

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.04.2017

CORAM

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH

W.P.No.42475 of 2016
and W.M.P.No.36368 of 2016

SSV Bricks and Blocks
Rep. by its Proprietor,
260/4, Angarayanallur East, Silal,
Udayarpalayam (t.k).,
Ariyalur - 621 802.Petitioner

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
North Chennai Thermal Power Station II
(Unit of Tamil Nadu Generation and Distribution
Corporation Ltd.)
Attipattu Pudu Nagar, Chennai - 120.Respondents

Prayer: This writ petition filed under Article 226 of the Constitution of India, to issue a writ particularly in the nature of a writ of Certiorarified Mandamus, calling for the records of the second respondent in proceedings Lr.No.CE/CD/SE/CD & HP/EE-2/AEE-3/F.NCTPS II/D.747/16 dated 21.11.2016 and quash the same and consequently directing the second respondent to permit the petitioner to lift fly ash from the North Chennai Thermal Power Station II without insisting any condition.

For Petitioner : Mr.N.G.R.Prasad
for Mr.V.Stalin
For Respondents : Mr.S.K.Rameshwar

ORDER

This writ petition has been filed for issuance of a writ of Certiorarified Mandamus, calling for the records of the second respondent in proceedings Lr.No.CE/CD/SE/CD & HP/EE-2/AEE-3/F.NCTPS II/D.747/16 dated 21.11.2016 and quash the same and consequently directing the second respondent to permit the petitioner to lift fly ash from the North Chennai Thermal Power Station II without insisting any condition.

2.By the impugned order, the allotment given in favour of the petitioner Company was 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.Now the impugned order is passed admittedly without affording an opportunity and assigning any reason. The said order is 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.SSV Bricks and Blocks, 260/4, Angarayanallu East, Silal, Udayarpalayam Tk., Ariyalur - PIN Code:621 802.

4.Though in the counter affidavit filed, certain reasons are sought to be assigned, in view of the settled position of law that reasons cannot be supplemented in the affidavit coupled with the fact that the order impugned has got civil consequences and hence should have been persuaded by a notice of hearing, it is hereby set aside. However, liberty is given to the second respondent to issue a show cause notice to the petitioner indicating the proposed action and thereafter proceed in accordance with law.

5.With the above observation, the writ petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

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Assistant Registrar

//True copy//

Sub Assistant Registrar

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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
North Chennai Thermal Power Station II
(Unit of Tamil Nadu Generation and Distribution
Corporation Ltd.) Attipattu Pudu Nagar,
Chennai - 120.

C.C. to MR.V.Stalin Advocate SR.NO. 23325

C.C. to MR.S.K.Raameshuwar Advocate SR.NO.23704

W.P.No.42475 of 2016
and W.M.P.No.36368 of 2016

SKV (CO)
VS 24.04.2017



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