early as possible.

Thanking You.

**Yours Faithfully,  
For M/s. Dalmia Bharat Sugar and Industries Ltd,**

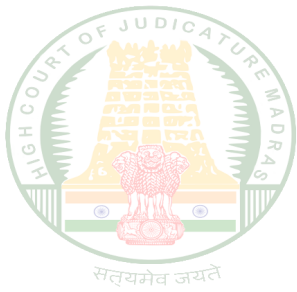


*[Handwritten Signature]*  
19.2.2024  
**P.G. KALIDASS,  
(Authorized Signatory).**

P. G. KALIDASS,  
AGENT & MINES MANAGER,  
CHETTICHAVADI JAGHIR MINES,  
DALMIA BHARAT SUGAR AND INDUSTRIES LTD.,  
C/o. DALMIA MAGNESITE CORPORATION,  
SALEM-636 012.

Encl:

Annexure-1: Honourable Madras High Court Judgement dated 15.02.2024.



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*W.A.No.671 of 2020 & etc. batch*

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.02.2024

CORAM :

THE HON'BLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

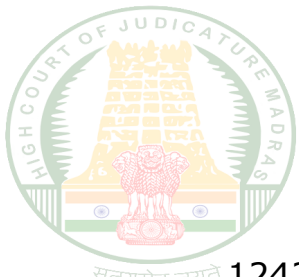
W.A.Nos.671, 673, 840, 849, 850, 845, 847, 848,  
852, 853, 854, 856, 857, 843, 844, 851, & 834 of 2020,  
58, 69, 85, 102, 106, 90, 92, 98, 86, 93, 97, 99, 94, 105, 100,  
111, 114, 113, 116, 120, 118, 123, 127, 121, 124, 135, 137, 129,  
138, 126, 130, 134, 136, 140, 142, 150, 152, 156, 146, 148, 149,  
151, 172, 176, 179, 174, 175, 272, 345, 284, 292, 310, 287, 275,  
293, 294, 288, 297, 264, 265, 296, 359, 455, 685, 918, 986, 988,  
989, 1189, 1209, 1328, 1334, 1351, 1354, 1367,  
1330, 1345, 1377, 1379 & 1382 of 2021,  
367, 374, 377, 376, 373, 512, 520, 525, 990, 997, 544, 551, 555,  
582, 675, 688, 709, 711, 1091, 1109, 1112, 1115, 1117, 1129,  
1130, 1104, 1105, 1298, 1605, 1606, 1704, 1910, 1956, 1954,  
686, 694, 705, 706, 797, 802, 877, 879, 882,  
291, 297, 341, 342 & 1431 of 2022  
and 1306 of 2023

&

W.P.Nos.31399 of 2018, 1333, 14390, 14412, 14413 of 2020,  
23275 of 2022 and 24968, 24976, 34526, 25623 & 32057 of 2023

&

W.P.(MD) Nos.24463 & 24464 of 2018, 19607, 19613, 19614,  
19617, 19619, 19610, 19609, 19620, 20203, 20204, 20205,  
20206, 20698, 20702, 20706, 20709, 20710, 20712, 20713,  
20714, 20719, 20727, 20728, 20730, 20968, 20972, 20973,  
20970, 21812, 21812, 21819, 21816, 21815, 22220, 22227,  
23050, 23051, 23178, 23599, 24776, 25094, 19613, 19619,  
19620, 22237, 20966, 22241 & 22247 of 2019, 335, 393,  
395, 397, 2175, 3709, 4307, 4686, 7820, 7951, 8638, 9232,



W.A.No.671 of 2020 & etc. batch

12426, 12431, 13728, 14533, 14539, 14535, 1149, 9868, 10104,  
10105, 10112, 10124, 10132 & 834 of 2020, 8559, 11232, 356,  
8664, 16350, 10587, 10591 & 10590 of 2021  
and 15339 & 15340 of 2022

[W.A.No.671 of 2020]

M/s.Sakthi Mining Company  
Rep. by its Proprietor, R.Palanaisamy  
No.202, Sengodampalayam  
O. Rajapalayam Post, Tiruchengode Taluk  
Namakkal District.

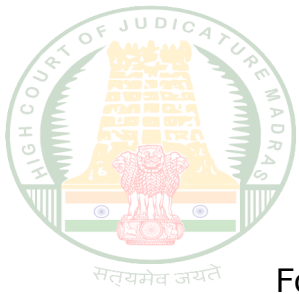
.. Appellant

Vs.

