



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT  
DATED 05.09.2017  
CORAM

**THE HONOURABLE MR.JUSTICE M.M.SUNDRESH  
AND**

**THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR**

WEB COPY

W.P.[MD].Nos.10957 of 2013, 1931 of 2016 and 10953 of 2017

and

W.M.P(MD)Nos.8384 of 2017, M.P(MD)Nos.1 & 2 of 2013, 8058 of 2016  
and 1679 of 2016

W.P(MD)No.10957 of 2013

M/s.Ramky Energy and Environment Ltd.,  
Undurmikidakulam Village,  
Kukkulam,  
Trichuli Taluk,  
Virudhunagar District,  
Rep. By its Project Head  
Mr.T.K.S.Sridhar

: Petitioner

Vs.

1.The District Collector cum Inspector of Panchayats,  
Virudhunagar District,  
Virudhunagar.

2.The Assistant Director of Panchayats,  
Virudhunagar District,  
Virudhunagar.

3.A.Mukkulam Village Panchayat,  
Rep. By its Executive Officer/President,  
A.Mukkulam,  
Narikudi Panchayat Union,  
Virudhunagar District.

4.C.Balamurugan  
(R4 is impleaded vide Court  
Order dated 26.07.2017)

: Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records relating to the impugned order issued by the third respondent dated 04.07.2013 in Order No.01/2013 and quash the same.



For Petitioner

: Mr.K.Chellapandian  
Senior Counsel  
for Mr.N.Dilip Kumar

For R1 to R3

: Mr.V.R.Shanmuganathan  
Spl.Govt. Pleader

For R4

: Mr.G.Prabhu Rajadurai

W.P(MD)No.1931 of 2016

A.Thangapandian

: Petitioner

Vs.

1.The District Collector,  
Virudhunagar District,  
Virudhunagar.2.The Superintendent of Police,  
Virudhunagar District,  
Virudhunagar.3.The Revenue Divisional officer,  
O/o.The Revenue Divisional officer,  
Arupukkottai,  
Virudhunagar District.4.The Tahsildar,  
O/o.The Tahsildar,  
Thiruchuli,  
Virudhunagar District.5.The Panchayat President,  
A.Mukkulam Village Panchayat,  
Narikudi Union,  
Virudhunagar District.6.The Chairman,  
Panchayat Union Council,  
Narikudi Union,  
Virudhunagar District.7.The Inspector of Police,  
Narikudi Police Station,  
Virudhunagar District.

: Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, forbearing the Respondent No.8 from setting up and operating a "Bio-Medical Waste Disposal Plant" at Undrumikikidakulam Village, A.Mukkulam Panchayat, Thiruchuli Taluk, Virudhunagar District without following the due process of law.



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For Petitioner : Mr.T.Lajapathi Roy  
For R1 to R4 & 7 : Mr.V.R.Shanmuganathan  
Spl.Govt. Pleader  
For R5 & R6 : No appearance  
For R8 : Mr.K.Chellapandian  
Senior Counsel  
for Mr.N.Dilip Kumar

W.P(MD)No.10953 of 2017

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

: Petitioner

Vs.

- 1.The District Collector,  
Virudhunagar Town & District.
- 2.The Superintendent of Police,  
Virudhunagar Town & District.
- 3.The Revenue Divisional Officer,  
Aruppukottia,  
Virudhunagar District.
- 4.The Tamil nadu Pollution Control Board,  
rep. By the District Environmental Engineer,  
TNPCB, Virudhunagar Town & District.
- 5.The Inspector of Police,  
A.Mukkulam Police Station,  
Tiruchuli Taluk,  
Virudhunagar District.

6.A.Ezhilvizhi

7.Chokkar : Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records relating to the impugned order issued by the third respondent dated 04.07.2013 in Order No.01/2013 and quash the same.

