

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 12.08.2016

CORAM

THE HONOURABLE MR. JUSTICE N.KIRUBAKARAN

W.P. Nos.28229 to 28232 of 2016
& W.M.P.Nos.24374 to 24377 of 2016

Om Sakthi Enviro - Techs
Rep.by its Proprietor
No.22,23-Muthiya Nagar,
Periyaganankuppam,
Cuddalore-607 001.

.. Petitioner
[in W.P.No.28229/2016]

Kasthuri & Company
Rep.by its Partner,
R.S.No.466/4B, Vanathampalayam Main Road,
Periyababu Samudram,
Kandamangalam Block,
Villupuram Taluk,
Villupuram District.

.. Petitioner
[in W.P.No.28230/2016]

Shri Balaji Bricks
Rep.by its Proprietor
R.S.No.13/1-A, Manaveli,
Thiruvendhipuram,
Cuddalore -(TK) 600 002.

.. Petitioner
[in W.P.No.28231/2016]

Durai Enterprises,
Flyash Bricks Manufacturers
Rep.by its Proprietor,
No.26-E, Pudhu Street, Pudhu Nagar,
Varakalpattu, Cuddalore - 607 109. ... Petitioner
[in W.P.No.28232/2016]

Vs.

1.The Chairman,
Tamil Nadu Generation and
Distribution Corporation Ltd.,
144, 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. .. Respondents 1 & 2 in all
WPs
- 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
No.3 in WP 28230 to 28232
of 2016.
- 4.The Chief Engineer,
Mettur Thermal Power Station I,
[Unit of Tamil Nadu Generation and
Distribution Corporation Ltd],
Mettur Dam, Salem District .. Respondent 3 in WP 28229 of
2016.

COMMON PRAYER : Writ Petitions in WP 28230 to 28232 of 2016,
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.

Writ petition No.28229/2016 is filed under Article 226 of
constitution of India praying to issue a writ of mandamus
directing the 2nd respondent to permit the petitioner to lift
ash from the Mettur Thermal Power Station I without insisting
any conditions.

For Petitioner : Mr.V.Stalin
[in all W.Ps.]

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

COMMON ORDER

The petitioners are the manufacturers of bricks and by
Allotment Orders dated 27.03.2013 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.V.Stalin, learned counsel appearing for the petitioners and Mr.S.K.Raameshwar, 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 27.03.2013 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.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

rgr

To

- 1.The Chairman,
Tamil Nadu Generation and
Distribution Corporation Ltd.,
144, 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.
 - 4.The Chief Engineer,
Mettur Thermal Power Station I,
[Unit of Tamil Nadu Generation and
Distribution Corporation Ltd],
Mettur Dam, Salem District
- 4 ccs to M/s.V.Stalin, Advocate, sr.46442
1 cc M/s.S.K.Raameshuwar, Advocate, sr.46393

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