2026:MHC:4591

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 08.10.2026

PRONOUNCED ON : 17.11.2026

CORAM :

THE HONOURABLE MR. SUSHRUT ARVIND DHARMADHIKARI,
CHIEF JUSTICE
AND
THE HONOURABLE MR. JUSTICE G.ARUL MURUGAN

W.P.Nos.31800, 31541, 32446, 34213 & 35768 of 2026
and
W.M.P.Nos.34960, 34962, 34963, 34673, 34677, 35666, 35668, 37611, 37613, 39981 & 39982 of 2026
AND
W.P.(MD) Nos.21931, 22304, 22569, 22929 & 23455 of 2026
and
W.M.P.(MD) Nos.16361, 16712, 16608, 16609, 16823, 16824, 17076, 17077, 17460 & 17464 of 2026

WP No.31800 of 2026:
CNR: {HCMA011867212026}

Case QR

Madhu Premnathan
D.No.4, No.489, Ungati,
Doripalli, Shoolagiri Taluk
Krishnagiri District.

..Petitioner(s)

Vs

1. State of Tamil Nadu
   Represented by the Principal Secretary to
   the Government,
   Natural Resources Department, (MMD.1)
   Fort St. George, Chennai 600 009.

2. The Director

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Department of Geology and Mining,
Guindy, Chennai 600 032.

3. Deputy Director
Department of Geology and Mining,
Krishnagiri, Tamil Nadu.

4. The District Collector
Hosur District, Tamil Nadu.

5. Crusher Owners' Federation,
Hosur.
(Reg No.112 of 2018),
No.136/1, 2nd Floor, Raghavendra Towers,
Inner Ring Road, Hosur- 635109.

..Respondent(s)

Writ Petition filed under Article 226 of the Constitution of India praying (i) to declare the amendment to the Tamil Nadu Prevention of Illegal Mining, Transportation and Storage of Minerals and Mineral Dealers' Rules, 2011 inserting Rule 3-A vide G.O.Ms.No.15 dated 09.07.2026 and notified in the official gazette on 09.07.2026 as ultra vires to Articles 301 and 304(b) of the Constitution of India and Section 23-C(1) of the Mines and Minerals (Development and Regulation) Act, 1957; (ii) for issuance of a writ of Certiorari calling for the records relating to the impugned proceedings in Rc.No.4104/MM2/2026 dated 27.07.2026 passed by the second respondent and quash the same.

For Petitioner(s): Mr.AR.L.Sundaresan
Senior Counsel
Assisted by Mr.D.Prabhu Mukunth Arun Kumar
for Mr.B.Rabu Manohar

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For Respondent(s): Mr.Vijay Narayan
Advocate General
Assisted by Mr.J.Lenin
Spl. Govt. Pleader
and Mr.Akash Srinanda,
Govt. Advocate For R1 to R4

Mr.Srinath Sridevan
Senior Counsel
for Mr.U.Baranidharan For R5

COMMON ORDER

G. ARUL MURUGAN, J.

This batch of writ petitions seek to declare Rule 3-A of the Tamil Nadu Prevention of Illegal Mining, Transportation and Storage of Minerals and Minerals Dealers' Rules, 2011, (hereinafter referred to as "2011 Rules"), introduced by amendment *vide* G.O.Ms. No.15, Natural Resources Department (MMD.1), dated 09.07.2026, notified in the Gazette on 09.07.2026, as unconstitutional and *ultra vires* of the Mines and Minerals (Development and Regulations) Act, 1957 (in short "MMDR Act") and to quash the proceedings of the Director of Geology and Mining, dated 27.07.2026, imposing a temporary ban on transportation of rough stone and aggregates to other States for three months.

2. Since the issues raised in all the writ petitions pertain to the constitutional validity of Rule 3-A of the 2011 Rules and the order

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dated 27.07.2026 imposing temporary ban, the cases were analogously heard and are disposed of by this common order.

3.1. The petitioners are either leaseholders or crusher operators who hold valid mining leases and possess all other statutory clearances required for carrying on mining and crushing activities. The minerals, mostly rough stone quarried through valid mining leases, after payment of royalty and seigniorage fee, are transported to crushing units where boulders are reduced in size through crushing into M-sand, metal jelly, ballasts, mill stones, etc., and transported for sale. The entire activity from mining to dispatch for sale, are carried on pursuant to valid lease and required statutory clearances.

3.2. The State, by invoking the powers conferred under Section 23-C of the MMDR Act, had enacted the Tamil Nadu Prevention of Illegal Mining, Transportation and Storage of Minerals and Minerals Dealers' Rules, 2011. While so, now through G.O.Ms. No.15, Natural Resources Department (MMD.1), dated 09.07.2026, had brought in amendment to the 2011 Rules by inserting Rule 3-A, which deals with transportation of rough stone to other States. Rule 3-A of the 2011 Rules, reads as follows:

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"3-A. Transportation of rough stone, etc., to other States: The Director of Geology and Mining shall regulate the transport of rough stone including Khandas, boulders, size reduced (broken or crushed) materials including M-Sand, metal jelly, ballasts, mill stones, hand chakais and building and road construction stones across the border to other States, which may include imposition of temporary ban, to ensure their availability for adequate supply within the State".

