

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.02.2015

CORAM

THE Hon'ble Mr.JUSTICE M. DURAISWAMY

W.P.No.28152 of 2014

and

M.P.No.1 of 2015

Hi-Tech Flyash (India) Pvt Ltd.,
formerly known as Hi Tech Enterprises,
rep by its General Manager,
Balasubramaniam,
No.2/101-5, Tiruchendur Road,
Muthiahpuram,
Tuticorin - 628 005

...Petitioner

vs

1. Chairman,
Tamil Nadu Generation and Distribution Corporn Ltd,
Anna Salai,
Chennai-600 002
2. Chief Engineer/Civil Head Quarters,
Tamil Nadu Generation and Distribution
Corporn Ltd.,
144, Anna Salai,
Chennai - 600 002
3. The Chief Engineer,
Tuticorin Thermal Power Station,
Tuticorin - 628 004

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying this Court to issue a Writ of Mandamus, directing the respondents to allot 10% of the total fly ash from all the units of the third respondent as per the recommendation of the State Level Monitoring Committee dated 30.11.2011 until the expiry of the Memorandum of Understanding dated 05.01.2006 and 1.7.2006.

For petitioner : Mr.M.K. Kabir
Senior Counsel for
Mr.G. Krishna Kumar

For respondents : Mr.S. K. Rameshwar

ORDER

The petitioner has filed the above writ petition to issue a Writ of Mandamus directing the respondents to allot 10% of the total fly ash from all the units of the third respondent, as per the recommendation of the State Level Monitoring Committee dated 30.11.2011 until the expiry of the Memorandum of Understanding dated 5.1.2006 and 1.7.2006.

2. The petitioner, along with Writ Petition, filed an application in M.P No.1 of 2014 to pass an interim direction, directing the respondents to make necessary arrangements for the allotment of the total fly ash from the units of the third respondent to the petitioner Company, as per the recommendation of the State Level Monitoring Committee dated 30.11.2011, pending disposal of the writ petition.

3. This Court, by order dated 30.10.2014, while ordering notice of motion, granted an order of interim direction on condition that the petitioner has to deposit 10% of the demand amount within a period of four weeks from the date of receipt of a copy of the order.

4. Pursuant to the interim direction given by this court, the petitioner filed a Contempt Petition before this Court. Thereafter, the respondents were made to comply with the interim direction passed by this Court.

5. Now, after filing of the counter in the writ petition, the petitioner seeks to withdraw the writ petition, stating that the writ petition has been filed by the petitioner inadvertently and that had pendency of various writ petitions been known to the petitioner Company, they would not have filed the writ petition.

6. In the affidavit filed by the petitioner, the General Manager of the Petitioner Company has also tendered his unconditional apology for non-verification of the pendency of various writ petitions. The affidavit dated 18.1.2015, filed by the petitioner, is taken on record.

7. The respondents filed an affidavit today before this Court, wherein, they have stated that by virtue of contempt petition, the respondents were put to hardship and that the respondents have deputed Senior Officials for pursuing the Writ petition, filed by the petitioner.

8. Further, the respondents have stated that they have also engaged Senior Counsel to defend the case filed by the petitioner. After fighting the case tooth and nail, the petitioner, now, simply wants to withdraw the writ petition, stating that the writ petition was filed inadvertently.

9. Having enjoyed the order of interim direction, passed by this Court, and also having caused undue hardship to the respondents by filing contempt petition, now the petitioner wants to withdraw the writ petition stating that the writ petition was filed inadvertently.

10. No doubt, the petitioner can withdraw the writ petition at any stage, but in the case on hand, after making the interim direction being complied with by the respondents and by parting with the dry fly ash from the allotment of Cement Company under the Memorandum of Understanding, the petitioner has caused several hardship to the respondents.

11. In these circumstances, I am of the considered view that the petitioner can be permitted to withdraw the writ petition, however, on payment of cost.

12. Learned counsel for the respondents submitted that the respondents had incurred huge expenditure of engaging Senior Counsel to defend the writ petition filed by the petitioner.

13. In these circumstances, the writ petition is dismissed as withdrawn. However, the petitioner is directed to pay a sum of Rs.1,00,000/- (Rupees one lakh only) to the respondents within a period of two weeks from the date of receipt of a copy of this order.

14. Mr. M.K. Kabir, learned Senior Counsel, appearing for the petitioner, submitted that the petitioner is willing to pay a sum of Rs.1,00,000/- (Rupees one lakh only) to the respondents.

15. The petitioner shall pay the said sum of Rs.1,00,000/- by way of Demand Draft drawn in favour of the second respondent within the stipulated time.

16. Since the writ petition has been dismissed as withdrawn, the learned counsel appearing for the proposed party submitted that the petition in M.P.No.1 of 2015, filed for impleading the proposed party, can be closed.

17. In view of the same, M.P No.1 of 2015 is closed.

Sd/-
Assistant Registrar(CS-II)

//True Copy//

Sub Assistant Registrar

sr

To

1. The Chairman,
Tamil Nadu Generation and Distribution Corporn Ltd,
Anna Salai,
Chennai-600 002
2. The Chief Engineer/Civil Head Quarters,
Tamil Nadu Generation and Distribution Corporn Ltd.,
144, Anna Salai,
Chennai - 600 002
3. The Chief Engineer,
Tuticorin Thermal Power Station,
Tuticorin - 628 004

1 CC to Mr.S. K. Rameshwar, Advocate SR.No. 7192

SCD (CO)
PSI (23.02.2015)

W.P.No.28152 of 2014

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