

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.11.2016

CORAM

THE HONOURABLE MR. JUSTICE N. KIRUBAKARAN

W.P. No.42042 of 2016

M/s Bharat Construction  
Rep. By its Proprietor  
Merattur Village  
Neithavoyal Post  
Ponneri Taluk, Thiruvallur District ..Petitioner

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 I,  
(Unit of Tamil Nadu Generation  
and Distribution Corporation Ltd.)  
Attipattu Pudunagar, Chennai -600 120. ..Respondents

Prayer :Petition under Article 226 of the Constitution of India  
praying for issue of a Writ of Mandamus directing the 2<sup>nd</sup>  
respondent to permit the petitioner to lift ash from the North  
Chennai Thermal Power Station I without insisting any conditions.

For Petitioner :: Mr.V. Stalin

For Respondents:: Mr.S.K. Raameshuwar

O R D E R

This writ petition is filed for issue of a Writ of Mandamus directing the 2<sup>nd</sup> respondent to permit the petitioner to lift ash from the North Chennai Thermal Power Station I, without insisting on any conditions.

2. When the writ petition is taken up, it has been brought to the notice of this Court that, in similar circumstances, in W.P. No. 23778 of 2016, while allowing the said writ petition by order dated 13.07.2016, it was observed as hereunder:

"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."

3. In the light of the above order passed by this Court, in a connected writ petition, this writ petition is also allowed on the same lines, as hereunder:

"There shall be a direction to the respondents, especially, the second respondent to permit the petitioner to lift the fly ash from North Chennai Thermal Power Station I. 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." No costs.

Sd/-

Asst.Registrar (CS III )

/true copy/

Sub Asst. Registrar

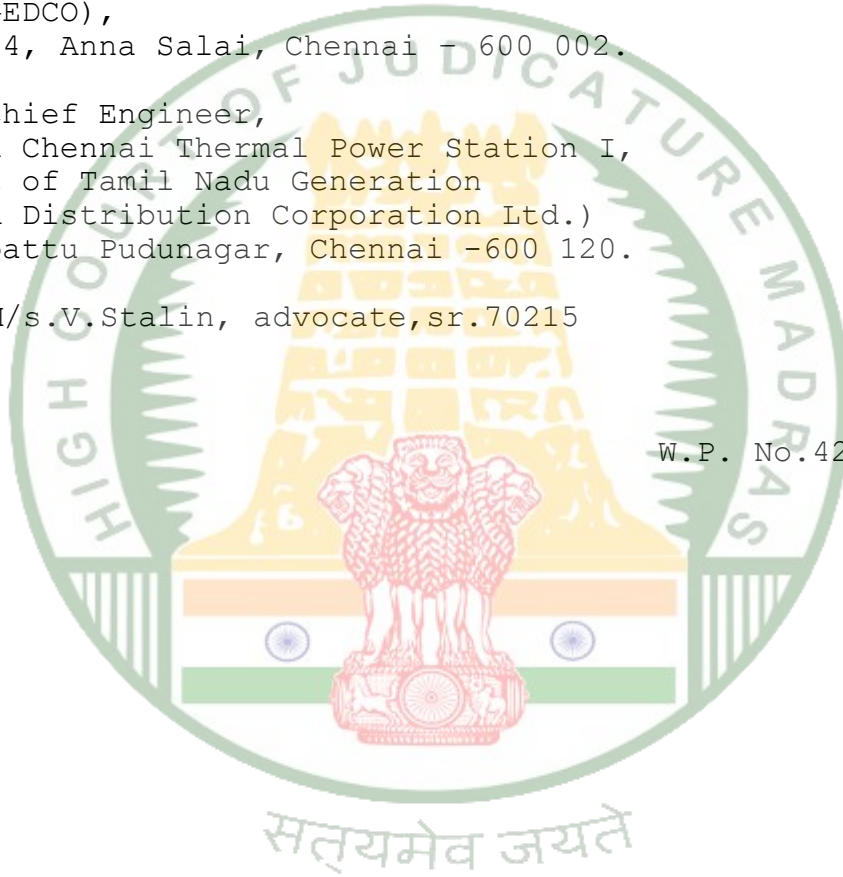
To

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.,  
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(Unit of Tamil Nadu Generation  
and Distribution Corporation Ltd.)  
Attipattu Pudunagar, Chennai -600 120.

+1 cc to M/s.V.Stalin, advocate,sr.70215

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krd 8/12

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