3.3. Invoking the powers conferred under Rule 3-A, the Director of Geology and Mining, by proceedings dated 27.07.2026, imposed a temporary ban of three months for transporting rough stone and aggregates to other states, except Puducherry and Karaikal Districts. Relevant portion of the said proceedings is extracted below:

"In exercise of the powers delegated under rule 3(A) of the Tamil Nadu Prevention of Illegal Mining, Transportation and Storage of a precautionary Minerals and Minerals Dealers Rules, 2011, as measure to ensure uninterrupted supply of minerals within the State, ensure protection of the environment and ecology and also prevent illegal mining and transportation of

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minerals, the transportation of rough stone and aggregates to other States except Puducherry and Karaikal Districts of Puducherry UT, is hereby, temporarily banned for three months with immediate effect. The contravention of the ban by any person will attract stringent action as per the existing Act and the rules made there under."

3.4. The petitioners, who sell rough stone and its products, both intra and inter-State, aggrieved by the ban have assailed Rule 3-A, which empowers the authority to impose temporary ban and also the consequential temporary ban imposed.

4. We have elaborately heard learned Senior Counsel for the petitioners and learned Advocate General appearing for the State.

5. Learned Senior Counsel, Mr.Srinath Sridevan, Mr.AR.L.Sundaresan, Mr.Satish Parasaran, Mr.Ajmal Khan along with learned counsel, Mr.Sanjeevi and Mr.Puhazh Gandhi, appearing for the petitioners, broadly made the following submissions:

i. Section 15 of the MMDR Act empowers the State to make rules

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for regulating the grant of quarry leases in respect of minor minerals, which authority would be available only at the stage of granting the lease and does not extend to excavated minerals after mining operations have been completed.

ii. Section 23-C of the MMDR Act, introduced by way of an amendment with effect from 18.12.1999, empowers the State to make rules strictly for the prevention of illegal mining, transportation and storage and does not extend to minor minerals that have been lawfully mined and transported.

iii. After the grant of lease and payment of royalty on the mined mineral, the property vests with the lessee and the State has no further role to deal with the excavated mineral. Reliance is placed on a Three-Judge Bench decision of the Hon'ble Supreme Court in *State of Tamil Nadu v. M.P.P. Kavery Chetty*[1], explicitly holding that no power is conferred on the State to exercise control over minor minerals after they have been excavated.

iv. Rule 3-A is beyond the rule-making power conferred on the State under Sections 15 and 23-C of the MMDR Act, suffers the vice of

[1] *(1995) 2 SCC 402*

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legislative competence and is, therefore, *ultra vires* the parent Act. The delegated legislation has to confine to the powers conferred and cannot travel beyond the scope.

v. Impugned Rule 3-A, which allows temporary prohibition for transportation of minerals beyond the State, is unconstitutional, as it restricts free trade and commerce beyond the State and suffers vice of Article 301 of the Constitution of India.

v. The impugned Rule is unconstitutional as the power to impose restrictions on trade inter-State is within the exclusive domain of the Union under Article 302 of the Constitution of India. Furthermore, any bill which even seeks to impose reasonable restrictions on the freedom of trade beyond the State in the public interest under Article 304(b), can be introduced in the State Legislature only with the previous sanction of the President.

vi. By virtue of delegated rule-making power, the State can only regulate the mineral at the pre-excavation stage and it cannot regulate the mineral after it has undergone processing. The decisions of the

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Andhra Pradesh High Court in *M/s.Novel Granites Ltd. and Others. v. Government of A.P. and Others*[2] and this Court, in *D. Sivakumar v. State of Tamil Nadu*[3], which held that the State can regulate excavated minerals by exercising powers under Section 23-C, have been explicitly overruled by a decision of the Hon'ble Supreme Court in *State of Gujarat and Others v. Jayeshbhai Kanjibhai Kalathiya and Others*[4] .

vii. The issue regarding lack of legislative competence on the State to ban inter-State trade on excavated minerals, tracing powers to Section 23-C of the MMDR Act, is no longer *res integra* and stands settled by the Hon'ble Supreme Court in *Kalathiya (supra).*

viii. Rule 3-A and the order of the Director of Geology and Mining imposing a temporary ban to transport rough stone and its aggregates to other States, are manifestly arbitrary, as the action of the State has no rationale or reasonable nexus to the object that is sought to be achieved.

