

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.7.2018

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.14307 of 2018

and

W.M.P.Nos.16903 to 16905 of 2018

- 1 Himalayan Aqua Farms
Rep. by its Proprietor J.Rajavel,
S/o. Mr. N.Jegadeesan No. 486 G.N.T. Road,
Thandalkhazani, Redhills, Chennai - 600052
- 2 Green Aqua Minerals
Rep. by its Partner C.Karalmarks,
S/o. Mr.Chandran, No. 33 Nagappa Industrial Estate,
GNT Road, Puzhal, Chennai - 600066
- 3 Gothai Enterprises
Rep. by its Proprietor E.Thangadurai,
S/o. Mr. Eakambaram No. 281 Masila Mani Nagar
Periyamathur Madhavaram, Chennai - 600060
- 4 Pushpam Enterprises
Rep. by its Proprietor M.Ramasamy,
S/o. Mr. Muthusamy No. 440 D.No. 5 Chellamman Nagar
Madhavaram, Ponneri Taluk Chennai - 600060
- 5 Sai Aqua Enterprises
Rep. by its Proprietor G.Mugilan,
S/o. Mr. V.Govindan,
No. 1/21 Redhills Madhavaram High Road,
Chennai - 600052
- 6 Energy Beverage
Rep. by its Proprietor S.Amsa,
W/o. Mr.Sampath No. 744,
G.N.T. Road, Redhills, Chennai - 600052
- 7 Hydro food Products
Rep. by its Proprietor G.Ambika,
W/o. Mr. Ganesan, Plot No. 83 84 Yusuf Colony,
Madhavaram, Puzhal Block,
Vadaperumbakkam, Chennai - 60

- 8 Sri. Venkateshwara Enterprises
Rep. by its Proprietor E. Arunkumar,
S/o. Mr. Elumalai No. 1 Perumal Kovil Street,
Elumalai Thottam, Madhavaram, Chennai 600060
- 9 S.S. Aqua Forms
Rep. by its Proprietor S. Surrenderakumar,
S/o. Mr. Shanmugha Murthi, S.No. 12/2 F.No.
98/99 Sri Dhanalakshmi Nagar,
Athivakkam, Redhills Chennai - 52
- 10 Ambiga Enterprises
Rep. by its Proprietor S. Vinayagam,
S/o. Mr. Shanmugam,
No. 428/2, Agarsan College road,
Manjambakkam, Madhavaram, Chennai.
- 11 Sree Balaji Aqua farms
Rep. by its Proprietor D. Rajesh Jain,
S/o. Mr. Dhanjai Jain,
No. 27, New Krishna Nagar, Chennai 600066
- 12 M.J. Foods
Rep. by its Proprietor M. Sowmiya,
S/o. Mr. Venkaiah Plot No. 262 & 345,
Santha Prabhu, Vegetarian Village,
Puzhal Chennai - 600066
- 13 Subakaran Clean Water System
Rep. by its Proprietor J. Dinakaran,
S/o. Mr. Jeyaraman,
Old No. 56, New No. 53, S.S.V. Mills Quarters,
Kathirvedu Chennai - 600066
- 14 Shree K.V. Foods Products
Rep. Proprietor R. Vasudevan,
S/o. Mr. Rajendran, P.No. 40 D.No. 5/89,
Thirupathi Devasthanam Nagar,
Vadaperumbakkam, Madhavaram,
Thiruvallur District 600 060.
- 15 Moses Antony Aqua Products
Rep. by its Proprietor M. Samson,
S/o. Mr. Moses Door. No. 06 Ist Cross Street,
Kannappa Swami Nagar Kavankarai,
Thiruvallur District - 600066

- 16 Praveenraj Aqua tech
Rep. by its Proprietor T.Baskaran,
V.S.Mani Nagar, Annex Puzhal Block,
Ist Gate Main Road, Ambattur Taluk,
Madhavaram Chennai 600 060.
- 17 M/s. Arvinth Aqua
Rep. by its Manager T.Selvasekar,
S/o. M.Tamilarasan Old No. 220/1B New No. 1/232,
Madhavaram High Road, Vadakarai, Redhills,
Chennai - 52 ... PETITIONERS

vs.

- 1 The Secretary to Government
of Tamil Nadu Public Works (R2) Department
Fort St George Chennai - 600009
- 2 The Chief Engineer
State Ground and Surface water Resources Data Centre,
Public Works Department,
Taramani, Chennai - 113
- 3 The District Collector
Thiruvallur District. Thiruvallur
- 4 The Revenue Divisional Officer,
Ambattur Taluk Thiruvallur District
- 5 The Thasildhar,
Madhavaram Taluk,
Madhavaram, Chennai.
- 6 The Superintending Engineer,
TANGEDCO,
Anna Salai, Chennai. ... 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 in respect of the Impugned Seal Notice Dated 19.05.2018 issued by the 5th respondent / Tahsildar Madhavaram Taluk and quash the same.

