



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 19.06.2017

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
AND

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.P. (MD) No.11074 of 2017
and W.M.P. (MD) No.8495 of 2017

M/s.Sri Ragavendra Bleachers,
Rep. by its Proprietor,
R.Pragalathan,
2/89, Sundharanadappu,
K.Nedungulam Village,
Sivagangai Taluk,
Sivagangai District.

: Petitioner

Vs.

- 1.The Tamil Nadu Pollution Control Board,
Rep. by its Chairman,
No.26, Mount Salai,
Guindy, Chennai - 600 032.
- 2.The District Environmental Engineer,
Tamil Nadu Pollution Control Board,
Sivagangai.
- 3.The Superintendent Engineer,
Tamil Nadu Generation of Electricity and
Distribution Corporation (TANGEDCO),
Sivagangai.
- 4.The Assistant Engineer,
Tamil Nadu Generation of Electricity and
Distribution Corporation (TANGEDCO),
Sivagangai.

: Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned orders passed by the 1st Respondent in his proceedings in Proc. No.T1/TNPCB/F.3586/SVG/2017-1, dated 02.06.2017 and that of Proc. No.T1/TNPCB/F.3586/SVG/2017-2, dated 02.06.2017, quash the same consequently directing the Respondents 1 and 2 herein to consider the petitioner's application seeking order for consent to operate the petitioner unit dated 17.07.2015.

For Petitioner
For Respondents 1 & 2

: Mr.D.Srinivasaragavan
: Mr.M.Govindan
Special Government Pleader

**O R D E R**

[Order of the Court was made by **T.S.SIVAGNANAM, J.**]

Heard Mr.D.Srinivasaragavan, learned counsel appearing for the petitioner, Mr.M.Govindan, learned Special Government Pleader for the respondents 1 and 2 and Mrs.Srimathi, learned Standing Counsel for respondents 3 and 4.

2.This petition has been filed by the petitioner for issuance of Certiorarified Mandamus to quash the order passed by the first respondent dated 02.06.2017, and the consequential proceedings also dated 02.06.2017 and to direct the respondents 1 and 2 consider the petitioner's application for consent to operate the unit.

3.The impugned order in this Writ Petition has been passed under Section 33-A of the Water (Prevention and Control of Pollution) Act, 1974. As against such order, the petitioner has an effective and efficacious remedy of filing an appeal before the National Green Tribunal. The petitioner has moved this Court, as the National Green Tribunal is closed for Summer Vacation and there is no Vacation Sitting. Therefore, the matter was listed before us for maintainability and being satisfied that the petitioner could not move the National Green Tribunal, we permitted the Writ Petition to be entertained.

4.The petitioner was granted consent to establish a Bleaching Unit vide order dated 12.08.2011. To enable the petitioner to commence operation they are required to obtain an order of consent to operate from the respondent Board. According to the respondent Board, when the District Environmental Engineer made an inspection of the Unit on 03.04.2017, it was found that the Unit was in operation without obtaining an order of consent to operate and they had not fulfilled various parameters, which ultimately lead to passing the impugned order of closure. According to the petitioner, the inspection was conducted by the District Environmental Engineer behind the back of the petitioner and the petitioner was not operating the Unit and they have fulfilled all the conditions. It is submitted that a representation dated 13.04.2017, requesting for issuance of consent to operate, stating that they have fully complied with all the conditions stipulated in the order giving consent to establish the unit is pending consideration of the respondent Board. If the petitioner has not been granted an order to operate the Unit, obviously the petitioner cannot commence production and if that had been done it is illegal. In any event, the petitioner's case is that they have fulfilled all the conditions and if an inspection is conducted in their presence the authority would be in a position to assess the state of affairs and pass appropriate



orders.

5. Thus, considering the facts and circumstances of the case, we do not propose to set aside the impugned order, but, would direct the respondent Board to appoint the Joint Chief Environmental Engineer of the respondent Board having jurisdiction over the area to inspect the petitioner's Unit after giving notice to the petitioner. For the purpose of inspection, as electricity would be required, the respondents 3 and 4 are directed to grant temporary electricity supply for the purpose of inspection alone and after completing the inspection, the supply shall be disconnected and thereafter appropriate orders will be passed by the competent authority on merits and in accordance with law. The above direction shall be complied with, within a period of two weeks from the date of receipt of a copy of this order.

6. With the above directions, this Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar

/True copy/

Sub Assistant Registrar

To

1. The Tamil Nadu Pollution Control Board,
Rep. by its Chairman,
No.26, Mount Salai,
Guindy, Chennai - 600 032.
 2. The District Environmental Engineer,
Tamil Nadu Pollution Control Board,
Sivagangai.
 3. The Superintendent Engineer,
Tamil Nadu Generation of Electricity and
Distribution Corporation (TANGEDCO),
Sivagangai.
 4. The Assistant Engineer,
Tamil Nadu Generation of Electricity and
Distribution Corporation (TANGEDCO),
Sivagangai.
- +1cc to Mr.D.Srinivasaragavan, Advocate, SR.600876

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