1. The Secretary to Government  
Industries Department  
Government of Tamil Nadu  
Secretariat, Fort St. George  
Chennai – 600 009.
2. The Commissioner of Geology & Mining  
Guindy, Chennai – 600 032.
3. The District Collector  
Namakkal, Namakkal District.
4. The Assistant Director of Geology & Mining  
Geology & Mining Department  
Namakkal, Namakkal District.

.. Respondents

Prayer in W.A.No.671 of 2020: Appeal filed under Clause 15 of the  
Letters Patent against the order dated 12.06.2020 made in  
W.P.No.30484 of 2019.



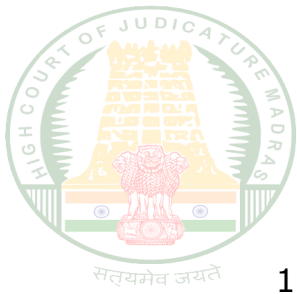
W.A.No.671 of 2020 & etc. batch

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For the Appellant(s) / : Mr.S.Senthil  
Petitioner(s) in  
W.A.Nos.671 & 673 of  
2020 and  
W.P.(MD) Nos.20203,  
20204, 20205, 20206,  
22227, 20979, 20995,  
25094 & 22220 of 2019

For the Appellant(s) / : Mr.Sathish Parasaran  
Petitioner(s) in  
W.A.No.834 of 2020 &  
W.P.No.32057 of 2023  
Senior Counsel  
for Mr.T.Poornam &  
Mr.V.S.Rishwanth

For the Appellant(s) / : Mr.G.Masilamani  
Petitioner(s) in  
W.A.Nos.840, 851, 848,  
857, 854, 853, 845, 849,  
856, 852, 850, 843, 844 &  
847 of 2020,  
126, 130, 140, 134, 136,  
156, 367, 373, 377, 374,  
376, 512, 997, 525, 520,  
990, 551, 582, 555 & 675  
of 2021,  
341, 342, 1091, 1115,  
1109, 1112, 1117, 1129  
& 1130 of 2022  
& W.P.(MD) Nos.22247,  
23050, 23051, 22237,  
22231, 20966, 20968,  
20970, 20972 &  
20973 of 2019,  
9868, 10104, 10105,  
10223, 10124, 10132,  
356, 12426 &  
12431 of 2020,  
16350, 10587, 10590,  
10591, 11232, 15339,



W.A.No.671 of 2020 & etc. batch

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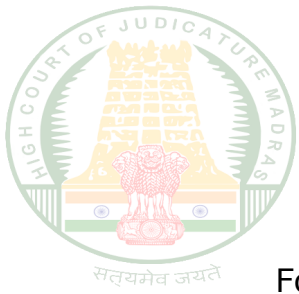
15340 & 23050 of 2022  
and 16350 of 2021

For the Appellant(s) in : Mr.M.Muthappan  
W.A.Nos.69 & 359 of 2021

For the Appellant(s) / : Mr.Satish Parasaran  
Petitioner(s) in Senior Counsel  
W.A.Nos.85, 92, 90, 98, for Mr.K.Ramakrishna Reddy  
102, 106, 86, 93, 97,  
9994, 105, 100, 111, 114,  
113, 116, 127, 120, 123,  
118, 121, 129, 138, 135,  
137, 124, 142, 150, 152,  
156, 146, 149, 148, 151,  
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272, 292, 345, 284, 310,  
287, 275, 293, 288, 294,  
264, 296, 265, 986, 988,  
1189, 1209, 1377, 1379,  
1381 of 2021, 1104, 1105  
& 1298 of 2022,  
W.P.(MD)Nos.24463 &  
24464 of 2018 and 2175,  
14533, 14535 &  
14539 of 2020

For the Appellants/Petitioners in the : Mr.V.P.Sengottuvel  
W.A.Nos.1328, 1345, Senior Counsel  
1367, 1351, 1330, 1334 for Mr.A.Akshay Kumar  
of 2021, 13343 of 2020,  
W.P.(MD) No.24476 of  
2019

For the Appellant(s) / : Mr.A.Rahul  
Petitioner(s) in for Mr.K.R.Krishnan  
W.A.Nos.58 & 455 of 2021  
and W.P.Nos.14412  
& 14413 of 2020



W.A.No.671 of 2020 & etc. batch

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For the Appellant(s) in : Mr.P.R.Raman  
W.A.No.688, 711 & 709 of Senior Counsel  
2022 for Mr.Ashwin Premsundar

