

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 13.7.2018

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.13073 of 2018
and
W.M.P.Nos.15355 & 15356 of 2018

1 A.Jayasathyanarayana
Proprietor Sri Padmavathy Food and Beverages
No.98 GNT Road Puchail Madhavaram Village
Chennai-600 066.

PETITIONER

Vs.

1 The Secretary to Government
of Tamilnadu Public Works (R2) Department,
Fort St. George Chennai-9.

2 The Secretary to Government
Tamilnadu Revenue Department,
Fort St.George Chennai-9.

3 The District Collector
Thiruvallur District.

4 The Revenue Divisional Officer,
Ambattur at Anna Nagar West,
Chennai-101.

5 The Tahsildar
Madhavaram Taluk Office, Gandhi Main Road,
Puzhal, Chennai-066.

6 The Chief Engineer
Public Works Department,
Water Research Organization,
State ground Surface Resources Data Centre,
Taramani Chennai-113.

7 The Managing Director
Chennai Metropolitan Area, Ground Water
(Division), CMWSSB Pumping Station road,
Chindradripet 113.

8 The Assistant Manager
TANGEDCO Tamilnadu Electricity Board MMDA
Mathur Chennai-066.

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 the records of the 5th respondent in his closure proceedings in R.C. Pdl.No. 371/2016/A1 dated 19.05.2018 and quash the same and direct the 5th respondent to remove the seals put on 19.05.2018 to the petitioner water unit M/s. Sri Padmavathy Food and Beverages at No.98 GNT Road Puzhal Madhavaram Village Chennai-066 comprised in S.No. 1423/2B and 1424/1A in Madhavaram Village.

For Petitioner : Mr.M.Kamalanathan
For Respondents 1 to 6: Mr.V.Jayaprakashnarayanan, Spl.G.P.
For Respondent No.7 : Mr.N.Ramesh
For Respondent No.8: Mr.P.R.Dhilipkumar, Standing counsel

O R D E R

Petitioner is carrying on business in Packaged Drinking water under the name and style of Sri Padmavathy Food and Beverages at No.98, GNT Road, Puzhal, Madhavaram since 2010. The unit is a Green Small Unit and situate in safe zone. Counsel for the petitioner submits that the petitioner purchased and transport water from Marambedu Village, safe zone. The petitioner had obtained the following certificates to run the business.

1. License issued by Food Safety and Standard Authority of India (FSSAI)
2. Certificate of SSI issued by Department of Industries and Commerce
3. Fire Service of License
4. No objection Certificate for transporting water by lorries issued by PWD 25.6.2014.

5. Packaging commodities Licence issued by Department of Labour, dated 28.5.2014

6. Corporation Trade Licence upto 31.3.2019

7. Consent to operate Licence, dated 14.6.2017 or AIR and Water issued by Tamilnadu Pollution Control Board upto 31.3.2027.

8. Licence dated 26.2.2018 issued by Board of Bureau of Industrial Standard valid upto 30.6.2018.

9. Professional Tax Receipt, dated 15.3.2018 issued by Corporation of Chennai.

The aforementioned certificates are sufficient to start and carry on the business in packaged Drinking water. They are

transporting water from Marambedu Village, after obtaining licence from the Chief Engineer, Public Works Department, Water Research Organization, State Ground & Surface water Resources Data Centre, Taramani, Chennai 600 113 to transport water. For the year 2014-15, the petitioner applied for the renewal of license before the Chief Engineer who was granting permission and licence in the previous year. All of a sudden, the petitioner's application was returned on the premise that it is only the Chennai Metropolitan Water and Sewerage Board is the authority to give permission to transport water. Therefore, the petitioner again applied before the Managing Director, Chennai Metropolitan Area Ground Water (Division), CMWSB & Pumping Station Road, Chennai - 2, 7th respondent herein. But the 7th respondent has not issued No Objection Certificate inspite of several personal visits and enquiries. The petitioner was advised to meet the Tahsildar, Madhavaram, the 5th respondent herein to comply with the application sent by him on 9.7.2015. Under this background, the grievances of the petitioner is that the 6th respondent having issued No Objection Certificate for the year 2014-15, ought to have recommended the 7th respondent viz., Managing Director, Chennai Metropolitan Area Ground Water (Division), CMWSB & Pumping Station Road, Chennai-2 to issue similar NOC. Now, for Puzhal area, Managing Director, Chennai Metropolitan Area Ground Water (Division), CMWSB is the competent authority. The petitioner also filed W.P.No.32814 of 2015 seeking mandamus directing the Managing Director, Chennai Metropolitan Area Ground Water (Division), CMWSB & Pumping Station Road, Chennai-2 to issue NOC to transport drinking water from the Safe zone Marambedu (Kokkumedu) Village, Solavaram block to the petitioner unit of Sri Padmavathy Food and Beverages. This Court by order, dated 11.2.2016, directed the Chairman, Tamilnadu Pollution Control Board, Chennai, second respondent therein to nominate a senior Environmental Engineer and to form a team to carry out an assessment of the impact on the environmental - ground water table in the areas in question and the team appointed by the Tamilnadu Pollution Control Board, shall work in co-ordination with the officials of respondents viz., The Chief Engineer, Public works Department, Water Research Organization, State Ground & Surface water Resources Data Centre, Taramani, Chennai 113. It was further directed that the above team constituted by the Chairman, Tamilnadu Pollution Control Board, Chennai shall complete the said exercise within a period of three weeks from the date of receipt of a copy of the order, which team in turn will involve the officials of Public Works Department, Water Research Organization, State Ground & Surface Water Resoruces Data Centre, Chennai as well as Chennai Metropolitan Area Ground Water Division, CMWSSB, Chennai and the inspecting team shall endeavour to complete the impact assessment of the areas where the petitioners have sought for NOC within a period of two months. Thereafter, direction was issued by this Court to the

