

HONOURABLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION NO.39678 of 2017

Date: 24.11.2017

Between :

K.Prabhakar Reddy, s/o. K.Anji Reddy,
Aged about 42 years, occu: Rice Mill,
Business, r/o.H.No.1-1-1657, Rakasipet,
Bodhan Town, Nizamabad District.

..... Petitioner

and

The State of Telangana, rep.by its
Secretary, Energy Department,
Secretariat, Hyderabad and others.

..... Respondents



This Court made the following:-

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ORDER:

Petitioner claims to be the proprietor of M/s.Surya Agro Industries. According to the petitioner, after obtaining license from the Gram Panchayat for running a rice mill, he also intended to establish a Para boiled rice mill and obtained permission from the Industries Department.

2. According to petitioner, Pollution Control Board has issued CFE to establish Para boiled rice mill. He claims to be running only rice mill, but not para boiled rice mill. Petitioner is aggrieved by the order of Telangana State Pollution Control Board, dated 01.09.2017, directing closer of rice mill and further direction issued to the Southern Power Distribution Company Limited to disconnect power supply to the subject unit. Petitioner claims that he is constructing E.T.P. plant required to treat effluents and discharging untreated effluents to clear the boiled rice with water and to send the used water in separate treatment plant and once E.T.P. plant is constructed, he would apply to the Pollution Control Board to issue CFO to run the para boiled rice mill. According to petitioner, though he applied for establishment of para boiled rice mill, but he is not operating the same since E.T.P. plant is not ready.

3. Learned counsel for petitioner contends that as petitioner is not running para boiled rice mill, but is only operating ordinary rice mill, there is no requirement of E.T.P. Even without verifying true and correct facts and without affording due opportunity,

straightaway direction was issued to close the rice mill unit and stopping of power supply, causing lot of hardship and suffering.

4. Learned standing counsel submits that against the decision of Pollution Control Board, an appeal lies under Section 31 of the Air (Prevention and Control of Pollution) Act, 1981 and under Section 28 of Water (Prevention of Control of Pollution) Act, 1974. However, since appellate authority is not constituted, an aggrieved person can directly approach the National Green Tribunal constituted in accordance with the provision in Section 31-B of Air Act and Section 33-B of Water Act. Thus, since effective alternative remedy is available, this writ petition is not maintainable. He further submits that due opportunity was afforded to the petitioner and on due consideration, the orders, impugned, are passed. Petitioner did not avail the opportunity provided. Therefore, there is no illegality in the decision made by the Board.

5. A reading of the order would show that on 28.12.2016, notice was issued to the petitioner alleging that para boiled unit is being operated without obtaining Consent for Operation (CFO) from the Board. It appears, status report was obtained from the Regional Office, dated 19.08.2017 and thereafter, External Advisory Committee has held its hearings and based on hearings and the report of the Regional Office, the impugned decision was taken.

6. A reading of the order would show that petitioner has not appraised the External Advisory Committee as is now stated. Record would disclose that due opportunity was afforded. It is not stated in the affidavit filed in support of the writ petition that he

was not afforded due opportunity. Thus, it cannot be said that order impugned herein is without following due procedure or without appreciating the material on record. Thus, the order impugned herein is not vitiated on the ground of lack of due opportunity and violation of principles of natural justice. It is also required to be noticed that once order is passed closing the unit, the Pollution Control Board is competent to direct disconnection of power supply to avoid misuse of premises to carryout illegal operations. Consequences of running the unit without obtaining CFO is grave and against public interest and, therefore, no direction can be issued to restore electric power supply.

7. Thus, if petitioner is aggrieved by the decision of the Pollution Control Board, he has to avail remedy of appeal or to go before the National Green Tribunal as the case may be. As petitioner has effective alternative remedy Court is not inclined to entertain the writ petition.

8. While granting liberty to the petitioner to avail remedy of appeal, writ petition is dismissed. It is made clear that observations made herein above are only for the purpose of maintainability of writ petition without availing alternative remedy. All issues on merits are left open and it is open to the petitioner to raise all contentions as available in law before the appropriate authority.

Miscellaneous petitions if any pending shall stand closed.
There shall be no order as to costs.

JUSTICE P.NAVEEN RAO

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