

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.06.2017

CORAM

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH

W.P.Nos.11414 & 11415 of 2017
and
W.M.P.Nos.12361 to 12364 of 2017

Shri Balaji Bricks
Rep. by its Proprietor ...Petitioner in
W.P.No.11414 of 2017

Sri Lakshmi Narasima
Fal-G Cement Bricks
Rep. by its Partner ...Petitioner in
W.P.No.11415 of 2017
Vs.

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

2. The Chief Engineer / Civil Designs,
Tamilnadu 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 both
W.Ps.

Writ petitions filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus after calling for the records of the 2nd respondent in proceedings Lr.No.CE/CD/SE/CD & HP/EE-2/AEE-3/F NCTPS II/D.745/16 DATED 21.11.2016 and the 3rd respondent proceedings in Lr.No.CE/NCTPS-II/SE/M-II/EE/M/AHP Dn/F.3/D.1311/16 dated 29.11.2016 and quash

the same and consequently direct the 2nd respondent to permit the petitioners to lift fly ash from the North Chennai Thermal Power Station II without insisting any condition.

For Petitioner : Mr.V.Stalin in both W.Ps.

For Respondents : Mr.S.K.Rameshwar
in both W.Ps.

COMMON ORDER

Challenging the proceedings of the second respondent dated 21.11.2016 and the third respondent dated 29.11.2016 and for a consequential direction to the second respondent to permit the petitioners to lift fly ash from the North Chennai Thermal Power Station II without insisting any condition, these writ petitions have been filed.

2.By the impugned orders, the allotments given in favour of the petitioner Companies were withheld without assigning any reason presumably in compliance with the order passed by this Court in W.P.Nos.23778 to 23782 of 2016 dated 13.07.2016. It is appropriate to reproduce the relevant portion in the order, which is as follows:

"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."

3.The impugned orders are passed admittedly without affording an opportunity and assigning any reason. The said orders are also placed for better appreciation:

"Based on the reference Court directions for various Writ Petitions filed by 9 (nine only) nos. Brick manufacturers against the CMD, CE/CD and CE/NCTPS II regarding the allotment of Dry fly ash for the year 2016-17, the said companies were inspected by Enforcement officers and report received as non genuine. TANGEDCO can seek to withhold the allotment orders based on the Court directions permitting TANGEDCO to take suitable action after verification.

Hence the allotment orders for the following Company was withhold to lift dry fly ash for the year 2016-17 from NCTPS II.

i) M/s.Sri Lakshmi Narasimha Fal-G Cement Bricks, No.240/13, SIPCOT, Pappankuppam Village Road, Gummidipoondi, Thiruvallur District - PIN Code: 601 201.

.....
.....

(iv)M/s.SHRI BALAJI BRICKS, R.S.No.13/1-A, Manalveli, Thiruvanthipuram, Cuddalore - 607 401.

4.Learned counsel appearing for the petitioners submitted that in a similar matter in W.P.No.42475 of 2016 by order dated 18.04.2017, this Court allowed the writ petitions.

5.In view of the fact that the orders impugned have got civil consequences and hence should have been persuaded by a notice of hearing, the impugned orders are hereby set aside. However, liberty is given to the second respondent to issue show cause notice to the petitioners indicating the proposed action and thereafter proceed in accordance with law.

6.With the above observation, the writ petitions stand allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

mmi

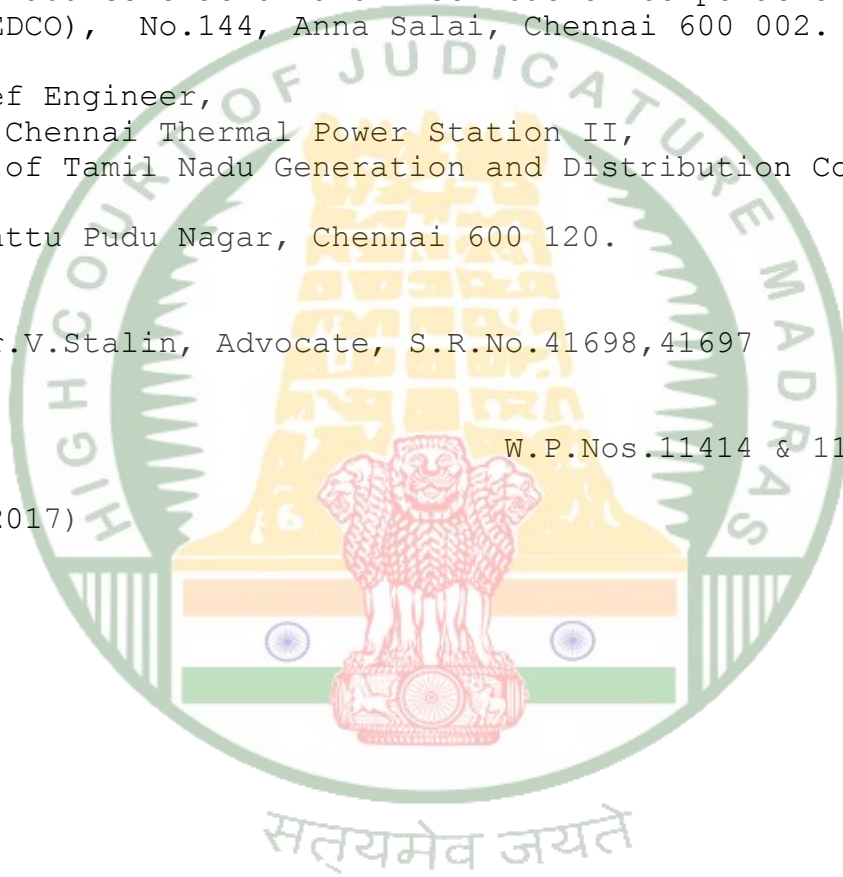
To

1. The Chairman,
Tamil Nadu Generation and Distribution Corporation Ltd.,
800, Anna Salai, Chennai 600 002.
2. The Chief Engineer / Civil Designs,
Tamilnadu 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.

+2cc to Mr.V.Stalin, Advocate, S.R.No.41698,41697

W.P.Nos.11414 & 11415 of 2017

NR(CO)
RS(20/06/2017)



WEB COPY