<https://hcservices.ecourts.gov.in/hcse/Pet> For Petitioner

: Mr.K.Chellapandian  
Senior Counsel  
for Mr.N.Dilip Kumar



For R1 to R3 & R5 : Mr.V.R.Shanmuganathan  
Spl.Govt. Pleader  
For R4 : Mr.M.Govindan  
Spl. Govt. Pleader  
For R6 : Mr.G.Prabhu Rajadurai  
For R7 : Mr.T.Lajapathi Roy

C O M M O N O R D E R  
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[Order of the Court was delivered by M.M.SUNDRESH, J.]

As issues involved are inter-linked a common order is passed, in all these petitions.

2.The petitioner in W.P.(MD)No.10953 of 2017 is taken as such a source to the narration of others.

3.W.P(MD)No.10957 of 2013 has been filed by the petitioner challenging the order, dated 04.07.2013 issued by the third respondent therein. By the aforesaid order, the petitioner was directed to close the functioning, in exercise of the power conferred under Section 203 of the Tamil Nadu Panchayat Act 1994.

4.In W.P(MD)No.10953 of 2017, the petitioner has sought for a direction seeking police protection.

5.W.P(MD)No.1931 of 2016 has been filed on behalf of the villagers seeking a direction to the respondents to prevent the setting up and operation of Bio-Medical Waste Disposal Unit, without following the due process of law.

6.A perusal of the counter affidavit filed by the first respondent and the fourth respondent would show that the petitioner has complied with the requirements. Secondly, an order dated 04.07.2013 has been passed without affording an opportunity, of course, taking into consideration of the then prevailing situation, which is not available as of now. In such view of the matter, the order impugned in W.P.(MD)No.10957 of 2013 is no longer survives and accordingly, the same is set aside.

7.There appears to be a problem with respect to the functioning of the petitioner unit. This has come from villagers, who apprehend that the running of unit would cause serious health impact. According to the villagers headed by the petitioner in W.P (MD)No.1931 of 2016, the running of unit is having an impact, causing health hazardous. Already, the unit is running from 2006 onwards. The steps taken by the official respondents to resolve the dispute ended in failure, as there is a strong resistance from the villagers.



8.The following paragraphs of the counter affidavit filed by the fourth respondent will show the clear picture.

"7. It is respectfully submitted that consent to operate of Tamil Nadu Pollution Control Board to the facility under both the Water Act and the Air Act were issued by Proc. Dated 18.10.2006 and subsequently renewed up to 30.06.2017. the facility has also obtained Authorization under the Bio-Medical Waste (Management) Rules, 2016 to handle the BMW and it is renewed up to 15.03.2019. The facility has also filed application for Authorization under the Hazardous and other Wastes (Management and Tran-boundary Movement) Rules, 2016 for the incineration Ash generated from its process and the application has been returned for want of additional particulars.

9.It is respectfully submitted that as the Tamil Nadu Pollution Control Board is not the authority to identify the health issues of public, Joint Director (Health), Virudhunagar was instructed to conduct health study so as to ascertain the health status of the village people by the District Collector, Virudhunagar.

11.It is respectfully submitted that in the peace committee meetings conducted, Public reiterated that both Common Bio Medical Waste facility and Common Hazardous Waste disposal facility have to be stopped and the village people informed that they will not co-operate for the Health Camp to be conducted by the District Administration.

12. It is respectfully submitted that Village people have not participated and also not co-operated for the Health camp conducted by JD (Health), Virudhunagar on 16.05.2017.

13.It is respectfully submitted that The Report of Analysis of water samples, which are collected by TWAD Board in 9 Nos. of locations in 8 Nos. of villages, reveals that the water is Chemically portable and biologically safe at all locations."

9.Thereafter, a Special Health Screening camp was conducted under the Joint Director (Health), Virudhunagar, which was attended by the experts in the field of Medical, in 8 different fields. The villagers apparently boycotted. Counsel for the respondent submitted that even Bio-Medical Wastage generated to the Government Hospitals and colleges are being recycled in the unit belonging to the writ petitioner.

