

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.01.2017

CORAM:

THE HONOURABLE MR. JUSTICE D.KRISHNAKUMAR

W.P.No.18463 of 2013

and

M.P.No.1 of 2013

Indo Fly Ash Association,
rep. by its Chairman,
Santosh Kumar, S/o.Natesan,
No.212/5/77A, Rajaji Nagar,
Madhaian Kuttai Post,
Mettur Dam, Salem District.

... Petitioner

Vs.

1. The Union of India,
rep. by its Deputy Director,
Ministry of Environment & Forest,
146, Paryawaran Bhavan,
CEO Complex, New Delhi.
2. The Chairman,
Tamil Nadu Electricity Board,
Mount Road, Chennai - 600002.
3. The Tamil Nadu Generator &
Distribution Corporation Ltd.,
rep. by its Chairman,
No.800, Anna Salai,
Chennai - 600 002.
4. The Chief Engineer, सत्यमेव जयते
(Civil Designs),
III Floor, Eastern Wring,
NPKRR Maligai,
No.144, Anna Salai,
Chennai - 600 002.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records in Letter No.CE/CD/SE/CD&HP/SE(NI)/AEE/F-MTPS-Stage III/B.Ash/D.1278/13 dt.16.5.2013 on the file of Fourth Respondent herein and quash the same as illegal and direct the respondents 2 to 4 to implement the Notification issued by the Department of Ministry of Environment and Forest, New Delhi, dated 03.11.2009 letter and spirit by supplying the Dry Bottom Ash to the members of the petitioner's Association free of costs without any service charges.

For Petitioner : Mr.A.Ramesh
For 1st respondent : Mr.A.Kumaraguru
Central Government Standing Counsel
For respondents 2 to 4 : Mr.S.K.Rameshuwar
(Standing Counsel for TNEB)

ORDER

Heard the learned counsel appearing for the parties.

2. The learned Standing Counsel for TNEB has fairly brought to the notice of this Court that the issue raised in the present Writ Petition is covered by a Judgment of a Division Bench of this Court in M/s.Tami Nadu Fly Ash Bricks and Block's Manufactures Association & others vs. M/s.Tamilnadu Generation & Distribution Corporation Limited & others in W.A.Nos.1299, 1501 and 1538 of 2013 dated 19.8.2014, reported in (2014) 6 MLJ 275, wherein at Paragraph 52, it has been held as follows:-

"52. Considering all the above stated provisions of law and the scope of the same, we are of the considered view that the TNGEDCO which is an industry manufacturing power through thermal stations is bound to follow the directions issued by the Union of India which has statutory force and the competent authority having prohibited the collection of any charge for supply of fly ash to brick manufacturers, the TANGEDCO is not entitled to collect the service charge from the Brick Manufacturers."

3. Following the ratio of the aforesaid judgment, the Writ Petition is allowed with the same terms. Connected Miscellaneous Petition is closed. No costs.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

asvm

To

1. The Deputy Director,
The Union of India,
Ministry of Environment & Forest,
146, Paryawaran Bhavan,
CEO Complex, New Delhi.
2. The Chairman,
Tamil Nadu Electricity Board,
Mount Road, Chennai - 600 002.
3. The Chairman,
Tamil Nadu Generator &
Distribution Corporation Ltd.,
No.800, Anna Salai,
Chennai - 600 002.
4. The Chief Engineer,
(Civil Designs),
III Floor, Eastern Wring,
NPKRR Maligai,
No.144, Anna Salai,
Chennai - 600 002.

+1cc to Mr.A.Kumaraguru, Advocate, S.R.No.965

+1cc to Mr.R.Sankarasubbu, Advocate, S.R.No.1151

W.P.No.18463 of 2013
and
M.P.No.1 of 2013

SV(CO)
CA(10/02/2017)

सत्यमेव जयते

WEB COPY