

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.07.2016

CORAM

THE HONOURABLE MR. JUSTICE N.KIRUBAKARAN

W.P. Nos.23778 to 23782 of 2016

&

W.M.P.Nos.20372 to 20376 of 2016

Sri Lakshmi Narasimha
Fal-G Cement Bricks,
Rep.by its Proprietor,
No.1, 94th Street, 21st Avenue,
Ashok Nagar, Chennai - 600 083.

..Petitioner [in W.P.No.23778/2016]

Siva Brick and Blocks
Rep.by its Proprietor,
S.No.5/1, Bye Pass Road,
Viriddhachalam,
Cuddalore - 606 001.

..Petitioner [in W.P.No.23779/2016]

GPA Bricks,
Rep.by its Proprietor,
No.39, Aladi Main Road,
Periakandiankuppam, Virudhachalam,
Cuddalore District - 606 001.

..Petitioner in W.P.No.23780/2016]

SSV Bricks and Blocks,
Rep.by its Proprietor,
260/4, Angarayanallur East Silai,
Udayarpalayam [Taluk],
Ariyalur - 621 802.

..Petitioner [in W.P.No.23781/2016]

Everest Flyash Bricks,
Rep.by its Proprietor,
S.No.111/2C, Rajiv Nagar, Numbal Village,
Chennai - 600 077.

..Petitioner [in W.P.No.23782/2016]

Vs.

1.The Chairman,
Tamil Nadu Generation and
Distribution Corporation Ltd.,
800, Anna Salai,
Chennai - 600 002.

2.The Chief Engineer /Civil Designs,
Tamil Nadu Electricity Board /
Tamil Nadu Generation and
Distribution Corporation Ltd., [TANGEDCO],
No.144, Anna Salai,
Chennai - 600 002.

3.The Chief Engineer,
North Chennai Thermal Power Station II,
[Unit of Tamil Nadu Generation and
Distribution Corporation Ltd],
Attipattu Pudu Nagar, Chennai - 600 120.

..Respondents [in All W.Ps.]

COMMON PRAYER : Writ Petitions have been filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the second respondent to permit the petitioners to lift ash from the North Chennai Thermal Power Station II without insisting any conditions.

For Petitioner : Mr.N.G.R.Prasad,
[in all W.Ps.] for M/s.V.Stalin

For Respondents : Mr.S.K.Raameshuwar
[in all W.Ps.] Standing Counsel for TNEB

C O M M O N O R D E R

The petitioners are the manufacturers of bricks and by Allotment Orders dated 14.02.2014, 31.08.2013 and 06.04.2013 respectively, the fly ash was allotted to the petitioners to be lifted from the third respondent Thermal Power Station and the said orders were valid upto 31.03.2014 and subsequently, it was renewed upto 31.03.2016. Thereafter, due to intervention of the election, the allotment was extended only upto 31.05.2016 and thereafter, from 01.06.2016 onwards, the fly ash is not permitted to be lifted from NCTPS-II and therefore, the petitioners have come before this Court, seeking writ of mandamus, directing the second respondent to permit the petitioners to lift the fly ash from North Chennai Thermal Power Station II.

2. Heard Mr.N.G.R.Prasad, learned Senior counsel appearing for the petitioners and Mr.S.K.Raameshuwar, learned Standing Counsel appearing for the respondents.

3. It is only to reduce the impact of fly ash on the environment, the Government of India issued notification permitting utilisation of fly ash in the manufacturers of bricks and in other construction activities. Based on that only, the petitioners by virtue of allotment orders dated 14.02.2014,

31.08.2013 and 06.04.2013 respectively, were permitted to lift the fly ash and permission was extended upto 31.05.2016. The reasoning given by the respondents as to why the petitioners have not been permitted is that they have to verify the purpose for which the fly ash is being used. There is no prohibition on the part of the respondents from verifying the purpose for which the petitioners are lifting the fly ash. The said process can simultaneously be done while allowing the petitioners to lift the fly ash.