For the Appellant(s) in : Mr.S.Ambigabathi  
W.A.No.918 of 2021

For the Appellant(s) in : Mr.V.Elangovan  
W.A.Nos.1605, 1606  
& 1704 of 2022

For the Appellant(s) in : Mr.R.Vinoth Kumar  
W.A.Nos.291 &  
297 of 2022

For the Appellant(s) in : Ms.Selvi George  
W.A.Nos.544, 1910, 1956  
& 1954 of 2022

For the Appellant(s) in : Mr.T.Ramesh  
W.A.No.1261 of 2023

For the Appellant(s) in : Mr.V.Ramamurthy  
W.A.No.1306 of 2023

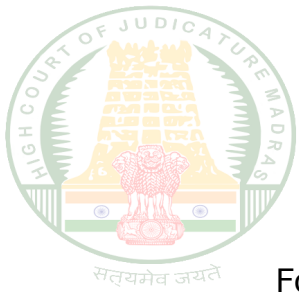
For the Appellant(s) / : Mr.Parthasarathy  
Petitioner(s) in Senior Counsel  
W.A.No.685 of 2021 and for Mr.Rahul Balaji  
W.P.No.31399 of 2018

For the Petitioner(s) in : Mr.K.Balakrishnan  
W.P.No.14390 of 2020

For the Petitioner(s) in : Mr.Sathish Parasaran  
**W.P.No.32057 of 2023** Senior Counsel  
for Mr.M.T.Poornam

For the Petitioner(s) in : Mr.J.Anandkumar  
W.P.(MD)Nos.19607,  
19613, 19619, 19620,  
19614, 19617, 19609  
& 19610 of 2019





W.A.No.671 of 2020 & etc. batch

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For the Petitioner(s) in : Mr.Sricharan Rangarajan  
W.P.(MD) Nos.20698, Senior Counsel  
20702, 20706, 20709, for Mr.C.Jeganathan &  
20710, 20712, 20713, Mr.Ramsundar Vijay  
20727, 20728, 20730, for M/s.Veera Associates  
20719, 20714 of 2019 and  
7820 & 9232 of 2020

For the Petitioner(s) in : Mr.C.Jegannathan  
W.P.(MD)Nos.21812,  
21819, 21816, 21815 &  
23178 of 2019

For the Petitioner(s) in : Mr.Kingston Jerold  
W.P.(MD)No.23599 of  
2019

For the Petitioner(s) in : Mr.Thirunavukkarasu  
W.P.(MD)No.335 of 2020

For the Petitioner(s) in : Mr.G.Mahadevan  
W.P.(MD)Nos.393, 395,  
397 & 4686 of 2020

For the Petitioner(s) in : Mr.K.Muthuganesa Pandian  
W.P.(MD)No.3709 of 2020

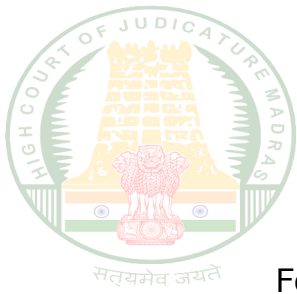
For the Petitioner(s) in : Mr.R.J.Karthick  
W.P.(MD) No.4307 of  
2020