7th respondent herein. However, no action was taken till date. It is also submitted that the impugned order has been passed by the Tahsildar, Madhavaram who have no jurisdiction to issue the same. Hence, the impugned order is liable to be set aside.

2. The learned Special Govt. Pleader appearing for the respondents 1 to 6 fairly submitted that the 5th respondent herein have no jurisdiction to pass 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 petitioner 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, 2027 by order, dated 14.6.2017. The petitioner has also obtained license from Food Safety & Standards Authority of India by order, dated 15.6.2017 and the same is valid till 14.6.2022. Counsel for the petitioner has submitted that his application is still pending with the respondents. Therefore, the petitioner is directed to approach the 7th respondent herein

with fresh application along with NOC issued by the Tamilnadu Pollution Control Board, License issued by the FSSI irrespective other NOC obtained by the petitioner, enclosing copy of this order, within a period of one week. On receipt of the said application, the 7th respondent 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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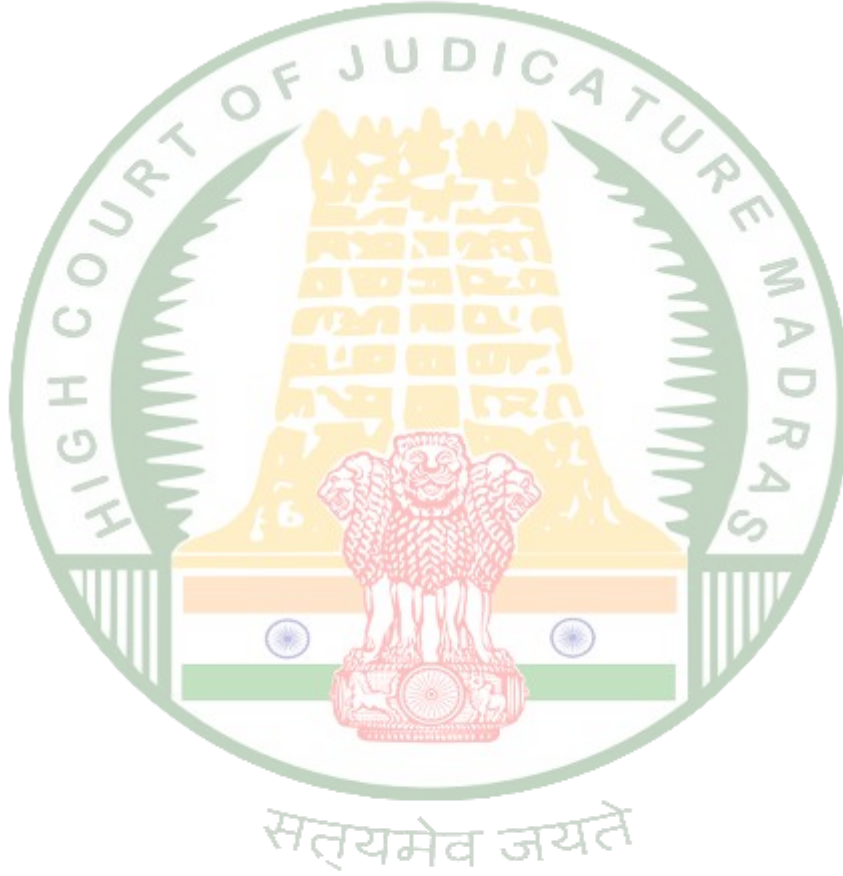
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Chennai-66.

+1cc to Mr.M.Kamalanathan, Advocate sr.no.46290

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nr 26/07/2018



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