

IN THE HIGH COURT OF JUDICATURE AT MADRAS**DATED : 07.08.2017****CORAM**

THE HONOURABLE MR.JUSTICE M.VENUGOPAL
And
THE HONOURABLE MR.JUSTICE P.D.AUDIKEVALU

W.P.No.34321 of 2016

Great Eastern Energy Corporation Limited
 Having its registered office at
 M 10, ADDA Industrial Estate
 Asansol – 713 305
 West Bengal.

... Petitioner

Vs.

1.State of Tamil Nadu
 Represented by its Additional Chief Secretary to Government
 Industries (MMA.1 Department)
 Namakkal Kavignar Maaligai,
 Fort St.George,
 Chennai – 600 009.

2.Union of India
 Through Joint Secretary
 Ministry of Petroleum and Natural Gas
 Shastri Bhawan
 New Delhi – 110 001.

3.Tamil Nadu Pollution Control Board,
 76, Mount Salai, Guindy,
 Chennai – 600 032.

... Respondents

Prayer:

Writ petition filed under Article 226 of the Constitution of India
 praying to issue a Writ of Certiorarified Mandamus calling for the
 records of the 1st respondent in the letter dated 8.10.2015 in

reference no.G.O.(D) No.186 quash the same and consequently direct the 1st respondent to grant renewal of PELs (Petroleum Exploration Licence) to the petitioner.

For Petitioner : Mr.S.Parthasarathy,
Senior Counsel
For M/s.Udayarkar Rangarajan,
Aparajitha Vishwanath

For Respondents : Mr.M.Elumalai for R1
Government Advocate
Mr.Venkatasamy Baby for R2
Ms.Rita Chandrasekar for R3

ORDER

(Order of the Court was made by M.VENUGOPAL,J.)

Heard the Learned Senior Counsel for the Petitioner, Learned Government Advocate for the First Respondent and the Learned Counsel for the second and third respondents.

2.It comes to be known the impugned order in G.O.(D) No.186, Industries (MMA.1) Department, dated 08.10.2015, was passed by the Government of Tamil Nadu, whereby and whereunder at paragraph 3 it is observed as follows:

"3.The Government, after careful examination, has decided to accept the recommendations of the Expert Technical Committee and direct that no clearance

shall be issued from the Government of Tamil Nadu for the project and orders accordingly. Further, the Government shall urge the Government of India to drop further action on the exploration and other activities related to Coal Bed Methane Gas Exploration and production in the entire Cauvery Delta area and also to consult Government of Tamil Nadu before initiating any such activities in the State in future. The District Collectors concerned are directed to give wide publicity to this order in their respective jurisdiction."

3.It is quite evident that paragraph 3 of the Government Order referred to above was obviously passed by the State Government keeping in mind the ingredients of Section 3(1) of the Environment (Protection) Act, 1986. That apart, this Court pertinently acts to point out that the Environment (Protection) Act, 1986, falls under Schedule 1 of the National Green Tribunal Act, 2010.

4.It cannot be gain-said that Section 14 of the National Green Tribunal Act, 2010 enjoins 'Tribunal to settle disputes', whereby and whereunder it is specifically mentioned "that Tribunal shall have the

jurisdiction over all civil cases where a substantial question relating to environment including enforcement of any legal right relating to environment is involved' and such question arise out of the implementation of the enactments specified in Schedule 1 also that Section 2(m)(ii) of the National Green Tribunal Act, 2010, specifies what the substantial question of law means and as per Section 2 (m)(ii), 'the environmental consequences relate to a specific activity or a point of source of pollution.'

5. At this juncture, this Court worth recalls and recollects, the decision of the Hon'ble Supreme Court between ***Bhopal Gas Peedith Mahila Udyog Sangathan and others Vs. Union of India and others ((2012) 8 Supreme Court Cases 326)*** at special page 347, wherein at paragraph 40, it is laid down as under:

"40. Keeping in view the provisions and scheme of the National Green Tribunal act, 2010 (for short "the NGT Act") particularly Sections 14, 29, 30 and 38(5), it can safely be concluded that the environmental issues and matters covered under the NGT Act, Schedule I should be instituted and litigated before the National Green Tribunal (for short "NGT"). Such approach may be necessary to avoid likelihood of conflict of orders between

the High Courts and NGT. Thus, in unambiguous terms, we direct that all the matters instituted after coming into force of the NGT Act and which are covered under the provisions of the NGT Act and/or in Schedule I to the NGT act shall stand transferred and can be instituted only before NGT. This will help in rendering expeditious and specialised justice in the field of environment to all concerned."

6. Based on the aforesaid decision of the Hon'ble Supreme Court, this Hon'ble Court had issued a Notification No.26/2013 dated 24.01.2013 in and by which, it was categorically directed that the cases instituted after coming into force of the National Green Tribunal Act, 2010, i.e., 02.06.2010 and which are covered under the provisions of the National Green Tribunal are being transferred to the said Regional National Green Tribunal, Chennai and it was abundantly made clear that 'no case under the above provisions under the National Green Tribunal Act' shall be entertained in the Madras High Court.

7. Further, this Court points out the Division Bench order of this Court in ***W.P.(MD) No.2285 of 2016*** dated ***09.09.2016*** between

Somasekharan Nair Vs. The District Collector, Nagercoil Post, Kanyakumari District and 9 others, wherein at paragraph 19, it is observed as under:

"19.As per abovesaid Judgment of the Honourable Apex Court, we come to the conclusion that the environmental issues and matters covered under the NGT Act, Schedule I should be instituted and litigated before the National Green Tribunal only and not before this Court under Article 226 of the Constitution of India. Such approach may be necessary to avoid likelihood of conflict of orders between the High Court and National Green Tribunal. After Act of NGT 2010 came into force, the environmental issues and matters covered under the NGT Act, Schedule-I should be instituted and litigated before the National Green Tribunal and this Court have no competent jurisdiction to entertain this writ petition. Accordingly, this writ petition is dismissed with a direction to the petitioner to approach the National Green Tribunal. No costs. Consequently, connected miscellaneous petition is also dismissed."

8.In view of the foregoing, the present writ petition filed by the

petitioner is per se not maintainable before this Court and the same is dismissed. No costs. It is made clear that the dismissal of the writ petition will not preclude the petitioner to approach the competent forum seeking redressal of its grievances in the manner known to Law and in accordance with Law, if it so desires/ advised.

[M.V.,J.] [P.D.A.,J.]
07.08.2017

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Speaking Order/ Non Speaking Order

Index: Yes/ No

Internet: Yes/ No

To

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