

* IN THE HIGH COURT OF DELHI AT NEW DELHI
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+ W.P.(C) 6975/2010

WHITE MACHINES Petitioner
Through: Mr. Manjit Singh Ahluwalia,
Advocate.

versus

DPCC AND ORS Respondents
Through: Mr. Sanjeev Ralli, Advocate
for DPCC.

35.

+ W.P.(C) 6977/2010 &

KRISHNA FOUNDRY WORKSHOP Petitioner
Through: Mr. R.K. Saini, Advocate.

versus

DELHI POLLUTION CONTROL COMMITTEE AND ORS
..... Respondents
Through: Mr. Sanjeev Ralli, Advocate
for DPCC.

CORAM: JUSTICE S.MURALIDHAR

% **ORDER**
19.10.2010

CM No. 13818 of 2010 (exemption) in W.P.(C) 6975/2010

Exemption allowed subject to all just exceptions.

The application is disposed of.

W.P.(C) Nos. 6975/2010 & 6977/2010

CM No. 13819/2010 (for stay) in W.P. (C) No. 6975/2010

CM No. 13827/2010 (for stay) in W.P. (C) No. 6977/2010

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1. There are two principal contentions of the Petitioners. One is that the

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inspection report, on the basis of which the impugned closure orders dated 11th October 2010 under Section 31A of the Air (Prevention and Control of Pollution) Act, 1981 were passed by the Respondent No. 1 Delhi Pollution Control Committee (DPCC), was not given to either of the Petitioners prior to passing of such orders.

2. Secondly, it is submitted that each of the Petitioners was not given any time to rectify the so called defects; there was no opportunity given to explain if the defects, as pointed out in the inspection report existed or were removed. In particular, it is stated that there has been violation of Section Rule 20A(3) of the Air (Prevention and Control of Pollution) (Union Territories) Rules, 1983.

3. Notice. Mr. Sanjeev Ralli, learned Advocate accepts notice for Respondents 1 and 2. With the consent of the parties, the petitions are finally heard.

4. A reading of the impugned orders shows that they have been passed by the DPCC without providing either of the Petitioners a copy of the respective inspection reports or giving them an opportunity to explain or to rectify the defects as pointed out in the inspection reports.

5. On this short ground, this Court is of the view that the impugned order cannot be sustained in law.

6. It may be noted that the Petitioner in Writ Petition (Civil) No. *W.P.(C) No. 6975 and 6977/2010*

6975/2010 (M/s White Machines) claims that it is no longer interested in carrying on the activity of a foundry. In the Writ Petition (Civil) No. 6977/2010 the Petitioner (M/s Krishna Foundry Workshop) states that casting activities are carried out only thrice a month and at present, no activity is being undertaken. The next phase of activity is scheduled from 1st November 2010 onwards.

7. Keeping in view the above submissions, this Court sets aside the impugned orders dated 11th October 2010 passed by the DPCC, which are impugned in each writ petitions, subject to the following directions:

- (i) The DPCC will undertake an inspection of the premises of M/s White Machines on any date between 25th October 2010 and 29th October 2010 without advance intimation. Likewise DPCC will undertake an inspection of the premises of M/s Krishna Foundry Workshop on any date between 2nd and 9th November 2010 without advance intimation.
- (ii) It will be incumbent on each of the Petitioners to be present at the time of such inspection through their authorized representatives, who will extend full cooperation to the DPCC.
- (iii) The inspection report of the DPCC team will be got countersigned by such authorized representatives and copy thereof will be given to each of the Petitioners by the DPCC within a period of two days thereafter.

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(iv) A hearing will be given to each of the Petitioners on any date within ten days thereafter before passing an order on the basis of such inspection report.

(v) The order will be communicated to each of the Petitioners within a period of ten days after it is passed.

(vi) If aggrieved by such order, it will be open to each Petitioner to seek such remedies as are available in law.

8. The writ petitions are disposed of with the above terms. The pending applications are also disposed of.

9. A copy of this order be given dasti under the signature of the Court Master.



S. MURALIDHAR, J.

OCTOBER 19, 2010

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