For the Petitioner(s) in : Mr.M.Kannan  
W.P.(MD)No.7951 of 2020

For the Petitioner(s) in : Mr.P.Subburaj  
W.P.(MD)No.8638 of 2020

For the Petitioner(s) in : Mr.A.Anbalakan  
W.P.(MD) No.13728 of  
2020

For the Petitioner(s) in : Mr.K.Saravanan  
W.P.(MD)Nos.8559 &  
8664 of 2021



W.A.No.671 of 2020 & etc. batch

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- For the Petitioner(s) in : Mr.V.Veerapandian  
W.P.(MD)No.1149 of 2020 for M/s.Vast Law Associates
- For the Appellant(s) in : Mr.Srinath Sridevan  
W.A.Nos.686, 694, 705, Senior Counsel  
706, 797, 802, 877, 879 & for Mr.G.Vasudevan  
882 of 2022
- For the Appellant(s) in : Mr.K.Harishankar  
W.A.Nos.1431 &  
1438 of 2022
- For the Respondent(s) in : Mr.P.S.Raman  
all W.As and W.Ps Senior Counsel  
assisted by Mr.B.Vijay  
Additional Government Pleader  
for the State
- Mr.AR.L.Sundaresan  
Additional Solicitor General  
assisted by Mr.V.Chandrasekaran  
Senior Panel Counsel for SEIAA
- For the Respondent(s) in : Mr.AR.L.Sundaresan  
W.A.No.834 of 2020 Additional Solicitor General  
assisted by Mr.K.Srinivasamurthy  
SPCGC for R3
- For the Respondent(s) in : Mr.AR.L.Sundaresan  
W.P.(MD) Nos.19607, Additional Solicitor General  
19609 & 19610 of 2019, assisted by Mr.K.Srinivasamurthy  
4686 of 2020 and SPCGC for R2  
W.A.No.834 of 2020
- For the Respondent(s) in : Mr.AR.L.Sundaresan  
W.A.Nos.686, 797, 877, Additional Solicitor General  
879 & 882 of 2022 assisted by Mr.T.L.Thirumalaisamy  
CGC for R1
- For the Respondent(s) in : Mr.AR.L.Sundaresan  
W.P.No.31399 of 2018 Additional Solicitor General  
assisted by Mr.Venkatasamy



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W.A.No.671 of 2020 & etc. batch

Babu  
CGC for R1

For the Respondent(s) in : Mr.AR.L.Sundaresan  
**W.P.No.32057 of 2023** Additional Solicitor General  
assisted by Mr.A.Kumaraguru  
SCGC for R3

COMMON JUDGMENT  
(Delivered by the Hon'ble Chief Justice)

The present appeals are directed against the common judgment and order passed by the learned Single Judge, thereby, dismissing the writ petitions filed by the petitioners/present appellants.

2. The petitioners instituted writ petitions, challenging the memos/orders issued by the District Collector, directing the petitioners to pay 100% cost of the mineral lifted for the period from 15.01.2016 to 10.01.2017 towards the cost of mineral. The penalty/cost was premised at 100% of the price of the mineral lifted on the ground that the petitioners operated mines without obtaining prior Environmental Clearance [in short, "EC"] from the Ministry of Environment and Forest, Government of India.



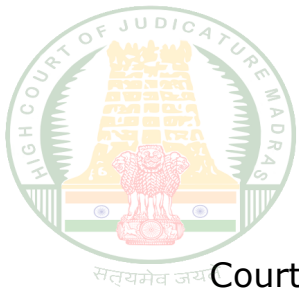
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W.A.No.671 of 2020 & etc. batch

3. The learned Single Judge at Madurai Bench of Madras High Court had decided to allow the writ petitions on the ground that the principles of natural justice are not followed, however, as the learned Single Judge at the Principal Seat had taken a different view, had referred the matters. All these appeals are filed against the common judgment delivered by the learned Single Judge at the Principal Seat. They are based on similar set of facts and involve common question of law, hitherto, are decided by the common judgment.

4. The learned Single Judge at the Principal Seat concluded that the petitioners continued with the mining operations from 15.01.2016 to 10.01.2017 without obtaining EC. The authority was justified in imposing penalty and/or recovering the 100% cost of the mineral lifted during the said period. The learned Single Judge came to the conclusion that the principles of natural justice cannot be extended for complying with the directions of the Hon'ble Supreme



W.A.No.671 of 2020 & etc. batch

Court of India.

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5. The learned Single Judge referred to the judgment of the Apex Court in the case of **Common Cause vs. Union of India & Ors.**<sup>1</sup> and observed that the Apex Court held that if mining activities are continued without obtaining EC, then 100% compensation is leviable. The law declared by the Apex Court is binding on all the courts of the Country.

6. The learned Single Judge also held that issuing a show-cause notice will only be an empty formality. EC cannot be granted, if applied, as the appellants/petitioners failed to submit the mining plans. The appellants/petitioners cannot complain about non-issuance of prior notice. The authorities would naturally follow the mandate of the Hon'ble Supreme Court of India in the case of **Deepak Kumar & Ors. vs. State of Haryana & Ors.**<sup>2</sup> and the **Common Cause** case (*supra*).

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1 (2017) 9 SCC 499

2 CDJ 2012 SC 175



W.A.No.671 of 2020 & etc. batch

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7. We have heard the respective learned Senior Advocates/learned advocates appearing for the respective appellants/petitioners, Mr.P.S.Raman, learned Senior Advocate/Special Advocate, as he then was appearing for the respondent State and Mr.AR.L.Sundaresan, learned Additional Solicitor General of India, appearing for the State Level Environment Impact Assessment Authority and the Union of India.

