

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.01.2018

CORAM

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

Writ Petition No.32160 of 2017

M.S.Bricks Works

rep. by its Partner S.Karthikeyan

Near Water Tank, Kolathur (PO)

Mettur (TK)

Salem District - 636 303.

... Petitioner

Vs.

1. The Chief Engineer/Civil Designs,
Tamil Nadu Electricity Board/
Tamil Nadu generation and Distribution
Corporation Ltd., (TANGEDCO),
No.144, Anna Salai,
Chennai - 600 002.

2. The Chief Engineer,
Mettur Thermal Power Station I,
(Unit of Tamil Nadu generation and
Distribution Corporation ltd.)
Mettur Dam, Salem District.

... Respondents

PRAYER: Writ petition filed under Article 226 of the
Constitution of India praying for issuance of Writ of Mandamus
to directing the 1st respondent to permit the petitioner to lift
ash from the Mettur Thermal Power Station I without insisting
any conditions.

For Petitioner : Mr.V.Stalin

For Respondents : Mr.S.K.Rameshwar,
Standing Counsel

ORDER

The petitioner seeks for a mandamus directing the 1st
respondent to permit the petitioner to lift ash from the Mettur
Thermal Power Station-I without insisting any conditions.

2. The case of the petitioner is as follows:

The petitioner applied for allotment of fly ash from Mettur
Thermal Power Station. Based on the genuineness report filed by
the concerned officials, allotment order was issued to the

petitioner which was periodically renewed and extended upto 31.05.2016. Accordingly, the petitioner was lifting fly ash from the Mettur Thermal Power Station. However, from 01.06.2016 onwards, the petitioner was not permitted to lift ash without any reason. Therefore, the present writ petition is filed seeking for the relief as stated supra.

3. A counter affidavit is filed by the first respondent, wherein it is stated that the petitioner's Company had been lifting Dry Fly Ash regularly from the month of May, 2016 and for issuing renewal of allotment for 2016-2017 and 2017-2018, the petitioner made a request on 14.07.2016 and 12.12.2017 and submitted all the necessary documents in support of the same. It is further stated in the counter that when the petitioner company was inspected on 23.09.2016 by the Vigilance Inspection Team to verify the genuineness of the claim, it was reported that hollow brick manufacturing was done and Fly ash machine was being repaired. It is further stated in the counter that till date, the petitioner has not reported about the completion of repair work of Fly ash Brick manufacturing machine and hence, the allotment of Dry fly ash was not made to the petitioner Company for the years 2016-2017 and 2017-2018.

4. Learned counsel appearing for the petitioner submitted that the above contention of the first respondent is factually not correct as the machineries are fully functional and such fact can be verified by the respondents at any point of time making inspection. He further submitted that the inspection made on 23.09.2016 was without any notice.

5. Learned counsel for the respondents reiterated the averments made in the counter affidavit.

6. Upon hearing the learned counsels on either side, it is seen that admittedly, the petitioner was receiving the Dry fly ash regularly upto the month of May, 2016. They have also applied for renewing the supply for the years 2016-2017 and 2017-2018 by submitting all the necessary documents. Therefore, it is for the respondents to continue to supply to the petitioner, if the supporting documents were already filed by them. No doubt, it is stated in the counter that in the inspection made on 23.09.2016, it was found that some machineries at the petitioner's premises were not in working condition. When such contention is disputed by the petitioner, it is for the respondents to inspect the premises and find out the present state of affairs. As the supply was admittedly made till May, 2016 and the renewal applications were also made by the petitioner for continuous supply, this Writ Petition is disposed of with the following directions.

(a) the respondents shall continue to supply dry fly ash to

the petitioner as per the earlier allotment order, pending inspection to be made as stipulated hereunder.

(b) The respondents are directed to inspect the petitioner's premises after giving due notice to the petitioner within a period of two weeks from the date of receipt of a copy of this order.

(c) On making such inspection, if the authorities are satisfied that the machineries are in working condition and the petitioner is continuously engaged in manufacturing the fly ash bricks, the respondents shall continue to supply the fly ash for the period 2016-2017 and 2017-2018.

No costs.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

vsi

To

1. The Chief Engineer/Civil Designs,
Tamil Nadu Electricity Board/
Tamil Nadu generation and Distribution
Corporation Ltd., (TANGEDCO),
No.144, Anna Salai,
Chennai - 600 002.
2. The Chief Engineer,
Mettur Thermal Power Station I,
(Unit of Tamil Nadu generation and
Distribution Corporation ltd.)
Mettur Dam, Salem District.

+1cc to Mr.V.Stalin, Advocate, S.R.No.1545

+1cc to Mr.S.K.Rameshuwar, Advocate, S.R.No.1818

SSD(CO)

RRK(12/01/2018)

W.P.No.32160 of 2017

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