6. Mr. Vijay Narayan, learned Advocate General for the State broadly made the following submissions:

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[2] *W.P.No.5871 of 2005 decided on 30.10.2008*
[3] *(2009) 3 CTC 97*
[4] *(2019) 16 SCC 513*

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i. The power of the State to introduce Rule 3-A in the 2011 Rules is traceable to the rule-making power delegated to the State under Section 15, more particularly, Section 23-C of the MMDR Act, introduced on 18.12.1999, which enables the State to regulate the minor minerals.

ii. Sub-Section (c) of Section 23 of the MMDR Act empowers the State to regulate mineral being transported from the area granted under a mining lease. Hence, Rule 3-A falls within the rule-making power of the State.

iii. Once the Parliament has delegated the power to the State to regulate minerals and a rule is framed by tracing its authority to Sections 15 and 23-C of the MMDR Act, such a State rule becomes part of the parent enactment itself. In support of this principle, reliance is placed on a decision of the Hon'ble Supreme Court in *State of Tamil Nadu v. M/s. Hind Stone and Others*[5].

iv. The State had framed the 2011 Rules on 25.01.2011 in exercise of the powers conferred under Section 23-C of the MMDR Act.

[5] *(1981) 2 SCC 205*

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Since the power to ban or regulate transport had not been explicitly incorporated at that time, Rule 3-A was introduced through an amendment on 09.07.2026 with the object of regulating transport in the larger public interest. The power of the State to regulate minor minerals includes the power to prohibit, as held by the Hon'ble Supreme Court in *K.Ramanathan v State of Tamil Nadu and Another*[6].

v. Rule 3-A was introduced with the object of balancing State needs, public safety and domestic requirements against excessive inter-State transportation, which had resulted in minerals being predominantly diverted to Middle East countries and the rule, therefore, serves larger public interest addressing domestic needs and public safety.

vi. Since the decision in *Kalathiya (supra)* did not consider the decisions in *Hind Stone (supra)* and *K.Ramanathan (supra)*, which are earlier judgments delivered by benches of co-equal strength, in view of the law laid down by the Hon'ble Supreme Court in *Union Territory of Ladakh and Others v. Jammu and Kashmir National Conference and Another*[7], the earlier judgments in *Hind Stone (supra)* and

[6] *(1985)2 SCC 116*

[7] *2023 INSC 804*

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K.Ramanathan (supra), which validates the rule are to be followed.

vii. The proceedings of the Directorate of Geology and Mining dated 27.07.2026, which imposed a temporary three-month ban, have effectively worked themselves out. As the ban period is coming to an end, the present challenge has almost rendered infructuous.

7. We gave our anxious consideration to the rival submissions and considered the materials available on record.

8. Entry 54 of List I in the Seventh Schedule of the Constitution of India, deals with the regulation of mines and mineral development, vesting control in the Union to the extent declared by Parliament in the public interest. Entry 54 reads as follows:

> *"54. Regulation of mines and mineral development to the extent to which such regulation and development under the control of the Union is declared by Parliament by law to be expedient in the public interest."*

9. As regulation of mines and mineral development falls under Entry 54 of the Union List, the Parliament had enacted the MMDR Act.

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Section 2 of the MMDR Act contains a declaration that it is expedient in the public interest that the Union should take under its control the regulation of mines and mineral development. Section 2 reads thus:

> *"2. Declaration as to the expediency of Union control:*
>
> *It is hereby declared that it is expedient in the public interest that the Union should take under its control the regulation of mines and mineral bearing lands and the development of minerals to the extent hereinafter provided."*

10. By the MMDR Act, the regulation of mines, mineral bearing lands and development vests with the Central Government. While the major minerals are regulated by the MMDR Act, Section 15 of the MMDR Act enables the State Governments to make rules in respect of regulating the grant of minor minerals. Section 15 of the MMDR Act reads as follows:

> *"15. Power of State Governments to make rules in respect of minor minerals:*
>
> *(1) The State Government may, by notification in the Official Gazette, make rules for regulating the grant of quarry leases,*

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mining leases or other mineral concessions in respect of minor minerals and for purposes connected therewith.

(1-A) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-

(a) the person by whom and the manner in which, applications for quarry leases, mining leases or other mineral concessions may be made and the fees to be paid therefor;

(b) the time within which, and the form in which, acknowledgement of the receipt of any such applications may be sent;

(c) the matters which may be considered where applications in respect of the same land are received within the same day;

(d) the terms on which, and the conditions subject to which and the authority by which quarry leases, mining leases or other mineral concessions may be granted or renewed;

(e) the procedure for obtaining quarry leases, mining leases or other mineral concessions;

(f) the facilities to be afforded by holders of quarry leases, mining leases or other mineral concessions to persons

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deputed by the Government for the purpose of undertaking research or training in matters relating to mining operations;

(g) the fixing and collection of rent, royalty, fees, dead rent, fines or other charges and the time within which and the manner in which these shall be payable;

(h) the manner in which rights of third parties may be protected (whether by way of payment of compensation or otherwise) in cases where any such party is prejudicially affected by reason of any prospecting or mining operations;

(i) the manner in which rehabilitation of flora and other vegetation, such as trees, shrubs and the like destroyed by reason of any quarrying or mining operations shall be made in the same area or in any other area selected by the Stale Government (whether by way of reimbursement of the cost of rehabilitation or otherwise) by the person holding the quarrying or mining lease;

