

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Orders Reserved on 01.08.2016)

DATED : 03.08.2016

CORAM:

THE HON'BLE MR.JUSTICE R.SUBBIAH

CrI.O.P.No.552 of 2014

and

M.P.No.1 of 2014

Puducherry Environment Protection Association,
rep. by its Secretary I.Irisappan,
No.18, Sarkarai Vinayagar Koil Street,
Koodapakkam & Post,
Puducherry,
Pin-605 502. ... Petitioner

Vs.

1.Chief Secretary cum Chief Vigilance Officer,
Govt of Puducherry,
Gubert Avenue,
Puducherry.

2.The Superintendent of Police,
Vigilance & Anti Corruption,
Muthialpet,
Puducherry.

3.The Director,
Central Bureau of Investigation,
Anti Corruption Head Quarter,
(AC-HQ) Zone,
Plot No.5-B, 10th Floor, A-Wing,
CGO Complex,
New Delhi-110 003.

... Respondents

Prayer: Petition filed under Section 482 of Cr.P.C., praying to direct the respondents 1 & 2 to transfer the complaint dated 18.01.2013 to the 3rd respondent (CBI, AC-HQ) for investigating the same.

For Petitioners : Mrs.Vijayalakshmi Rajarathinam
for Mr.S.Ashok Kumar

For Respondents : Mr.M.R.Thangavel, APP (For R1 & R2)
Mr.K.Srinivsan, Spl PP for CBI (for R3)

* * * * *

ORDER

This petition has been filed by the petitioner praying to direct the respondents 1 & 2 to transfer the complaint dated 18.01.2013 to the 3rd respondent-CBI for investigating the same.

2. In the affidavit filed in support of the petition, it has been averred by the petitioner as follows:-

2-1. The petitioner/Association is a registered Society registered under the Societies Registration Act and it was formed for the welfare of the people in Puducherry. On 26.01.2011, there was a major explosion in the premises of one M/s. Chemfab Alkalix Ltd., Periyakalapet, due to which many villages had suffered greatly and the poisonous gas which emanated from the said Company, caused permanent disability to senior citizens, women and children in the nearby villages. One Kannan had complained about the said explosion to the 2nd respondent and the 2nd respondent registered the complaint in FIR.No.6 of 2011 on 26.01.2011 under Sections 284, 337 r/w 34 IPC; but, thereafter, no action was taken by the 2nd respondent.

2-2. The petitioner/Association has been taking many precautionary measures and fighting for the cause of the people of Puducherry. In such attempt, the petitioner/Association has complained about the said company viz., M/s. Chemfab Alkalix Ltd., Periyakalapet, to the Puducherry Pollution Control Committee (PPCC), stating that the said company has been producing Caustic Soda Lye and it is manufacturing and operating 200% over and above the license capacity from 1998-1999 to till date. But, the Member Secretary and Chairman of PPCC refused to take any action against the said company. Hence, the petitioner/Association had also filed an application in A.No.275 of 2013 before the National Green Tribunal, Southern Zone, Chennai and the Tribunal has passed an order of injunction on 30.10.2013 as against the said company. But, according to the petitioner, the Chairman and Member Secretary of PPCC are not willing to even implement the order of injunction passed by the Tribunal. Hence, the petitioner/Association has lodged a complaint dated 18.11.2013 with the 2nd respondent, who in turn forwarded the complaint to the 1st respondent. Since the respondents 1 & 2 have not taken any action on the basis of the complaint given by the petitioner/Association, the present petition has been filed by the petitioner/Association seeking to transfer the complaint to the 3rd respondent/CBI for proper investigation.

3. The learned Additional Public Prosecutor, by filing a detailed counter, would state that the petitioner/Association lodged a complaint to the 2nd respondent for enquiry and requested to take necessary action as per law against one Thiru. Dwaraganath, Member Secretary, PPCC, Puducherry and the Director of M/s. Chemfab Alkalix Ltd., Kalapet, Puducherry. In the complaint, the petitioner/Association alleged that there was large scale criminal conspiracy, manipulation, forgery, cheating and receipt of illegal gratification by the said Mr. Dwaraganath, Member Secretary of PPCC, Mr. Sundaravadivelu, Special Secretary-cum-

Chairman of PPCC and the Directors of M/s.Chemfab Alkalis Ltd.; that M/s.Chemfab Alkalis Ltd., has been operating at 200% of their licensed capacity since 1998-99 to till date; that they had been permitted by PPCC to produce 33000 TPA of Caustic Soda Lye, but they have been illegally producing at higher capacity; that by producing such enormous quantity of caustic soda Lye, the said company has been black marketing the excess products. Further, the National Green Tribunal directed the Superintending Engineer-I of Electricity Department, Puducherry to disconnect the power supply to the said M/s.Chemfab Alkalis Ltd. and the Chief Town Planner of TCPD was also directed to stop the unauthorized construction going on at M/s.Chemfab Alalis Ltd. It is the allegation of the petitioner/Association that the said officials violated the various Government Orders and order of NGT and helped M/s.Chemfab Alkalis Ltd, to produce more caustic soda lye, thereby caused revenue loss to the Government.