8. Learned Senior Advocates/learned advocates for the respective parties were directed to first make their submissions on whether the principles of natural justice are required to be applied and the show-cause notice was required to be issued.

9.1. It is submitted by learned Senior Advocates/learned advocates appearing for the appellants/petitioners that Section 21(5) of the Mines and Minerals (Development and Regulation) Act, 1957 [hereinafter referred as "the Act of 1957"], no doubt, does not expressly provide for a show-cause notice/prior hearing, nor are there any Rules framed for this purpose, but the said Section does



W.A.No.671 of 2020 & etc. batch

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not exclude, expressly or impliedly, the applicability of the principles of natural justice in the form of prior hearings. This contention is supported by placing reliance on the judgments of the Apex Court in the cases of **CB Gautam vs. Union of India & Ors.**<sup>3</sup> and **Manohar vs. State of Maharashtra**<sup>4</sup>.

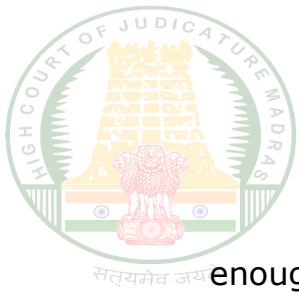
9.2. It is further submitted by the appellants/petitioners that the levy of penalty/cost, especially at a hefty rate of 100%, without issuance of a prior show-cause notice, in the absence of a specific law enabling the penalty, is alien to the Indian legal jurisprudence. It is stated that without prejudice to the objections to the applicability of Section 21 of the Act of 1957, Section 21 does not mandate imposition of penalty without a prior show-cause notice.

9.3. It is also a settled position of law that even where the law is silent on affording opportunity of hearing, the courts are obliged to read the requirements of observing the principles of natural justice into statutory provisions. A breach of the principles natural justice is

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3 (1993) 1 SCC 78

4 (2012) 13 SCC 14



W.A.No.671 of 2020 & etc. batch

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enough to interfere with the orders of the authority and *de facto* prejudice is not required to be shown. To buttress the above aspect, reliance is placed on the decisions of the Apex Court in the cases of ***Swami Devi Dayal Hospital & Dental College vs. Union of India***<sup>5</sup> and ***Dharmpal Satyapal Anand Vs. CCE***<sup>6</sup>.

9.4. It is further contended by the appellants/petitioners that Rule 42(iv) of the Tamil Nadu Minor Mineral Concession Rules, 1959 [for brevity, "the Rules of 1959"], which provides for cancellation of mining lease in the event of failure to submit EC, mandates not only an opportunity of hearing, but a personal hearing ought to have been afforded.

9.5. It is further submitted that under the Acts and Rules, they are not at all liable to pay the penalty and there was no necessity of obtaining EC.

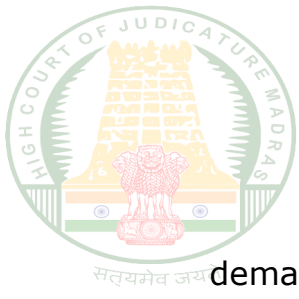
10.1. *Per contra*, it is the stand of the respondent State that the

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5 (2014) 13 SCC 506

6 (2015) 8 SCC 519





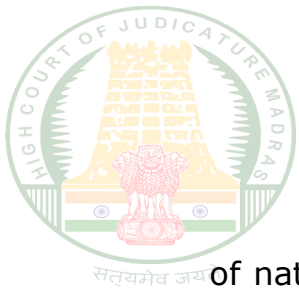
W.A.No.671 of 2020 & etc. batch

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demand made by the District Collector, towards recovery cost of minerals was based on the judgment of the Apex Court dated 02.08.2017 in the case of **Common Cause** (*supra*) and the instructions issued by the Ministry of Environment, Forest and Climate Change, Government of India in their office Memorandum dated 03.04.2017 and 30.05.2018, while so, the reply of the appellants/petitioners would not change any facts and outcome of the decision and since the judgment of the Apex Court in **Common Cause** case (*supra*) has not been challenged, the question of issuance of show-cause notice and providing an opportunity of hearing would not be required for recovering the cost of mineral *qua* the quantum of minerals mined and transported without obtaining EC.

10.2. For the said stand, the respondent State relied upon paragraphs 220, 221, 223 and 224 of the impugned judgment and the catena of judgments referred therein.