(j) the manner in which and the conditions subject to which, a quarry lease, mining lease or other mineral concession may be transferred;

(k) the construction, maintenance and use of roads, power transmission lines, tramways, railways, aerial ropeways, pipelines and the making of passage for water for mining purposes on any land comprised in a quarry or mining lease or other mineral concession;

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(l) the form of registers to be maintained under this Act;

(m) the reports and statements to be submitted by holders of quarry or mining leases or other mineral concessions and the authority to which such reports and statements shall be submitted;

(n) the period within which and the manner in which and the authority to which applications for revision of any order passed by any authority under these rules may be made, the fees to be paid therefor, and the powers of the revisional authority; and

(o) any other matter which is to be, or may be prescribed.

(2) Until rules are made under sub-section (1), any rules made by a State Government regulating the grant of quarry leases, mining leases or other mineral concessions in respect of minor minerals which are in force immediately before the commencement of this Act shall continue in force.

(3) The holder of a mining lease or any other mineral concession granted under any rule made under sub-section (1) shall pay royalty or dead rent, whichever is more in respect of

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minor minerals removed or consumed by him or by his agent, manager, employee, contractor or sub-lessee at the rate prescribed for the time being in the rules framed by the State Government in respect of minor minerals:

Provided that the State Government shall not enhance the rate of royalty or dead rent, whichever is more in respect of any minor mineral for more than once during any period of three years.

(4) Without prejudice to sub-sections (1), (2) and sub-section (3), the State Government may, by notification, make rules for regulating the provisions of this Act for the following, namely -

(a) the manner in which the District Mineral Foundation shall work for the interest and benefit of persons and areas affected by mining under sub-section (2) of Section 9-B;

(b) the composition and functions of the District Mineral Foundation under sub-section (3) of Section 9-B; and

(c) the amount of payment to be made to the District Mineral Foundation by concession holders of minor minerals under Section 15-A."

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11. Further, with a view to curb illegal mining, the Central Government introduced Section 23C of MMDR Act with effect from 18.12.1999, empowering the State Government to make rules for preventing illegal mining, transportation and storage of minerals. Section 23-C reads as follows:

"23C. Power of State Government to make rules for preventing illegal mining, transportation and storage of minerals:

(1) The State Government may, by notification in the Official Gazette, make rules for preventing illegal mining, transportation and storage of minerals and for the purposes connected therewith.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-

(a) establishment of check-posts for checking of minerals under transit;

(b) establishment of weigh-bridges to measure the quantity of mineral being transported;

(c) regulation of mineral being transported from the area granted under a prospecting licence or a mining lease or a quarrying licence or a permit, in whatever name the

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permission to excavate minerals, has been given;

(d) inspection, checking and search of minerals at the place of excavation or storage or during transit;

(e) maintenance of registers and forms for the purposes of these rules;

(f) the period within which and the authority to which applications for revision of any order passed by any authority be preferred under any rule made under this section and the fees to be paid therefor and powers of such authority for disposing of such applications; and

(g) any other matter which is required to be, or may be, prescribed for the purpose of prevention of illegal mining, transportation and storage of minerals.

(3) Notwithstanding anything contained in section 30, the Central Government shall have no power to revise any order passed by a State Government or any of its authorised officers or any authority under the rules made under sub-sections (1) and (2).“

12. For taking any other action towards regulatory measures, Section 4A of the MMDR Act deals with termination of prospecting licences or mining leases, where sub-section (2) empowers the State Government to request the Central Government to make premature

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termination of a minor mineral lease for preservation of natural environment, control of floods, prevention of pollution, to avoid damage to public health, ensure safety, etc. Section 4A(2) reads as follows :

> *"4-A. Termination of prospecting licences, exploration licences or mining leases:*
>
> *(2) Where the State Government is of opinion that it is expedient in the interest of regulation of mines and mineral development, preservation of natural environment, control of floods, prevention of pollution or to avoid danger to public health or communications or to ensure safety of buildings, monuments or other structures or for such other purposes, as the State Government may deem fit, it may, by an order, in respect of any minor mineral, make premature termination of prospecting licence or mining lease with respect to the area or any part thereof covered by such licence or lease."*

13. In exercise of the powers conferred under Section 15 of the MMDR Act, the State enacted the Tamil Nadu Minor Mineral Concession Rules, 1959, which govern the regulation and grant of mining leases for minor minerals. The grant, termination and regulation of all minor

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minerals are governed strictly under the aforesaid rules. Further, tracing to powers conferred under Section 23-C of the MMDR Act, the State framed the 2011 Rules. In the said 2011 Rules, the impugned Rule 3-A as extracted earlier was recently inserted, authorising the Director of Geology and Mining to regulate the transportation of rough stone and aggregates to other States, which purports to include the power to impose a temporary ban.

