

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE MS JUSTICE J.UMA DEVI

Writ Petition No.25491 of 2017

ORDER: (Per the Hon'ble the Acting Chief Justice Ramesh Ranganathan)

Heard Sri Y.Srinivasa Murthy, learned counsel appearing on behalf of the petitioner, and Sri T.V.Ramana Rao, learned Standing Counsel for the Telangana Pollution Control Board and, with their consent, the writ petition is disposed of at the stage of admission.

The petitioner is a Common Biomedical Waste Treatment Facility which was granted consent for establishment and consent for operation by the Telangana State Pollution Control Board to operate the Facility in Nalgonda District. On the plea that the total number of beds available in Hyderabad and Ranga Reddy District is 56,000, and only four facilities were operating in this area, the petitioner requested the Board to consider their request for allotment of additional beds in these two Districts, since the total bed strength in Nalgonda District was only 4,000. The State Pollution Control Board, in its proceedings dated 31.01.2017, observed that the High Court had directed maintenance of *status quo* on 21.06.2016 in W.P.Nos.19727 and 19821 of 2016; the matters were reserved for judgment on 08.11.2016; and a decision with regards their Facility would be taken depending on the outcome of W.P.Nos.19727 and 19821 of 2016.

Aggrieved thereby, the petitioner approached the National Green Tribunal by filing Application No.112 of 2017 (SZ) dated 31.05.2017, which was disposed of by the Tribunal directing the Telangana State Pollution Control Board to consider the representation of the petitioner dated 29.05.2017, in the light of the final judgment to be passed by the High Court, within four weeks from the date of receipt of the judgment.

In W.P.Nos.19727 and 19821 of 2016 the jurisdiction of the Telangana State Pollution Control Board, to demarcate areas of operation

of each of the Common Biomedical Waste Treatment Facilities in Hyderabad and Ranga Reddy Districts is under challenge. The prescribed rules stipulate allotment of a maximum of 10,000 beds for each Facility within a radius of 75 kilo meters extendable under certain circumstances upto 150 kilo meters. If, as is contended before us by Sri Y.Srinivasa Murthy, learned counsel for the petitioner, the total number of beds available in Hyderabad and Ranga Reddy Districts is 56,000 then, since the maximum number of beds which each of the existing four facilities are entitled to be allotted is upto a maximum of 10,000 beds, 16,000 beds would still be available to be allotted to other Facilities.

While the area of operations of the petitioner is in Nalgonda District, their entitlement to be allotted additional beds has to be determined, strictly in terms of the Revised Guidelines, 2016 notified on 21.12.2016, on their fulfilling all the conditions stipulated thereunder for allotment of extra-beds.

The Telangana State Pollution Control Board has not rejected their claim on merits, but has refused to consider their representation on the ground that an order of *status quo* was passed by this Court. The order of *status quo* was passed in two writ petitions wherein exercise of power by the Telangana State Pollution Control Board, to demarcate areas among existing Facilities, was under challenge. While the order of *status quo* would disable the Telangana State Pollution Control Board from demarcating the areas, or specifying the area within which each of these Facilities should operate, it dose not come in the way of their considering eligible applications in accordance with law.

It is made clear that the order of *status quo*, passed by this Court in W.P.Nos.19727 and 19821 of 2016, would not disable the Telangana State Pollution Control Board from considering the application submitted by the petitioner on its merits, provided the area of operations are not demarcated. We also make it clear that we have not expressed any opinion on the petitioner's entitlement to be allotted additional beds, for

these all are matters which the Telangana State Pollution Control Board is required to decide. Suffice it to observe that the order of *status quo* would not disable the respondent-Board from considering the petitioner's application strictly in accordance with law, including the rules governing grant of such permission.

The Writ Petition is, accordingly, disposed of. Miscellaneous Petitions pending, if any, shall also stand disposed of. There shall be no order as to costs.

(RAMESH RANGANATHAN, ACJ)

04th August, 2017
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(J.UMA DEVI, J)



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Date: 04.08.2017

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