4.The learned Additional Public Prosecutor would further submit that on receipt of the complaint given by the petitioner, a letter was submitted to the Chief Vigilance Officer, Puducherry on 21.11.2013 for appropriate order to proceed further. In response to the said letter, the Chief Vigilance Officer, Puducherry by an order dated 17.12.2013 vide No.C.13011/16/2013-CVO, ordered to conduct an enquiry and furnish a report. Thereafter, a detailed enquiry was conducted and the enquiry report was submitted stating that the allegations levelled by the petitioner in the complaint dated 18.11.2013 are not substantiated and accordingly, the complaint was closed. Thus, the learned Additional Public Prosecutor submitted that since the complaint given by the petitioner was closed after conducting a detailed enquiry, now the prayer sought for by the petitioner cannot be entertained.

5.Heard both sides and perused the materials available on record.

6.Since the complaint given by the petitioner was already closed by the respondent-Police after conducting a detailed enquiry, now, no direction could be given to the respondents in the present petition as sought for by the petitioner. If the petitioner has any grievance over the closure report, the petitioner has to work out his remedy in the manner known to law.

Accordingly, the criminal original petition is dismissed. Connected Miscellaneous Petition is closed.

Sd/-
Asst.Registrar (CS VI)

/true copy/

Sub Asst. Registrar

To,

1.The Chief Secretary cum Chief Vigilance Officer,
Govt of Puducherry,
Gubert Avenue,
Puducherry.

2.The Superintendent of Police,
Vigilance & Anti Corruption,
Muthialpet,
Puducherry.

3.The Director,
Central Bureau of Investigation,
Anti Corruption Head Quarter,
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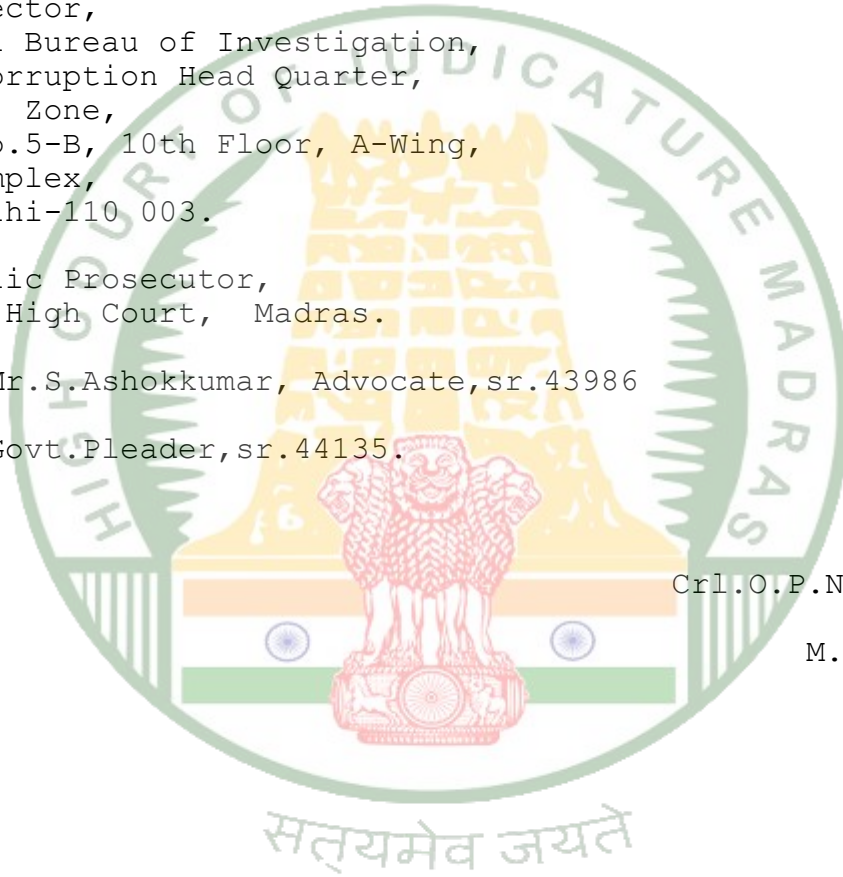
4.The Public Prosecutor,
Madras High Court, Madras.

+1 cc to Mr.S.Ashokkumar, Advocate,sr.43986

+1 cc to Govt.Pleader,sr.44135.

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