14. The impugned rule is challenged on the ground of legislative competence, ultra vires the Parent Act as the delegated legislation exceeds the rule-making power vested in the State. The primordial contention of the petitioners is that Sec.23-C of the MMDR Act only deals with illegal mining and the State lacks the power to regulate or deal with an excavated mineral after the lease has been granted. This issue was already considered by the Hon'ble Supreme Court in *Kavery Chetty (supra)*, wherein the amendments made to the Tamil Nadu Minor Mineral Concession Rules, 1959, introducing Rules 8-D and 19-B, were declared unconstitutional. The Hon'ble Supreme Court held that no power is conferred upon the State under the MMDR Act to exercise control over minor minerals after they have been excavated.

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15. Relevant portion of the aforesaid decision, is extracted hereunder:

> *"19. The High Court quashed Rules 8-D and 19-B principally on the ground that Section 15 of the said Act gave no power to the State Government to frame rules to regulate internal or foreign trade in granite after it had been quarried. Section 15 also did not empower the State Government to frame rules to enable a State Government company or corporation to fix a minimum price for granite.*
>
> *... ...*
>
> *24. There is no power conferred upon the State Government under the said Act to exercise control over minor minerals after they have been excavated. The power of the State Government, as the subordinate rule-making authority, is restricted in the manner set out in Section 15. The power to control the sale and the sale price of a minor mineral is not covered by the terms of clause (o) of sub-section (1-A) of Section 15. This clause can relate only to the regulation of the grant of quarry and mining leases and other mineral concessions and it does not confer the power to regulate the sale of already mined minerals.*

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25. In our view, therefore, the High Court was clearly right in striking down Rules 8-D and 19-B as being beyond the purview of the rule-making power of the State Government. These rules having been struck down. The High Court was also right in striking down Government Order No. 214 to the extent that it prescribed these rules and Government Order No. 216 made in pursuance of these rules".

16. Next the impugned Rule is challenged as unconstitutional, on the ground that it suffers from vice of Part XIII of the Constitution, particularly Article 301, 301 and 304(b) in imposing a temporary ban on transporting mineral inter-State. By the impugned rule, the State had authorised the Director of Geology and Mining to impose a temporary ban on transporting minerals outside the State. Learned Advocate General placed heavy reliance on the decisions of the Hon'ble Supreme Court in *Hind Stone (supra)* and *K.Ramanathan (supra)* to contend that once a rule is framed, it becomes part of the parent enactment itself and, therefore, the impugned rule is protected under Articles 301 to 304 of the Constitution of India.

17. At this juncture it is apposite to refer to Part XIII of the

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Constitution of India, which deal with trade, commerce and intercourse within the territory of India. Articles 301, 302 and 304 are extracted hereunder for easy reference:

"301. Freedom of trade, commerce and intercourse :

Subject to the other provisions of this Part, trade, commerce and intercourse throughout the territory of India shall be free.

302. Power of Parliament to impose restrictions on trade, commerce and intercourse :

Parliament may by law impose such restrictions on the freedom of trade, commerce or intercourse between one State and another or within any part of the territory of India as may be required in the public interest.

304. Restrictions on trade, commerce and intercourse among States :

(1) Notwithstanding anything in article 301 or article 303, the Legislature of a State may by law -

(a) impose on goods imported from other States 1 [or the Union territories] any tax to which similar goods manufactured or produced in that State are subject, so, however, as not to

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discriminate between goods so imported and goods so manufactured or produced; and

(b) impose such reasonable restrictions on the freedom of trade, commerce or intercourse with or within that State as may be required in the public interest:

Provided that no Bill or amendment for the purposes of clause (b) shall be introduced or moved in the Legislature of a State without the previous sanction of the President."

18. Part XIII of the Constitution of India ensures free trade within the States for the balanced development of the country. Article 301 allows free trade and commerce throughout the territory of India. Article 302 allows Parliament to impose such restrictions on the freedom of trade between the States, as may be required in the public interest. Article 304(b) allows the Legislature of the State to bring in a law to impose such reasonable restrictions on the free movement of trade in the public interest beyond the State, subject to the proviso that no bill or amendment under Article 304(b) shall be introduced in the Legislature without the previous sanction of the President.

19. The impugned Rule 3-A allows the Director of Geology and

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Mining to regulate transportation by imposing a temporary ban on transporting rough stone and aggregates to other States. Rule 3-A is directly in contravention of Part XIII of the Constitution of India and suffers from the vice of violating Articles 301, 302, and 304(b), as no bill imposing a ban inter-State or beyond the State could even be introduced without the prior sanction of the President.

20. The issue with respect to the legislative competence of the State in imposing a ban inter-State for the mined mineral by framing rules, tracing powers to Section 23-C of the MMDR Act, is no longer *res integra* and the issue has been settled by the decision of the Hon'ble Supreme Court in *Kalathiya (supra)*. The following issues were framed therein by the Hon'ble Supreme Court, which read as under:

> *"34. From the subject-matter of these appeals as well as arguments noted above, it clearly follows that the main issues that arise for consideration are as under:*
>
> *34.1. Whether the impugned Rules framed by the State of Gujarat as a delegate of Parliament are beyond the powers granted to it under the MMDR Act? In other words, whether the impugned rules are ultra vires Sections 15, 15-A and 23-C of the*

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MMDR Act?