11. Upon hearing the respective learned Senior Advocates/learned advocates for the respective parties, the initial point of determination would be whether adherence to the principles



W.A.No.671 of 2020 & etc. batch

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of natural justice, inasmuch as issuance of show-cause notice prior to the impugned memos/orders, was necessary.

12. The appellants/petitioners have been issued with the licenses to carry on mining operations before the year 2012, i.e., before the judgment of the Apex Court in the case of **Deepak Kumar (supra)**. In the said case, the Apex Court, for the first time, affirmed that the mining lease holders shall obtain EC. Pursuant to the said judgment, amendment came to be incorporated in Rule 42 of the Rules of 1959, wherein, the lessees like the appellants/petitioners were directed to submit EC from the State Level Environment Impact Assessment Authority or from the Ministry of Environment and Forest, as the case may be.

13. The said amendment in Rule 42 of the Rules of 1959 was introduced on 22.04.2015 and the existing lease holders were permitted 180 days to submit EC. This period was subsequently extended again and the lease holders were permitted to obtain EC within a period of 630 days, i.e., from 22.04.2015 to 10.01.2017. It appears that the appellants/petitioners had submitted applications for EC before the deadline, however, in many of the matters, the orders



W.A.No.671 of 2020 & etc. batch

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have not been passed by the concerned authorities within the stipulated period of 630 days, i.e., up to 10.01.2017. On and from 11.01.2017, the District Collector stopped the quarry operations of all the appellants/petitioners and no quarry operations took place on and from 11.01.2017.

14. In the case of **Sahara India (Firm) (1) vs. CIT<sup>7</sup>**, the Apex Court observed as under:

*"19. Thus, it is trite that unless a statutory provision either specifically or by necessary implication excludes the application of principles of natural justice, because in that event the court would not ignore the legislative mandate, the requirement of giving reasonable opportunity of being heard before an order is made, is generally read into the provisions of a statute, particularly when the order has adverse civil consequences for the party affected. The principles will hold good irrespective of whether the power conferred on a statutory body or tribunal is administrative or quasi-judicial."*

15. In the case of **Dharampal Satyapal Limited vs. Deputy**

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7 (2008) 14 SCC 151



W.A.No.671 of 2020 & etc. batch

**Commissioner of Central Excise, Gauhati and Ors.<sup>8</sup>**, the Apex

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Court observed thus:

*"24. The principles have a sound jurisprudential basis. Since the function of the judicial and quasi-judicial authorities is to secure justice with fairness, these principles provide a great humanising factor intended to invest law with fairness to secure justice and to prevent miscarriage of justice. The principles are extended even to those who have to take an administrative decision and who are not necessarily discharging judicial or quasi-judicial functions. They are a kind of code of fair administrative procedure. In this context, procedure is not a matter of secondary importance as it is only by procedural fairness shown in the decision-making that a decision becomes acceptable. In its proper sense, thus, natural justice would mean the natural sense of what is right and wrong."*

16. The distinction between a quasi judicial act and an administrative one has almost obliterated. The principles of *audi alteram partem* are now considered to be an essential part of an administrative decision.

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8 (2015) 8 SCC 519



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W.A.No.671 of 2020 & etc. batch

17. The principles of natural justice are not embodied in the rules. The principles of natural justice are to be employed to prevent miscarriage of justice. The underlying principles of natural justice is to check the arbitrary exercise of power by the State or its functionaries. The fair play in action is the basic concomitant of any administrative or quasi judicial act.

18. Adherence to the principles of natural justice also helps the authorities to arrive at a just decision and precisely, that is the aim of an administrative or a quasi judicial inquiry. If the statute does not provide for an opportunity of showing cause, still the same shall be provided by way of compliance of the minimum requirement of the principles of natural justice, more particularly, when the action involves civil consequences.

19. The statute/Rule mandating compulsory EC was introduced for the first time on 22.04.2015 and the existing lease holders were permitted 180 days to submit ECs. The said period was subsequently



W.A.No.671 of 2020 & etc. batch

WEB COPY

extended to 630 days, viz., from 22.04.2015 to 10.01.2017. In almost all cases, the appellants/petitioners have submitted applications for EC before the dead line. In many of the matters, the applications seeking ECs were not taken up for decision. It is not in dispute that none of the appellants/petitioners carried out quarrying operations on and from 11.01.2017. It is not the case that when the appellants/petitioners were granted mining licenses, the Rule required Environmental Clearance. It is during the subsistence of the license for mining/lease, the amendment was introduced on 22.04.2015 in the Rules and they were permitted to obtain EC within 630 days, i.e., upto 10.01.2017. The appellants/petitioners did apply. Majority of the applications were not decided. It is needless to state they were not rejected.

