

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.06.2017

CORAM

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH

W.P.Nos.13989 and 13990 of 2017
and W.M.P.Nos.15202 and 15203 of 2017

M/s.Shri Narayana Bricks rep. by its
Proprietor

... Petitioner in
W.P.No.13989 of 2017

Maniram Fly Ash Industries rep. by its
Proprietor

... Petitioner in
W.P.No.13990 of 2017

Vs.

1. The Chairman,
Tamil Nadu Generation and
Distribution Corporation Ltd.,
800, Anna Salai, Chennai - 2.
2. The Chief Engineer/Civil Designs,
Tamil Nadu Electricity Board/
Tamil Nadu Generation and
Distribution Corporation Ltd.,
(TANGEDCO)
No.144, Anna Salai, Chennai - 2.
3. The Chief Engineer,
Mettur Thermal Power Station I
(Unit of Tamil Nadu Generation
and Distribution Corporation
Ltd.), Mettur Dam,
Salem District.

... Respondents in
both the W.Ps

Petitions 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 Mettur Thermal Power Station I without insisting any conditions.

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

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

COMMON ORDER

Considering the commonality of the issue involved, these writ petitions are taken up together and disposed of by way of a common order.

2.The petitioners were given allotment orders to lift fly ash. Seeking permission to lift the fly ash without any condition, the present writ petitions have been filed.

3.Heard the learned counsel appearing for the petitioners and the learned counsel appearing for the respondents.

4.Learned counsel appearing for the petitioners would submit that the order passed by this Court in W.P.Nos.23778 to 23782 of 2016 dated 13.07.2016 would govern the cases on hand and therefore, the ratio laid down therein may be applicable to the present cases. In the aforesaid order, this Court was pleased to hold as under:

"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 manufactures 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."

5. In such view of the matter and taking note of the similarity of the facts and law, these writ petitions are disposed of in the same terms. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

To

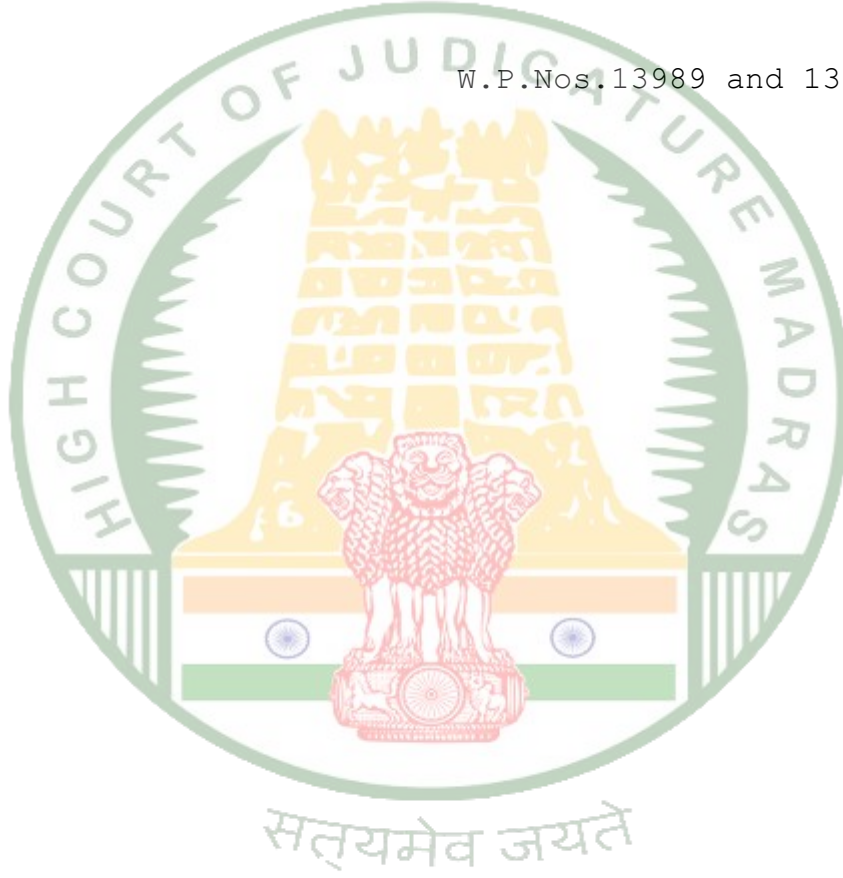
1. The Chairman,
Tamil Nadu Generation and
Distribution Corporation Ltd.,
800, Anna Salai, Chennai - 2.
2. The Chief Engineer/Civil Designs,
Tamil Nadu Electricity Board/
Tamil Nadu Generation and
Distribution Corporation Ltd.,
(TANGEDCO)
No.144, Anna Salai, Chennai - 2.

3. The Chief Engineer,
Mettur Thermal Power Station I
(Unit of Tamil Nadu Generation
and Distribution Corporation
Ltd.), Mettur Dam,
Salem District.

+2 CCs to Mr.V. Stalin, Advocate sr 41382 & 41383

W.P.Nos.13989 and 13990 of 2017

GP (CO)
sp/15/6



WEB COPY