34.2. Whether the impugned Rules are violative of Part XIII of the Constitution of India?"

21. The Hon'ble Supreme Court considered the decisions in *Kavery Chetty (supra)* and *K.T. Varghese v. State of Kerala*[8] , wherein it was held that the rule-making power of the State does not extend to exercising control over minor minerals after they have been extracted. The Supreme Court distinguished the decisions in *Amritlal Nathubhai Shah v. Union of India*[9] and *Hind Stone (supra)* on the ground that those cases concerned measures bearing a direct nexus with the grant or refusal of a lease, rather than the sale of already excavated minerals belonging to the lessee.

22. The Court further held that a prohibition on the transport or sale of lawfully mined minerals outside the State bears no rational nexus with the object of the MMDR Act. It further held that Section 23-C deals exclusively with the prevention of illegal mining, transportation, storage and does not empower the State to make rules

[8] *(2008) 3 SCC 735*
[9] *(1976) 4 SCC 108*

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regulating the transport of lawfully excavated minerals. Accordingly, the Court declared the impugned rules imposing an inter-State transit ban to be unconstitutional. The relevant portion of the decision in *Kalathiya* (*supra*) is extracted hereunder:

> *"39. In Amritlal Nathubhai Shah [Amritlal Nathubhai Shah v. Union of India, (1976) 4 SCC 108], D.K. Trivedi & Sons [D.K. Trivedi & Sons v. State of Gujarat, 1986 Supp SCC 20] and Hind Stone [State of T.N. v. Hind Stone, (1981) 2 SCC 205], the measures in question had a direct nexus with the grant or the refusal to grant a lease. In the instant appeals, which concern the sale of already excavated minerals that belong to the lessee, a prohibition by the State Government on sale thereof outside the State is not permissible under the MMDR Act. In Hind Stone [State of T.N. v. Hind Stone, (1981) 2 SCC 205], this Court succinctly stated the scope and ambit of the MMDR Act, highlighting that the Act is aimed at the "conservation and the prudent and discriminating exploitation of minerals". The following passage from the said judgment shows that as a method of regulation, prohibition is clearly permissible, provided, however, that it has a direct nexus with the conservation, exploitation and excavation of minerals: (Hind Stone case [State of T.N. v. Hind Stone, (1981) 2 SCC 205] ,*

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SCC p. 217, para 10)

> *"10. ... The statute with which we are concerned, the Mines and Minerals (Development and Regulation) Act, is aimed, as we have already said more than once, at the conservation and the prudent and discriminating exploitation of minerals. Surely, in the case of a scarce mineral, to permit exploitation by the State or its agency and to prohibit exploitation by private agencies is the most effective method of conservation and prudent exploitation. If you want to conserve for the future, you must prohibit in the present. We have no doubt that the prohibiting of the leases in certain cases is part of the regulation contemplated by Section 15 of the Act."*

40. On the other hand, the prohibition on the transport or sale of the already mined minerals outside the State has no direct nexus with the object and purpose of the MMDR Act which is concerned with conservation and prudent exploitation of minerals.

41. Insofar as Section 23-C of the MMDR Act is concerned, it was inserted by the 1999 Amendment Act with the objective to prevent illegal mining. That is clearly spelled out in the Statement of Objects and Reasons. We may reproduce a portion thereof again:

> *"(iii) A new provision is proposed to be inserted in the Act prohibiting transportation or storage or anything causing transportation or storage of any mineral except under the due provisions of the Act, with a view to preventing illegal*

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mining. Further, the Act is proposed to be amended to cover the breach of the provisions of the proposed new provision of the Act to be punishable. It is also proposed to insert a new provision to provide for anything seized under the Act as liable for confiscation under court orders. A new section is proposed to be inserted to empower the State Governments to make rules for preventing illegal mining, transportation and storage of minerals and for purposes connected therewith."

(emphasis supplied)

42. It is in this context the words "transportation" and "storage" in Section 23-C are to be interpreted. Here the two words are used in the context of "illegal mining". It is clear that it is the transportation and storage of illegal mining and not the mining of minor minerals like sand which is legal and backed by duly granted licence, which can be regulated under this provision. Therefore, no power flows from this provision to make rule for regulating transportation of the legally excavated minerals."

