



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.11.2017

CORAM

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

W.P. (MD) No.20469 of 2017

and

W.M.P (MD) .No.16739 of 2017

M/s.Ramky Energy and Environment Ltd.,
Undurmikidakulam Village,
Mukkulam,
Tiruchuli Taluk, Virudhunagar District,
Rep. by its Project Head,
V.S.Venkatesan

... Petitioner

-Vs-

1.The District Collector,
Virudhunagar District,
Virudhunagar.

2.The Superintendent of Police,
Virudhunagar Town and District.

3.The Deputy Superintendent of Police,
Thiruchuli Taluk,
Virudhunagar Town and District.

4.The Inspector of Police,
A.Mukkulam Police Station,
Tiruchuli Taluk,
Virudhunagar District.

5.The Tamil Nadu Pollution Control Board,
rep. by the District Environment Engineer,
TNPCB,
Virudhunagar Town and District.

6.Chokkar

... Respondents

(6th respondent is impleaded vide
order, dated 10.11.2017 in WMP(MD).

No.17065/2017

in WP(MD).No.20469 of 2017)



Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, to direct the respondents to provide necessary police protection to the petitioners factory employees, premises and vehicles in accordance with the petitioner's representation, dated 09.10.2017 and 31.10.2017.

For Petitioner : Mr.N.Dilip Kumar
For Respondents 1 to 5 : Mr.D.Muruganadam,
Additional Government Pleader
For Respondent No.6 : Mr.G.Prabhu Rajadurai

O R D E R

This Writ petition is filed for issuing a Writ of Mandamus, to direct the respondents to issue necessary police protection to the factory employees, premises and vehicles of the petitioner. The petitioner has already given detailed representations on 09.10.2017 and on 31.10.2017.

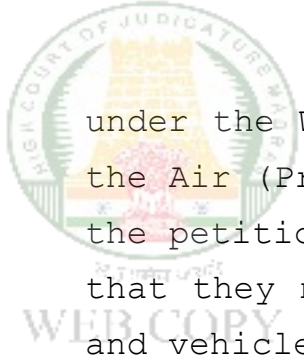
2. The brief facts which are necessary for the purpose of disposing this writ petition are as follows:

The petitioner is a company which was registered under the Companies Act, 1956. It is stated that the petitioner has established several facilities for Bio-Medical Waste Management. The petitioner further stated that the management of bio-medical waste is governed under the Biomedical Waste (Management and Handling) Rules of 2016, framed under the Environment (Protection) Act. It is contended that the petitioner has purchased lands and established the Bio-Medical Waste Management facility in R.S.No.136 and 137 of Undurmikidakulam Village, Mukkulam, Tiruchuli Taluk, Virudhunagar District, for collection, reception, storage and safe disposal of bio-medical waste from all hospitals, dispensaries etc.



(2.1) It is stated that the job of the petitioner is to collect all the medical waste from Private Hospitals, Clinics, Government Hospitals, Laboratories, Blood Banks and other Dispensaries in Virudhunagar, Madurai, Ramanathapuram, Theni and Dindigul Districts. The medical waste, thus collected by the petitioner are expected to be treated in accordance with the Rules and Regulations and it is being done by the petitioner. It is to be noted that the petitioner has earlier approached this Court with similar prayer.