For Petitioner : Mr.R.Shenbaga Baabu
For Respondents 1 to 5 : Mr.V.Jayaprakashnarayanan,
Spl.G.P.
For Respondent No.6 : Mr.P.R.Dhilipkumar, Standing counsel

O R D E R

The learned counsel for the petitioners has submitted that the impugned notice issued by the Tahsildar, Madhavaram under the Tamilnadu Groundwater (Development and Management) Act, (Tamilnadu Act 3 of 2003) against the petitioners are liable to be set aside since he is not the competent authority to issue the same. In so far as the petitioners are concerned, the Chief Engineer, Public Works Department, Water Research Organization, State Ground & Surface water Resources Data Centre, Taramani, Chennai 600 113 is the competent authority. Therefore, the impugned notice issued by the Tahsildar, Madhavaram is liable to be set aside.

2. The learned Special Govt. Pleader appearing for the respondents 1 to 5 fairly submitted that the 5th respondent herein have no jurisdiction to issue the impugned notice. It should have been issued by the Managing Director, Chennai Metropolitan Area Ground Water (Division), CMWSB, Chennai. He has also submitted that after taking water from their own place or any other place, they should also apply and get ground water clearance certificate from the Chief Engineer, State Ground and Surface Water Resources Data Centre, Taramani, Chennai for transporting the same 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 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 petitioners are directed to approach the Managing Director, Chennai Metropolitan Area Ground Water (Division) CMWSB, who is the competent authority to issue such order. The petitioners are given four weeks time to obtain

Ground Clearance Certificate from the Managing Director, Chennai Metropolitan Area Ground Water (Division) CMWSSB. Since the petitioners are not drawing water, they have to apply before the Managing Director, Chennai Metropolitan Area Ground Water (Division), CMWSSB, Chennai. The petitioners have also obtained NOC from Tamilnadu Pollution Control Board which is valid till March 31, 2025 by order, dated 10.11.2017. The petitioners have also obtained license from Food Safety & Standards Authority of India by order, dated 4.5.2017 and the same is valid till 16.6.2019. Counsel for the petitioners has submitted that their applications are still pending with the respondents. Therefore, the petitioners are 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 petitioners, 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 petitioners are 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 IV)

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Sub Assistant Registrar

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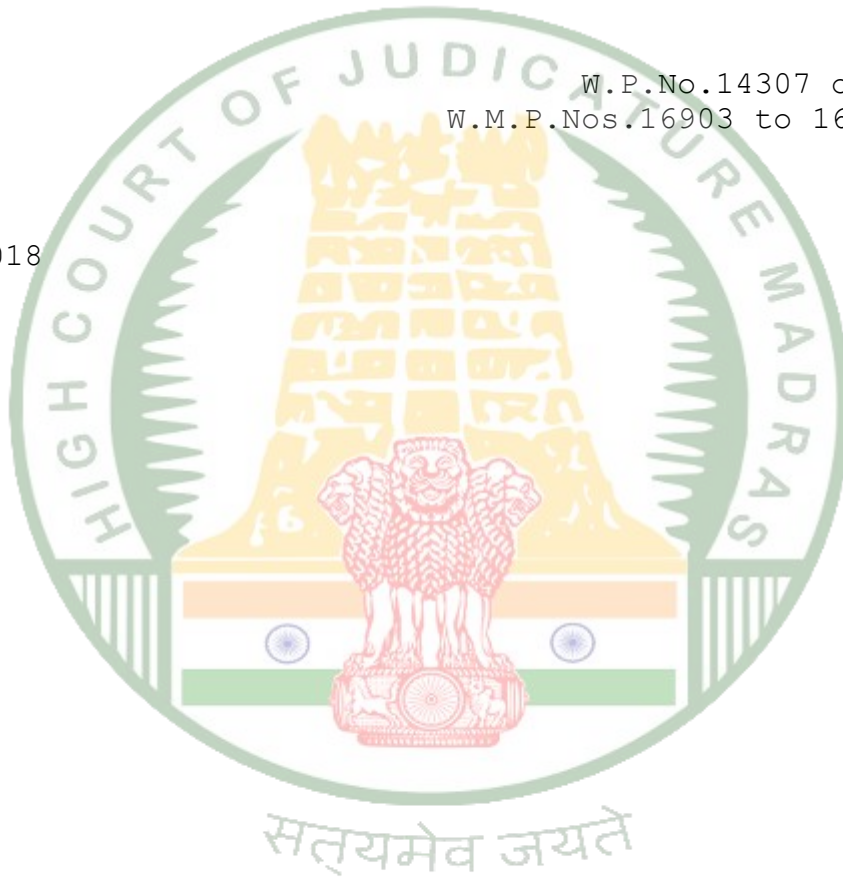
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- 3 The District Collector
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- 4 The Revenue Divisional Officer,
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- 5 The Thasildhar,
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- 6 The Superintending Engineer,
TANGEDCO, Anna Salai, Chennai.

+20 ccs to Mr.R.Shenbaga Babu, Advocate Sr.46495

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