23. The Hon'ble Supreme Court further by considering as to whether the rule imposing a ban inter-State is violative under Article 301 of the Constitution of India, held that once the State permits mineral to be excavated, neither can it legally restrict its movement within the territory of India nor it is constitutionally permissible. The relevant portion is extracted hereunder:

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"43. As far as Issue (b) above is concerned, we are also of the considered opinion that the impugned Rules violate Part XIII of the Constitution as the effect thereof is to fetter the freedom of trade, commerce and intercourse under Article 301 of the Constitution. Under this Article, the expression "freedom" must be read with the expression "throughout the territory of India". Under Article 302, Parliament may impose restrictions on the freedom of trade, commerce or intercourse between one State and another as may be required in the public interest. The expression "public interest" may include a regional interest as well. However, Article 302 is qualified by Article 303 which prohibits Parliament and the State Legislatures from making any law that gives preference to one State over another or discriminates between one State and another. Situations of scarcity are to be dealt with by Parliament under Article 302(2). The power of the State Legislature to impose reasonable restrictions on the freedom of trade, commerce or intercourse, as may be required in the public interest, requires such a Bill or amendment to be moved in the State Legislature only after receiving previous sanction from the President. The President, being the head of the State and the guardian of the

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federation, must be satisfied that such a law is indeed required and, thus, acts as a check on the promotion of provincial interests over national interest. Going by the aforesaid scheme of this Chapter, it becomes apparent that when there are such restrictions on a State Legislature, then the State Government could not have imposed such a prohibition under a statute whose object is to regulate mines and mineral development, and not trade and commerce per se.

44. That apart, we find force in the submission of the learned Additional Solicitor General that Part XIII of the Constitution is a code on checks and balances on the legislative power intended to achieve the objective of economic integration of the country. This was emphasised in Video Electronics (P) Ltd. v. State of Punjab [Video Electronics (P) Ltd. v. State of Punjab, (1990) 3 SCC 87 : 1990 SCC (Tax) 327] wherein this Court held: (SCC p. 104, para 20)

> *"20. … In our opinion, Part XIII of the Constitution cannot be read in isolation. It is part and parcel of a single constitutional instrument envisaging a federal scheme and containing general scheme conferring legislative powers in respect of the matters relating to List II of the Seventh Schedule on the States. It also confers plenary powers on States to raise revenue for its purposes and does not require*

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that every legislation of the State must obtain assent of the President. The Constitution of India is an organic document. It must be so construed that it lives and adapts itself to the exigencies of the situation, in a growing and evolving society, economically, politically and socially. The meaning of the expressions used there must, therefore, be so interpreted that it attempts to solve the present problem of distribution of power and rights of the different States in the Union of India, and anticipate the future contingencies that might arise in a developing organism. The Constitution must be able to comprehend the present at the relevant time and anticipate the future which is natural and necessary corollary for a growing and living organism. That must be part of the constitutional adjudication. Hence, the economic development of States to bring these into equality with all other States and thereby develop the economic unity of India is one of the major commitments or goals of the constitutional aspirations of this land. For working of an orderly society economic equality of all the States is as much vital as economic unity."

Freedom of movement of goods, services and the creation of a common market must be understood contextually and as necessary for creating an economic union.

45. It is also rightly contended by all the respondents that balanced development of the country is an equally vital facet of economic integration. No doubt, Part XIII permits some forms of differentiation, for example, to encourage a backward region or to create a level playing field for parts of the country that may not

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have reached the desired level of development. In this context, Part XIII envisions a two-fold object:

(i) Facilitation of a common market through ease of trade, commerce and intercourse by erasing barriers; and

(ii) Regulations (or restrictions) which may have the effect of differentiating between States or regions which may be necessary not only in emergent circumstances of scarcity, etc. or but even for development of economically backward regions or otherwise justified in the public interest.

46. That Part XIII is not about "freedom" alone but is a code of checks and balances, intended at achieving economic unity and parity. Such a desired objective for economic integration through checks and balances was also articulated in Video Electronics (P) Ltd. [Video Electronics (P) Ltd. v. State of Punjab, (1990) 3 SCC 87 : 1990 SCC (Tax) 327] : (SCC p. 113, para 36)

"36. ... Economic unity is a desired goal, economic equilibrium and prosperity is also the goal. Development on parity is one of the commitments of the Constitution. Directive principles enshrined in Articles 38 and 39 must be harmonised with economic unity as well as economic development of developed and underdeveloped areas. In that light on Article 14 of the Constitution, it is necessary that the prohibitions in Article 301 and the scope of Articles 304(a)

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and (b) should be understood and construed. The Constitution is a living organism and the latent meaning of the expressions used can be given effect to only if a particular situation arises. It is not that with changing times the meaning changes but changing times illustrate and illuminate the meaning of the expressions used. The connotation of the expressions used takes its shape and colour in evolving dynamic situations. A backward State or a disturbed State cannot with parity engage in competition with advanced or developed States. Even within a State, there are often backward areas which can be developed only if some special incentives are granted. If the incentives in the form of subsidies or grant are given to any part of (sic or) units of a State so that it may come out of its limping or infancy to compete as equals with others, that, in our opinion, does not and cannot contravene the spirit and the letter of Part XIII of the Constitution. However, this is permissible only if there is a valid reason, that is to say, if there are justifiable and rational reasons for differentiation. If there is none, it will amount to hostile discrimination."

