

**HON'BLE THE ACTING CHIEF JUSTICE DILIP B. BHOSALE
AND
THE HON'BLE SRI JUSTICE S.V. BHATT**

W.P.No.20059 OF 2015

PC: *(Per the Hon'ble Sri Justice S.V.Bhatt)*

Heard Sri Y.Srinivasa Murthy, learned counsel for the petitioner and learned Special Government Pleader representing respondent No.1 and Sri G.Ramchandra Rao, learned Standing Counsel for APPCB/2nd respondent.

The issue arises under the Water (Prevention and Control of Pollution) Act, 1974 (for short 'the Water Act') and the Air (Prevention and Control of Pollution) Act, 1981 (for short 'the Air Act') read with the Bio-Medical Waste (Management and Handling) Rules, 1998.

The petitioner challenges order No.APPCB/KNL/INL/967/HO/CBMWTF/2015-1488 dated 09.02.2015 rejecting Consent for Establishment (CFE) application of petitioner, as illegal, unconstitutional and contrary to the Water Act, Air Act and Biomedical Waste (Management and Handling) Rules, 1998.

The petitioner, on 23.05.2014, applied to the 2nd respondent for grant of consent for establishment under the Water and Air Acts to establish and operate a bio-medical waste treatment facility. The 2nd respondent rejected the application dated 23.05.2014 with the following reasons:

“Only one CBMWTF can be allowed for viability as per CPCB directions as bed strength of two districts i.e., YSR Kadapa and Anantapur is less than 10,000 and

As the facility proposed by M/s Sriven Environ Technologies, Sy.No.277-1A, Dumpetla (V), Dharmavaram (M), Ananthapur District has applied for CFE first i.e., one month before the other facility proposed by M/s A.W.M Consulting Limited, Sy.No.65/3, Narpala (V & M), Anantapuram District.”

Hence, the writ petition.

The order rejecting the application for grant of CFE is appellable under the Acts referred to above. The petitioner invokes the jurisdiction of this Court under Article 226 of the Constitution of India due to the fact that the 1st respondent has not taken steps for constitution of appellate authority under the Water and Air Acts and it is pointed out that the same is resulting in inconvenience and hardship to the persons aggrieved by the orders of the 2nd respondent under these Acts and aggrieved persons are denied of the right of appeal under the Acts. At the request of learned counsel appearing for the respondents, the writ petition was adjourned from 03.07.2015 to this day.

The learned Special Government Pleader, on instructions, submits that the 1st respondent has taken all the steps for constitution of appellate authority under the Acts referred to above and according to him, the appellate authority is constituted within four weeks from today. The statement of learned counsel is placed on record.

The learned Standing Counsel, on instructions, submits that having regard to the view taken by the appellate authority under the Acts on the binding nature of guidelines issued by the CPCBs in implementation of the Biomedical Rules, the respondent Board is prepared to re-consider the CFE application dated 23.05.2014 filed by the petitioner and pass appropriate orders in this behalf.

Having regard to the submissions made on behalf of respondents 1 and 2, we are satisfied that the writ petition can be ordered with the following directions.

- “1. The 1st respondent, as stated above, completes the process already initiated for constitution of appellate authority under the Acts within a period of four weeks from today”

2. The 2nd respondent is directed to re-consider the CFE application dated 23.05.2014 of the writ petitioner within a period of eight weeks from the date of receipt of a copy of this order and pass appropriate orders.”

With the above directions, the writ petition is ordered.

Consequently, miscellaneous petitions, if any pending, also stand disposed of.

ACJ

DILIP B. BHOSALE,

S.V.BHATT,

J

Date: 10.07.2015

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