20. The learned Single Judge came to the conclusion that the ECs could not have been granted by the authority, as the appellants/petitioners failed to submit the mining plans along with the applications for EC and as such, providing an opportunity of showing cause would have been an empty formality. The said observation of the learned Single Judge may not be correct.



W.A.No.671 of 2020 & etc. batch

WEB COPY

21. It needs to be considered that the appellants/petitioners have disputed the quantum of the mineral extracted. The penalty imposed is 100% of the cost of the mineral extracted. When the appellants/petitioners have disputed the quantum of the minerals extracted, it was necessary to give them an opportunity to put forth their stand before the authorities of the quantum of mineral extracted.

22. As observed above, the learned Single Judge has held that providing an opportunity of showing cause or heard would be an empty formality. It is not for the authority to dispense with the requirements of the principles of natural justice on the ground that affording an opportunity would not make any difference. It would not be permissible for the authority to jump over compliance with the principles of natural justice. Such a presumption cannot be applied. No doubt, the Court has to consider whether any prejudice is caused to the person against whom action is taken and whether any purpose is served in remanding the cases, however, the reasons given by the learned Single Judge for dispensing with the principles of natural



W.A.No.671 of 2020 & etc. batch

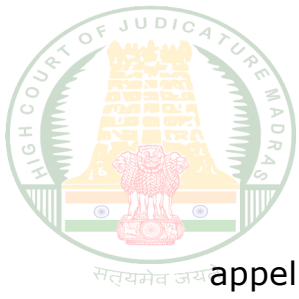
justice would be factually incorrect.

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23. The learned Single Judge has referred to a number of writ petitions, wherein, the applications were made and ECs were not obtained. Upon perusal of the list as it appears in the impugned order, it is abundantly clear that in writ petitions bearing W.P.Nos.29518, 30259, 29564, 29563, 29523, 29260, 29521, 33400, 29567, 29515, 28917, 28911, 30184, 28241, 29570, 28918, 28915, 28245, 29495, 28126, 27182, 27183, 32889, 28096, 28099 & 32498 of 2019, the ECs are granted by the authorities. The appeals of those petitioners have been partly allowed by us and are remitted back to the authorities to take a fresh decision and the said orders/memos are directed to be construed as a show cause notices, as the ECs were already granted to them.

24. As stated above, the fact that some of them have been issued with ECs for the period in dispute subsequently renders the factual observation of the learned Single Judge incorrect, as the learned Single Judge has observed that none of them would get EC, because they have not submitted the mining plan. Moreover, the





W.A.No.671 of 2020 & etc. batch

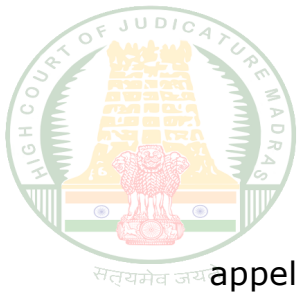
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appellants/petitioners have also disputed the quantum of the minerals extracted. The penalty/cost imposed is 100% cost of the mineral extracted. The said facts also will have to be considered by the authority.

25. In many of the matters, the concerned authority has not decided the applications for EC. If the authority has not decided the applications for EC, the appellants/petitioners cannot be faulted with. Of course, if the applications are defective, it is for the appellants/petitioners to rectify the same. The authority ought to have rejected the applications or allowed the applications.

26. In the present case, the penalty/cost has been imposed upon the appellants/petitioners. The consequence of the administrative action is prejudicial to the appellants/petitioners. When the penalty/cost is imposed, non-adherence to the principles of natural justice would be against the tenets of civil jurisprudence.

27. In view of the aforesaid, we are of the view that the appellants/petitioners ought to have been given an opportunity before the decision was taken to impose 100% penalty/cost upon the



W.A.No.671 of 2020 & etc. batch

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appellants/petitioners. An opportunity may be given in a limited way, that is, by giving them an opportunity to reply to the show-cause notices, where they can put forth all the relevant facts and their defences, which certainly would have to be considered by the authorities before passing the order.

