

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.7.2018

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THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.13389 of 2018

and

W.M.P.No.15782 of 2018

1 Malikka Water Products
Rep by its Proprietor M.Mohan,
S/o.Munirathinam, No.48 Devi Nagar,
Madhavaram, Chennai. ... PETITIONER

Vs.

1 The District Collector
Tiruvallur District.
2 The Tahsildhar
Madhavaram,
Tiruvallur District. RESPONDENTS

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, calling for records and quashing the impugned order of the 2nd respondent vide R.C.PdL.No.371/2016/A1 dated 19.5.2018 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 commercial 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.

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 fairly submitted that the second 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 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 5th respondent, 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 license from Food Safety & Standards Authority of India by order, dated 15.6.2017 and the same is valid till 18.7.2018. Counsel for the petitioner has submitted that the petitioner's 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 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 petition is closed.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

- 1 The District Collector,
Tiruvallur District.
- 2 The Tahsildhar
Madhavaram, Tiruvallur District.
- 3 The Managing Director
Chennai Metropolitan Area
Groundwater (Directing)
CMWSSB, Chennai

+1cc to Mr.K.Ravi Anantha Padmanaban, Advocate, S.R.No.46472

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GSP(26/07/2018)

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