(2.2) In W.P(MD).No.10953 of 2017, the petitioner sought for a direction seeking police protection. A third party, who has not been impleaded in this writ petition, has filed a writ petition earlier in W.P.(MD).No.1931 of 2016 for issuance of a writ of mandamus, forbearing the petitioner herein from setting up and operating the "Bio-medical Waste Disposal Unit" at Undrumikidakulam village in Virudhunagar District. The petitioner has also filed another writ petition in W.P.(MD).No.10957 of 2013 challenging the order passed by the Local Body directing the closure of the petitioner's unit. All the writ petitions were disposed of by the Hon'ble Division Bench of this Court by an order, dated 05.09.2017. While disposing the writ petitions, the order passed by the Local Body directing the closure of the petitioner's Unit was set aside by the Hon'ble Division Bench. The Hon'ble Division Bench has also directed police protection to the petitioner as and when required for the purpose of maintenance and trial run of all the petitioner's unit. The Hon'ble Division Bench found that the basic biometries are satisfied by the petitioner. However, the application for renewal of consent to operate was then pending consideration. It was only subject to the outcome of the application for renewal of operating the unit. This Court restricted the prayer for giving police protection only for the purpose of maintenance and trial of the petitioner's unit. After the order of the Hon'ble Division Bench, it is stated that the Pollution Control Board issued renewal of consent upto March, 2018. The renewal of consent to operate the petitioner's Unit was obtained

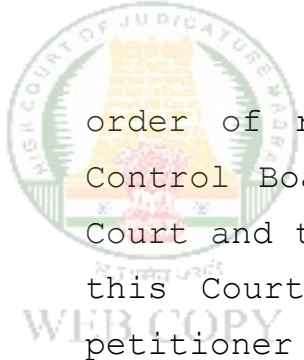


under the Water (Prevention and Control of Pollution) Act, 1974 and the Air (Prevention and Control of Pollution), Act, 1981. Thereafter the petitioner has put the unit in operation. However, it was stated that they need police protection to the factory premises, employees and vehicles, in view of the threat posed by some local persons.

3. Heard the learned counsel for the petitioner and the learned Additional Government Pleader appearing for the respondents 1 to 5 and the learned counsel appearing for the sixth respondent and perused the materials available on record.

4. The learned counsel for the petitioner brought to the notice of this Court about the incident by which the vehicles belonged to the petitioner, which are meant for transporting the medical waste has been intercepted and damaged by some villagers. It is in these circumstances, the learned counsel for the petitioner also states that police protection is required not only in the interest of the petitioner but also in the interest of the public so that the petitioner carry on their operations in treating medical waste collected from all the Hospitals, Dispensaries including the Government Hospitals in the manner required in law.

5. Even, earlier the petitioner had some difficulties with some group of people, who have organised demonstrations to prevent the petitioner from establishing and operating their unit. The petitioner lodged a complaint, dated 06.05.2017 and was also constrained to move this Court earlier for seeking police protection. Police protection was not given to operate the petitioner's unit for want of consent to operate the unit from the Pollution Control Board under the Water (Prevention and Control of Pollution) Act, 1974 and the Air (Prevention and Control of Pollution), Act, 1981. The objection was also based on the fact that there was no clearance by the Pollution Control Board then and renewal for consent was under consideration at the time of the disposal of the writ petitions. Now, the petitioner has obtained the



order of renewal of consent upto March 2018, from the Pollution Control Board. Having regard to the materials placed before this Court and the submissions of the learned counsel for the petitioner, this Court is able to see a prima facie case in favour of the petitioner to give police protection.

6. The learned Additional Government Pleader on instructions would submit that there are several objections from various quarters for the petitioner's industry being allowed to operate. However, the learned Additional Government Pleader is not able to point out any infraction of Rules or Statutory provisions to prevent the industry to carry on its activities. Having regard to the fact that the petitioner has obtained consent till March, 2018, for operating the unit and the petitioner has produced several documents to show that they are authorised to establish the industry under the Bio-Medical Waste (Management and Handling) Rules of 2016 and other statutory provisions and to carry on their business, this Court is not able to justify the submission of the learned Additional Government Pleader, who wants the authorities to consider the grievances of the public at the moment. Today, the sixth respondent has been impleaded and raised some objections. It is to be noted that in the order passed by the Hon'ble Division Bench, dated 05.09.2017, there was a direction as follows:

"17. Accordingly, the following orders passed.

(i) W.P.(MD).No.10957 of 2013 stands allowed. The order impugned passed by the third respondent stands set aside.

(ii) W.P.(MD).No.10953 of 2017 stands disposed of by directing the second respondent to give adequate police protection as and when required, only for the purpose of maintenance and the trial of the petitioner unit alone.

