

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.07.2016

CORAM :

The Hon'ble MR.SANJAY KISHAN KAUL, CHIEF JUSTICE

AND

The Hon'ble MR.JUSTICE R.MAHADEVAN

W.P. No.32674 of 2012

Tamilnadu Fly Ash Bricks and Blocks
Manufacturers Asso., Rep. by its
Secretary, R.Ravi. ... Petitioner

-vs-

- 1.Union of India, Rep. by its
Secretary to Govt., Ministry of
Environment and Forests, New Delhi.
- 2.The Government of Tamilnadu,
Rep. by its Secretary, Ministry of
Environment and Forests,
Fort St. George, Chennai.
- 3.The Ministry of Urban Development,
Rep. by the Director General (Central
Public Works Department),
Nirman Bhawan, New Delhi.
- 4.Tamilnadu Generation and Distribution
Corporation Limited, Rep. by its
Chairman, 800, Anna Salai, Madras-2.
- 5.Chennai Metropolitan Development Authority,
1, Gandhi Irwin Road, Egmore, Chennai-8.
- 6.The Tamilnadu Slum Clearance Board,
5, Kamarajar Salai, Chennai-5.
- 7.Tamilnadu Housing Board,
493, Anna Salai, Nandanam, Chennai-35.
- 8.PuUblc Works Department,
Secretariat, St. George, Chennai.

9.Southern Railway,
Southern Railway Headquarters,
Park Town, Chennai-3.

10.The Corporation of Chennai,
Rep. by its Commissioner,
Rippon Building, Chennai-3.

11.Metro Rail,
Harini Towers, No.7, Conran Smith
Road, Gopalapuram, Chennai-86.

12.The Tamilnadu Pollution Control Board,
Rep. by its Director, Anna Salai,
Guindy, Chennai-2.

.. Respondents

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Mandamus to direct the respondents to ensure compliance with the Fly Ash Utilisation Amendment Notification S.O.2408 (E) dated 3.11.2009 issued by the Ministry of Environment and Forests directing them to use fly ash based products for construction for any building or structure carried out within a radius of 100 kms from a coal or lignite based thermal power plant

For Petitioner : Mr.Rathina Asokan
For Respondents : Mr.Su.Srinivasan
Asst. Solicitor General
for RR 1 & 3
: Mr.S.T.S.Murthi, Govt. Pleader,
asst. by Mr.V.R.Kamalanathan,
Addl.G.P. for RR 2 and 8
: Mr.Gunasekar for R-4
: Mr.K.Rajasrinivas for R-5
: Mr.V.Kesavan for R-6
: Mr.V.Anandhamurthy for R-7
: Mr.P.T.Ramkumar for R-9
: Mr.K.Soundararajan for R-10
: Mr.Jayesh B.Dolia for R-11
: Mrs.Rita Chandrasekar for R-12

O R D E R

(Order of the Court was made by The Hon'ble Chief Justice)

Learned Assistant Solicitor General has drawn our attention to the report of the Committee constituted by the National Green Tribunal, Principal Bench, New Delhi, vide order dated

10.11.2014. The report dated 15.01.2015 has rendered its opinion as under:

''16.0 Opinion

1. Since, the generation of fly ash by these thermal power plants is too high and scope of its utilization in bricks manufacturing and infrastructure projects is limited, mine void and quarry reclamation by back filling with fly ash seems to be the most feasible option for utilization of fly ash in the area.
2. The filling of the void created in the coal mine of M/s.MCL would require huge quantity of overburden / external soil / sand to be transported from some other sites. This would create air pollution and environment effects of some other sites. To avoid this, filling up of these voids by the available fly ash seems appropriate. However, the thermal power plants should be asked to monitor the ground water quality (pre & post-monsoon every year) around the ash disposal sites and submit the same to State Pollution Control Board, who would in turn carry out the trend analysis.
3. It has been observed that, huge area of land is acquired for ash ponds and still there is no system available for major uptake of fly ash. Utilization of fly ash by manufacturing bricks / road construction / cement manufacturing is not encouraging. Hence, the Committee felt that, filling of fly ash in voids of abandoned mine seems to be the only option.
4. Disposal of fly ash in the form of slurry is found to be the better option as it avoids plying of large number of vehicles on the road leading to traffic congestion. This method also facilitates recycling / reuse of decanted water back to the plant for preparation of ash slurry.
5. High Density Slurry Disposal (HDSD) for mine void filling is preferred for quick consolidation of slurry. However, techno economic feasibility is to be evaluated.
6. The Committee however, has not ignored other options like making bricks, road construction or manufacturing cement, the back filling of mine void should be considered only after exploring all these options.

7. The studies of CSIR-NEERI have not shown any signs of heavy metal contamination in the ground water. However, the Committee strongly felt that there is a need for comprehensive monitoring (pre-monsoon and post-monsoon) of ground water quality surrounding the ash disposal sites. This monitoring should be carried out on a study area delineated on the watershed principle.'

2. Learned Assistant Solicitor General submits that the Union of India had published a notification dated 25.01.2016 consequent to the report and the Test Certificate issued by the Bhabha Atomic Research Centre dated 03.04.2014 clarifies that there is no radio activity element in the fly ash. This would take care of the apprehension expressed by the learned counsel for the TNPCB on the last date of hearing.

3. We are of the view that no further directions are required, as the notification itself states what is required to be done and would accordingly be followed as per law.

4. Writ petition is, accordingly, closed. No costs.

Sd/-
Assistant Registrar (CS IV)

//True Copy//

Sub Assistant Registrar

sra
To

1. Secretary to Govt. of India,
Ministry of Environment and Forests, New Delhi.

2. The Secretary to Govt. of Tamilnadu,
Ministry of Environment and Forests,
Fort St. George, Chennai.

3. The Director General,
Ministry of Urban Development,
(Central Public Works Department),
Nirman Bhawan, New Delhi.

4. The Chairman,
Tamilnadu Generation and Distribution
Corporation Limited, Rep. by its
800, Anna Salai, Madras-2.

5.Chennai Metropolitan Development Authority,
1, Gandhi Irwin Road, Egmore, Chennai-8.

6.The Tamilnadu Slum Clearance Board,
5, Kamarajar Salai, Chennai-5.

7.Tamilnadu Housing Board,
493, Anna Salai, Nandanam, Chennai-35.

8.Public Works Department,
Secretariat, St. George, Chennai.

9.Southern Railway,
Southern Railway Headquarters,
Park Town, Chennai-3.

10.The Corporation of Chennai,
Rep. by its Commissioner,
Rippon Building, Chennai-3.

11.Metro Rail,
Harini Towers, No.7, Conran Smith
Road, Gopalapuram, Chennai-86.

12.The Tamilnadu Pollution Control Board,
Rep. by its Director, Anna Salai,
Guindy, Chennai-2.

+cc to M/S.Rathina Ashohan, Advocate Sr.41989

+lcc to P.T.Ramkumar, Advocate Sr.41795

+lcc to Mr.S.K.Raameshuwar, Advocate Sr.41488

+lcc to M/S.Rita Chandrasekar, Advocate sr.4476

+lcc to M/S.Su.Srinivasa, Advocate Sr.41412

+lcc to Mr.K.RajaShrinivas, Advocate Sr.41272

+lcc to M/S.N.Damodaran, Advocate sr.41205

+lcc to M/S.V.Anandha Moorthy, Advocate Sr.41195

+lcc to the Special Government Pleader sr.41238

WEB COPY

W.P.No.32674 of 2012

Mp1[co]
srg 03/08/2016