47. In order to justify any "preference" or "discrimination" under Article 303, a scarcity of goods would have to be made out. It is a matter of record that the Study Group's report on which reliance is placed by the appellant, focuses on the need to restrict the export of sand outside India and not within India. In any case, nothing prevents the appellant from restricting the quantum of sand being excavated. However, once the appellant State permits sand to be excavated, neither can it legally restrict its movement

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within the territory of India nor is the same constitutionally permissible. Likewise, there is no restriction on the State importing sand from other States. If it is the case that the demand of any State is not being met, it may purchase sand from other States. In any event, the market will dictate trade in sand inasmuch as it may make no business sense for mining company to transport and sell its sand in a faraway destination after incurring large costs on transportation."

24. In the decisions of the Andhra Pradesh High Court in *Novel Granites (supra)* and this Court in *D. Sivakumar (supra)*, the Courts relied on the decision of the Hon'ble Supreme Court in *Hind Stone (supra)* to hold that if minerals were allowed to be transported outside the State, it would only increase illegal exploitation. Accordingly, they held that the State acted within its authority to impose a transit ban under its regulatory powers, thereby validating the State's competence to frame rules concerning the transportation of excavated minor minerals. However the Hon'ble Supreme Court in *Kalathiya (supra)* explicitly overruled the decisions in *Novel Granites (supra)* and *D. Sivakumar (supra)*.

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25. In the instant case, the impugned rule authorizing a temporary restriction is stated to be framed in response to representations made by the contractors' association regarding scarcity of rough stones, after evaluating domestic needs and the structural impact on local infrastructure. On this basis, the consequential three-month temporary ban is said to have been issued by the authority solely in the public interest.

26. As held by the Hon'ble Supreme Court in *Kalathiya (supra)*, once the State has permitted mining and allowed the excavation of minerals, imposing a temporary ban on their transport to other States has no rationale or reasonable nexus with the object that is sought to be achieved. When mining and excavation are carried out on the basis of a valid mining lease and transportation complies with all statutory requirements, the ownership of the mineral vests entirely with the lessee.

27. Therefore, introduction of Rule 3-A to impose a temporary ban on the transport of excavated minerals beyond the State by tracing powers to Section 23-C of the MMDR Act is completely misplaced. The Hon'ble Supreme Court has explicitly held that Section

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23-C deals exclusively with illegal mining and cannot be applied to minerals being transported pursuant to a valid lease and upon the payment of seigniorage. Therefore, the impugned rule allowing to impose temporary ban to transport rough stone and aggregates beyond the State suffers the vice of Part XIII of the Constitution of India and also lacks legislative competence and *is ultra vires* Sections 15 and 23-C of the MMDR Act.

28. Further, the issue regarding the transport of rough stone and aggregates was considered by the Madurai Bench of this Court in the case of *C. Stephen v. State of Tamil Nadu and Others (W.P.(MD) Nos. 5081 of 2019 and 17092 of 2020, decided on 11.02.2021)*, where the Division Bench, after elaborately considering the decision in *Kalathiya (supra)*, held that the State has no power to regulate or prevent the transport of minerals outside the State. Therefore, if at all the State intends to regulate, it can only do so while granting the mining lease and even if some regulation is sought to be introduced in the public interest, it can only be by measures like prescribing maximum load, speed, and reasonable restrictions for public safety or invoke provisions under Sec.4-A of the MMDR Act, rather than directly interfering with sales or banning transport beyond the State.

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29. Any measure of the State to ban transport of mineral to other States or restrict sales except as provided under Part XIII of the Constitution of India, is unconstitutional and would also traverse beyond the legislative competence. The delegated legislation must restrict itself and strictly confine to the powers conferred upon it and cannot exceed them. Under these circumstances, the impugned Rule 3-A of the Tamil Nadu Prevention of Illegal Mining, Transportation and Storage of Minerals and Mineral Dealers' Rules, 2011, is declared unconstitutional and *ultra vires* the parent Act. Consequently, the impugned proceedings dated 27.07.2026 of the Director of Geology and Mining imposing a temporary ban of three months based on Rule 3-A is quashed.

30. Accordingly, these writ petitions are allowed. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

(SUSHRUT ARVIND DHARMADHIKARI, CJ) (G.ARUL MURUGAN,J)

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To

1.The Principal Secretary to the Government
State of Tamil Nadu
Natural Resources Department, (MMD.1)
Fort St. George, Chennai 600 009.

2.The Director
Department of Geology and Mining
Guindy, Chennai 600 032.

3.Deputy Director
Department of Geology and Mining
Krishnagiri, Tamil Nadu.

4.The District Collector
Hosur District, Tamil Nadu.

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THE HON'BLE CHIEF JUSTICE
AND
G.ARUL MURUGAN,J.

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Pre-Delivery Common Order in
W.P.Nos.31800 of 2026 etc. batch

17.11.2026

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