28. In the result, we pass the following orders:

(i) The impugned order passed by the learned Single Judge at the Principal Seat is quashed and set aside;

(ii) The impugned orders/memos imposing 100% penalty/cost upon the appellants/petitioners shall be construed as show-cause notices;

(iii) The appellants/petitioners shall file reply to the said show-cause notices, along with all the relevant documents on which they rely, within a period of four weeks from today; and

(iv) The authority shall consider the reply filed by the appellants/petitioners individually and pass fresh orders with regard to imposing of penalty/cost or otherwise.



W.A.No.671 of 2020 & etc. batch

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29. As we have remitted the matters back to the concerned authorities on the ground that the principles of natural justice were not adhered to, we have not considered the other contentions raised by the respective learned Senior Advocates/learned advocates appearing for the appellants/petitioners and the respondents. They are kept open.

30. In light of the above, these writ appeals and writ petitions stand partly allowed. There shall be no order as to costs. Consequently, C.M.P.Nos.9352, 9354, 10647, 10650, 10654, 10655, 10656, 10658, 10659, 10660, 10661, 10662, 10667, 10668, 10670, 10676, 10581, 10583, 10599 & 10601 of 2020, 532, 583, 651, 656, 660, 669, 673, 678, 661, 667, 670, 653, 663, 671, 676, 684, 687, 686, 689, 692, 693, 697, 699, 695, 698, 703, 708, 712, 713, 700, 704, 707, 711, 717, 726, 737, 738, 743, 732, 733, 734, 736, 822, 828, 829, 832, 838.1125, 1163, 1191, 1295, 1380, 1128, 1180, 1181, 1193, 1196, 1094, 1096, 1200, 1203, 1426, 1798, 3823, 10470, 5421, 5423, 6127, 6132, 6136, 7580, 7696, 8315, 8316, 8318, 8321, 8323, 8327, 8413, 8414, 8444, 8448, 8459, 8460, 8492, 8494, 8590,



W.A.No.671 of 2020 & etc. batch

WEB COPY

8591 & 8596 of 2021, 3997, 13249, 4806, 4917, 4928, 6834, 6835, 8185, 14048, 14278, 14266, 4799, 4821, 4896, 4902, 5462, 5484, 5868, 5880 & 5920 of 2022, 12600 & 12953 of 2023, W.M.P.Nos.36589, 36585 & 36587 of 2018, 16481 of 2020, 17898, 17900, 22217 & 22218 of 2022, 24395, 24397, 24399, 34439, 35569 & 35571 of 2023 and W.M.P.(MD)Nos.22171 & 22172 of 2018, 16065, 16067, 16069, 16074, 19614, 19617, 16076, 16751, 16753, 16754, 16755, 17326, 17329, 17330, 17334, 17323, 17324, 17347, 17349, 17333, 17335, 17336, 17346, 18549, 18545, 18551, 18555, 18993, 18998, 19789, 19791, 19900, 20225, 20227, 21383, 21692, 21693, 16078, 16079, 17565, 17568, 17572, 17573, 20970, 20792, 20973 & 19024 of 2019, 254, 316, 313, 314, 395, 397, 1834, 3132, 3130, 3623, 4058, 4059, 7295, 7296, 7400, 7983, 7984, 8417, 8418, 10631, 10637, 1243, 11395, 11397, 12191, 12192, 12197, 14535, 909, 8840, 8995, 8990, 9006, 9017, 9018 & 9020 of 2020, 6442, 8775, 278, 6527, 6529, 13196, 13199, 8241, 8243, 8248, 8249, 8251 & 8252 of 2021 and 10979, 10980, 10993 & 10996 of 2022 are closed.



W.A.No.671 of 2020 & etc. batch

(S.V.G., CJ.)

(D.B.C., J.)

15.02.2024

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Index : Yes/No  
Neutral Citation : Yes/No  
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W.A.No.671 of 2020 & etc. batch

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1. The Secretary to Government  
Industries Department, Government of Tamil Nadu  
Secretariat, Fort St. George, Chennai – 600 009.
2. The Commissioner of Geology & Mining  
Guindy, Chennai – 600 032.
3. The District Collector  
Namakkal, Namakkal District.
4. The Assistant Director of Geology & Mining  
Geology & Mining Department,  
Namakkal, Namakkal District.



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W.A.No.671 of 2020 & etc. batch

THE HON'BLE CHIEF JUSTICE  
AND  
D.BHARATHA CHAKRAVARTHY,J.

(drm)

W.A.No.671 of 2020 & etc. batch

15.02.2024