10.The learned Senior counsel appearing for the writ petitioner vehemently contended that inasmuch as all parameters ~~have been examined and satisfied~~, there cannot be any objection in the light of eye of law. On mere apprehension the villagers cannot be obstructed.



11. The learned counsel appearing for the villagers would submit that it is a case where the unit is being run dealing with highly sensitive degradable biomedical substance by their own nature from hazardous. Therefore, most scrutiny is required for running of the unit. The consent to operate the unit expires on 30.06.2017. An independent agency may be appointed to undertake the exercise of extent of damage done already. There is a source nearby. The impact on health will have to be re-do under the leadership of some other authority. The allegation made on the motive behind the filing of the writ petition cannot be taken note of as objection was raised by entire villagers and not a single person.

12. On the question of compliance, as seen by the counter affidavit of the respondents 1 and 4, it is substantial. However, this Court finds that though the basic parameters are satisfied, the consent to operate got expired with effect from 30.06.2017. The petitioner has applied for renewal which is still pending consideration.

13. In such view of the matter, we direct the fourth respondent to consider the application for renewal made by the petitioner within a period of six weeks from the date of receipt of a copy of this order.

14. The petitioner in W.P.(MD)No.1931 of 2016 is also permitted to give his objection on behalf of the villagers.

15. The only other question is with respect to the impact of the unit on the general public residing in the said Village. Considering the apprehension expressed by the learned counsel appearing in W.P.(MD)No.1931 of 2016, we hereby direct a fresh camp consisting of very same eight persons under the Leadership of District Medical Officer, Madurai, Madurai District, as requested by his counsel appearing for the villagers.

16. The Speciality Health Screening camp is to be conducted on 20.09.2017. The third respondent, namely the Revenue Divisional Officer, Arupukkottai is directed to give intimation of it, in the locality.

17. Accordingly, the following orders are 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 2013 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.

<https://hcservices.ecourts.gov.in/hcservices/> 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 an 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 one 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 the trial running and maintenance alone.

ix) In view of the above, W.P(MD)No.1931 of 2016 is disposed of. No costs. Consequently, connected miscellaneous petitions are also closed.

Sd/-

Assistant Registrar(T&P)

/True Copy/

Sub-Assistant Registrar

To

- 1.The District Collector cum Inspector of Panchayats,  
Virudhunagar District,  
Virudhunagar.
- 2.The Assistant Director of Panchayats,  
Virudhunagar District,  
Virudhunagar.
- 3.The Executive Officer/President,  
A.Mukkulam Village Panchayat,  
Narikudi Panchayat Union,  
Virudhunagar District.
- 4.The Superintendent of Police,  
Virudhunagar District,  
Virudhunagar.



5.The Revenue Divisional officer,  
Arupukkottai,  
Virudhunagar District.

6.The Tahsildar,  
Thiruchuli,  
Virudhunagar District.

7.The Panchayat President,  
A.Mukkulam Village Panchayat,  
Narikudi Union,  
Virudhunagar District.

8.The Chairman,  
Panchayat Union Council,  
Narikudi Union,  
Virudhunagar District.

9.The Inspector of Police,  
Narikudi Police Station,  
Virudhunagar District.

10.The District Environmental Engineer,  
The Tamil nadu Pollution Control Board,  
TNPCB, Virudhunagar Town & District.

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

12.The District Medical Officer,  
Madurai,  
Madurai District.

13.The District Collector,  
Madurai,  
Madurai District.

+3ccs to Mr.N.Dilipkumar, Advocate, SR.No.76602

+2ccs to Mr.G.Prabhu Rajadurai, Advocate, SR.No.76831,76830

+3Ccs to The Special Government Pleader, SR.Nos.77324,77344 and  
77329

am/cp

RL/20C/SV/MMS/SAR2/12/9/2017/8P

W.P.[MD].Nos.10957 of 2013,  
1931 of 2016 and 10953 of 2017