(iii) Till the consent to operate is obtained from the fourth respondent, the petitioner cannot run the unit.



(iv) The District Environmental Engineer, the fourth respondent in W.P.(MD).No.10953 of 2017 is directed to pass appropriate orders within a period of six weeks from the date of receipt of a copy of this order in the light of the observation made earlier.

(v) The District Medical Officer, Madurai is directed to conduct the Screening Camp along with 8 officials mentioned, who participate earlier, on 20.09.2017.

(vi) The fourth respondent and the District Medical Officer are further directed to communicate their decision, both to the petitioner in W.P.(MD).No.10953 of 2017 and W.P.(MD).No.1931 of 2016.

(vii) In order to maintain transparency and fairness on Mr.Dr.A.Rengarajan, M.D., Retired Professor of Medicine, Madurai Medical College is also directed to be added as one of the doctors in the panel, which is directed to make inspection on 20.09.2017.

(viii) the petitioner shall not be allowed to carry his vehicle for the purpose of running the unit and it is made clear that they would be permitted to use for the trial running and maintenance alone."

7. Pursuant to the direction of this Court, it appears that the District Medical Officer has organised a screening camp along with the concerned officials as directed by this Court. It is stated that the petitioner in W.P.(MD).No.1931 of 2016 along with his men made an attempt to prevent the team of Doctors to conduct the screening camp, which has to be conducted as per the direction of this Court. In this regard, a complaint has also been lodged as against the petitioner in W.P.(MD).No.1931 of 2016, by the Village Administrative Officer. The case was registered in Crime No.95 of 2017, on 20.09.2017 for the alleged offences punishable under



Sections 147, 341 and 353 of IPC before A.Mukkulam Police Station, Virudhunagar District.

8. It is in these circumstances, this Court is of the prima facie view that the some private persons have vested interest in preventing the petitioner from establishing Bio-Medical Waste Management Unit for some reasons or the other. If these individuals have any grievances, it is always open to them to work out their remedy, by challenging the order of consent given by the Pollution Control Board and the permission to the petitioner granted by other Statutory Authorities in relation to the industrial operation of the petitioner. Since the Pollution Control Board is expected to go into the technical aspects and only after satisfying the Norms, Rules and Regulations, they are supposed to renew the consent, this Court need not go into the legality of the order of renewal of consent given by the Pollution Control Board in favour of the petitioner. No argument was advanced even by the learned counsel appearing for the sixth respondent pointing out any other violation of Rules or Norms. This Court is also convinced that the facility for Bio-Medical Waste Management is also required and serves a public purpose. In that view of the matter, this Court is inclined to give the following directions:

“ The respondents 3 and 4 are directed to give necessary police protection to the petitioner's factory, employees, premises and vehicles in accordance with law, upon receipt of the necessary charges applicable as per the Government Order of the Home Department passed in G.O.Ms.No.249 Home (POL-VIII) Dept, dated 21.03.2017.”

9. With the above directions, this Writ Petition stands allowed. No Costs. Consequently, connected miscellaneous petition is also closed.

Sd/-
Assistant Registrar (P & A)



To

1.The District Collector,
Virudhunagar District, Virudhunagar.

2.The Superintendent of Police,
Virudhunagar Town and District.

3.The Deputy Superintendent of Police,
Thiruchuli Taluk, Virudhunagar Town and District.

4.The Inspector of Police,
A.Mukkulam Police Station,
Tiruchuli Taluk, Virudhunagar District.

5. The District Environment Engineer,
The Tamil Nadu Pollution Control Board,
TNPCB, Virudhunagar Town and District.

+1cc to M/S.N.DILIP KUMAR, Advocate SR.No.86461.

+1cc to M/S.G.PRABHU RAJADURAI, Advocate SR.No.86500.

+1cc to Special Government Pleader in SR.No.86898.

W.P. (MD) .No.20469 of 2017
10.11.2017

PJL

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