

HONB'E SRI JUSTICE CHALLA KODANDARAM &

HON'BLE SRI JUSTICE N.BALAYOGI

WRIT PETITION No.16977 OF 2017

ORDER: (Per CKR,J)

The closure order, dated 09.05.2017, passed against the petitioner company by the 2nd respondent, on various grounds, under Section 33(A) of the Water (Prevention and Control of Pollution) Amendment Act, 1988 and Section 31(A) of the Air (Prevention and Control of Pollution) Amendment Act, 1987, is under challenge in the present writ petition.

2. It is specific contention of the learned counsel for the petitioner that, for each of the objections raised by the State Pollution Control Board, petitioner herein submitted a detailed explanation and at any rate, the same has not been considered by the pollution board. It is also the contention of the learned counsel for the petitioner that as many as 1000 workers are employed in the unit and they are required to keep up commitments made to their purchasers. It is also the contention of the learned counsel for the petitioner that many of the lapses pointed out by the pollution control board have been rectified and they are also further ready to rectify, if any, the lapses pointed out to the satisfaction of the board.

3. Learned standing counsel appearing for the respondent board submits that the writ petition itself shall not be entertained as there is an appeal provided under Section 33B of the Water Act to the National Green Tribunal, Southern Region Bench at Chennai. The learned standing counsel further submits that

without availing the said alternative remedy available, petitioner herein rushed to this Court and requested this Court to relegate the petitioner to avail the alternative remedy of appeal.

4. Now, having considered the respective submissions, which are not in dispute, that there is a 90 days time provided for filing appeal. This Court also takes notice of the fact that the closure order except in cases of emergency which is likelihood to endanger the public health and life, the extreme step of closure shall not be resorted to. In as much as without entering into controversy, *prima facie*, it can be said that closure order looks like economic death penalty of an entrepreneur and industry. In those circumstances, subject to the condition of the petitioner filing appeal before the appellate authority within two weeks from today, the impugned order stands stayed till such time as the Appellate Authority passes an order either in the stay petition or in the appeal, whichever is earlier. However, the appellate authority shall take independent decision either to continue stay or to dispose of the appeal uninfluenced by the stay granted by this Court.

5. With the above direction, this writ petition is disposed of. Miscellaneous petitions, if any, pending in this case shall stand closed. No order as to costs.

CHALLA KODANDA RAM,J

N.BALAYOGI,J

Dt.11.05.2017
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HONB'E SRI JUSTICE CHALLA KODANDARAM &

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Date:11.05.2017

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