

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.7.2018

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.12830 of 2018

and

W.M.P.Nos.15069 & 15070 of 2018

and W.M.P.No.20871 of 2018

1 G.D.Aqua Farm
Rep. by its Proprietrix Mrs.D.P.Gomathi,
W/o. S.Dhanapandian No.1/21 MRH Road
Vadaperumbakkam
Chennai-600 060. PETITIONER

Vs.

1 The District Collector
Tiruvallur District Chennai.
2 The Tahsildar
Madhavaram Taluk Chennai.
3 The Assistant Engineer
TANGEDCO, Vadaperumbakkam,
Tiruvallur District. RESPONDENTS

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorari Mandamus, calling for records and quashing the impugned order of the 2nd respondent vide R.C.pdl.No.371/2016/A1 dated 19.05.2018 by which the petitioner's water unit was closed and sealed and consequently direct the respondents to pay suitable compensation to the petitioner for having illegally closed the said water unit and caused huge loss and loss of reputation to the petitioner within a time frame.

For Petitioner :Mr.K.Ravi Ananda Padmanaban
For Respondents 1 & 2 :Mr.V.Jayaprakashnarayanan,
Spl.G.P.
For Respondent No.3 :Mr.P.R.Dhilipkumar,
Standing counsel
For Petitioner in
W.M.P.No.20871/2018 :Mr.A.Kalaiselvan

O R D E R

The learned counsel for the writ petitioner has submitted that the impugned order issued by the Tahsildar, Madhavaram against the petitioner is liable to be set aside since he is not the competent authority to issue the same. The Chief Engineer, Public Works Department, Water Research Organization, State Ground & Surface water Resources Data Centre, Taramani, Chennai 600 113 is the competent authority to issue such order. Therefore, the impugned order issued by the Tahsildar, Madhavaram is liable to be set aside.

2. The learned Special Govt. Pleader appearing for the respondents 1 and 2 fairly submitted that the 2nd respondent herein have no jurisdiction to issue the impugned order. It should have been issued by the Managing Director, Chennai Metropolitan Area Ground Water (Division), CMWSB, Chennai. He has also submitted that the petitioner should also apply and get ground water clearance certificate from the Chief Engineer, State Ground and Surface Water Resources Data Centre, Taramani, Chennai as per G.O.Ms.113, dated 9.6.2016 based on the hydro-geological conditions.

3. Heard both sides. The impugned notice issued by the Tahsildar, Madhavaram Taluk against the petitioners under the Tamilnadu Groundwater (Development and Management) Act, (Tamilnadu Act 3 of 2003) is liable to be set aside. The Managing Director, Chennai Metropolitan Area Ground Water (Division), CMWSB, Chennai is the competent authority. In the counter affidavit filed by the Tahsildar, Madhavaram taluk, it is admitted that error had occurred while issuing the impugned notice. In the impugned notice, it is wrongly mentioned that "The Tamilnadu Groundwater (Development & Management) Act, (Tamilnadu Act 3 of 2003) instead of Chennai Metropolitan Area Groundwater Regulation, 1987, inadvertently. It is also submitted that the former act was already repealed in the year 2013 and the later act is still in force. He has also tendered unconditional apology for the error occurred while issuing the impugned notice.

4. In such view of the matter, the impugned order, dated 19.05.2018 passed by the Tahsildar, Madhavaram Taluk is set aside. The petitioner is directed to approach the Managing Director, Chennai Metropolitan Area Ground Water (Division) CMWSSB, who is the competent authority to issue such order. The petitioner is given four weeks time to obtain Ground Clearance Certificate from the Managing Director, Chennai Metropolitan Area Ground Water (Division) CMWSSB. Since the petitioner is not drawing water, they have to apply before the Managing Director, Chennai Metropolitan Area Ground Water (Division), CMWSSB, Chennai. The petitioner has also obtained NOC from Tamilnadu Pollution Control Board which is valid till March 31, 2020 by order, dated 4.4.2018. The petitioner has also obtained license from Food Safety & Standards Authority of India by order, dated 24.3.2018 and the same is valid till 24.3.2020. Counsel for the petitioner has submitted that their application is still pending with the respondents. Therefore, the petitioner is directed to approach the Managing Director, Chennai Metropolitan Area Ground Water (Division) CMWSSB with fresh application along with N.O.C issued by the Tamilnadu Pollution Control Board, License issued by the FSSI irrespective of other NOC obtained by the petitioner, enclosing copy of this order, within a period of one week. On receipt of the said application, the Managing Director, Chennai Metropolitan Area Ground Water (Division) CMWSSB shall consider the same and pass appropriate orders on merit within a period of four weeks thereafter. Till such time, the petitioner is permitted to carry on the drinking water transport business.

5 Accordingly, the writ petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS VI)

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Sub Assistant Registrar

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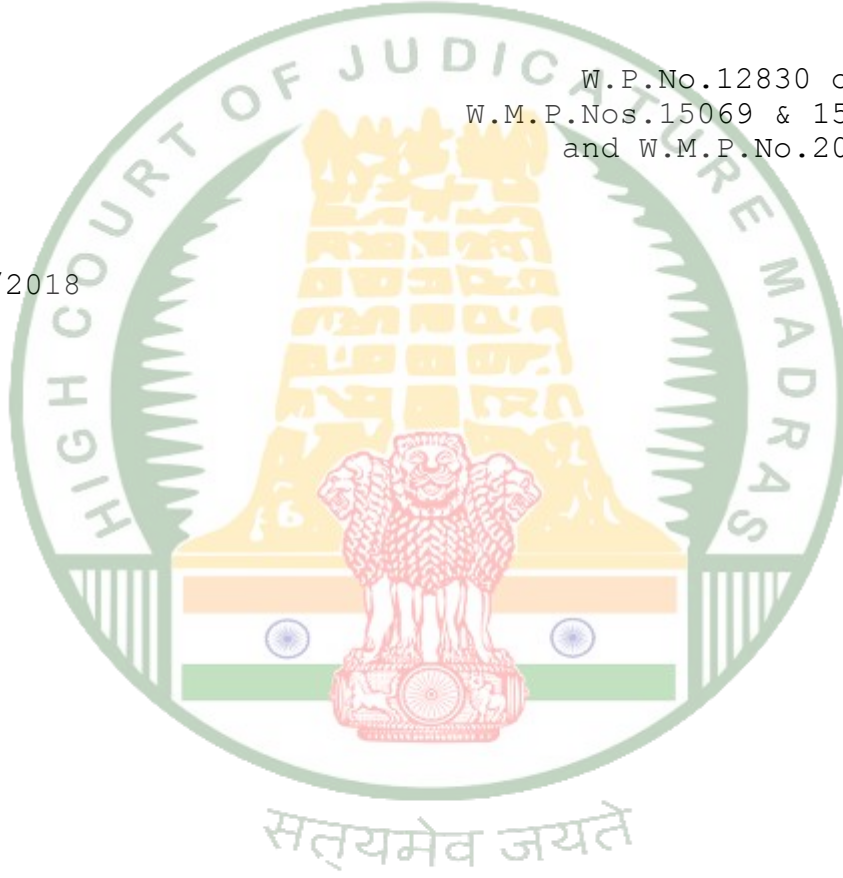
1 The District Collector,
Tiruvallur District,
Chennai.

- 2 The Tahsildar,
Madhavaram Taluk,
Chennai.
- 3 The Assistant Engineer,
TANGEDCO,
Vadaperumbakkam,
Tiruvallur District.

+lcc to Mr.K.Ravi Anantha Padmanaban, Advocate Sr.46471

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srg 25/07/2018



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