4. It is not a fresh allotment of fly ash the petitioners are availing whereas they have been availing the benefit right from 2013 onwards. If the purpose for which the fly ash is being used by the petitioners have not been verified for the past three years, it denotes that there is negligence on the part of the respondents in not verifying it. In the guise of verifying the purpose, the respondents cannot prevent the petitioners from lifting the fly ash. Therefore, there shall be a direction to the respondents, especially, the second respondent to permit the petitioners to lift the fly ash from North Chennai Thermal Power Station II. However, this order will not prevent the respondents from verifying the purpose for which the fly ash is being used and if it is not used for the admitted purpose, it is always open to the respondents to take appropriate proceedings / action.

5. With the above observations, these Writ Petitions are allowed. Consequently, connected Miscellaneous Petitions are closed. No costs.
sri

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

To

- 1.The Chairman,
Tamil Nadu Generation and
Distribution Corporation Ltd.,
800, Anna Salai,
Chennai - 600 002.
- 2.The Chief Engineer /Civil Designs,
Tamil Nadu Electricity Board /
Tamil Nadu Generation and
Distribution Corporation Ltd., [TANGEDCO],
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Chennai - 600 002.

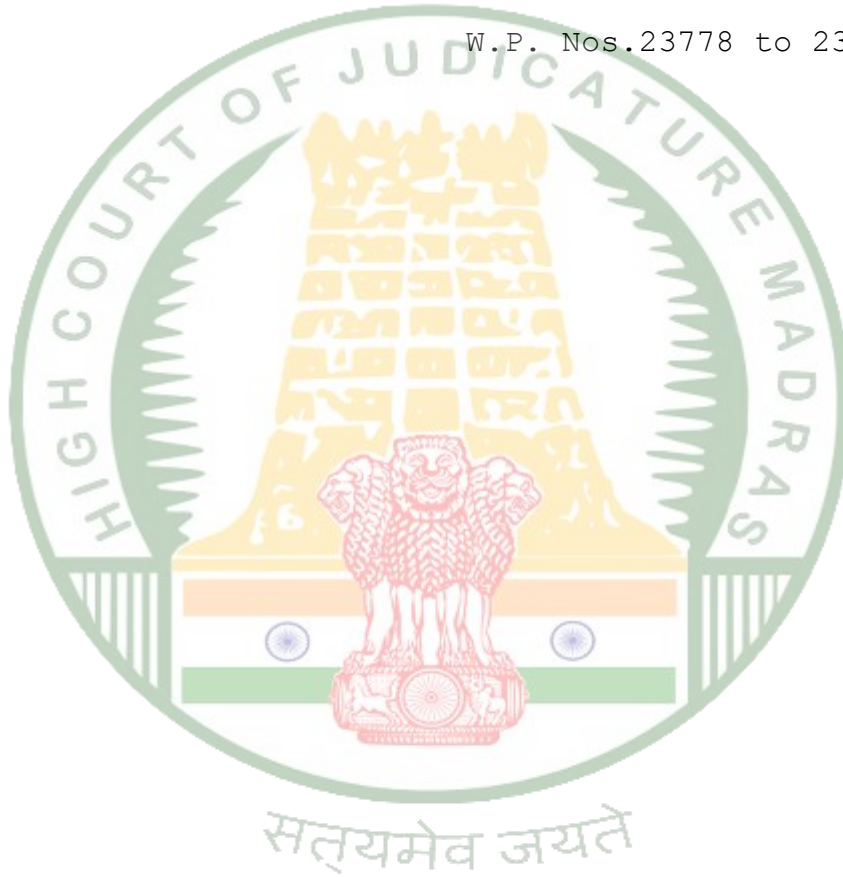
3.The Chief Engineer,
North Chennai Thermal Power Station II,
[Unit of Tamil Nadu Generation and
Distribution Corporation Ltd],
Attipattu Pudu Nagar, Chennai - 600 120.

+ 5 ccs to M/s.V.Stalin, Advocate Sr 38999

+ 1 cc to Mr.S.K.Raameshuwar, Advocate Sr 39495

KR/26/7/16

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