

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.02.2018
CORAM

THE HONOURABLE MR. JUSTICE R. SUBBIAH
AND
THE HONOURABLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 1447 of 2018

M/s. Sri Bhavani Textiles Processors (P) Ltd.,
Karaikodivery,
Gobichettipalayam, Erode.

.. Petitioner

Vs.

1. The Tamil Nadu Pollution Control Board,
rep. by its Chairman,
No.76, Mount Road,
Guindy, Chennai - 600 032.
2. The District Environment Engineer,
The Tamil Nadu Pollution Control
Board,
No.167, Bhavani Road,
1st Floor, VRV Complex,
Perundurai - 638 052.
3. The Superintending Engineer,
TANGEDCO, Gobichettipalayam,
Erode.

.. Respondents

Prayer: Petition under Article 226 of the Constitution of India
praying for issue of a Writ of Mandamus directing respondents 1
and 2 to direct the 3rd respondent to give 20 KW electricity
connection to the petitioner's factory situated at No.166,
Karaikodivery, Gobichettipalayam, Erode - 638854.

For Petitioner : Mr.K. Ramu

For Respondents : Mrs.Rita Chandrasekaran
for R1 & R2

O R D E R

(Order of the Court was made by R. SUBBIAH,J.)

This writ petition is filed for issue of a Writ of
Mandamus directing respondents 1 and 2 to direct the 3rd

respondent to give 20 KW electricity connection to the petitioner's factory situated at No.166, Karaikodivery, Gobichettipalayam, Erode - 638854.

2. The petitioner Company is a dyeing unit established in the year 1983, which continued to operate until 1998. A writ petition in the nature of Public Interest Litigation came to be filed in W.P. No. 5494 of 1998 before this Court praying for a direction to abate pollution created by way of discharge of effluents by the tanneries. By order dated 04.07.2007, the writ petition was disposed of directing all the units to pay 6 paise per litre of discharge during the 3 months period. It was also categorically held that if the units failed to show ZLD within the 3 months period, the concerned units were directed to be closed.

3. Pursuant to the orders passed by this Court and the Monitoring Committee report, the petitioner's unit started functioning regularly. According to the petitioner, in the meanwhile, the respondent Board levied a penalty amount of Rs.97,33,500/- by calculating the penalty amount @ 6 paise per litre of discharge for the period 04.07.2007 to 12.03.2009 for 515 days. Objecting to the levy of penalty and seeking revision of calculation, the petitioner made several representations to the respondent Board, which were not at all considered. Finally, by order dated 27.12.2013, the respondent Board ordered closure of the petitioner's factory on the ground of non-payment of penalty apart from others grounds which the petitioner had either complied or had undertaken to comply. Challenging the closure order, the petitioner preferred an appeal in Appeal No. 68 of 2014 before the National Green Tribunal (South Zone) and by order dated 24.07.2015, while setting aside the order levying penalty, the Tribunal held as follows:

"10. ...We make it clear that it does not prevent the Board from constantly monitoring the unit. We also make it clear that in so far as it relates to the fulfilling of other requirements, the appellant unit shall fulfill the compliance of the same. After fulfilling the same, the appellant unit shall write to the Pollution Control Board in which event, the board shall inspect the unit of the appellant and only after having satisfied that all the requirements are fulfilled and the appellant unit is entitled to function and achieve zero discharge level after trial run made by the appellant and then only pass appropriate orders regarding the grant of consent subject to usual terms and conditions. We also make it clear that while the board inspect the premises, it shall inspect all the machineries while in operation in their proper perspective and pass appropriate orders."

4. Subsequent to the order passed by the National Green Tribunal, the petitioner requested the 1st and 2nd respondents by letter dated 26.11.2015 to restore electricity connection for undertaking maintenance and repair work and to complete the Effluent Treatment Plant. However, the 2nd respondent, without any notice, inspected the petitioner's unit on 11.12.2015 on which date there were no personnel available and by letter dated 04.01.2016 directed the petitioner to come to his office on 12.01.2016 along with the details of power supply required for operating the Effluent Treatment Plant. Since there was no technical personnel available in the petitioner's unit, the petitioner sought some time and after appointment of an electrical engineer, the petitioner along with the said personnel appeared before the 2nd respondent, by appointment on 14.06.2016 and requested to give electricity connection for just 20 KVA, which is the bare minimum requirement to even make primary assessment of units and submitted the details in regard thereto. However, even after the detailed explanation given in person to the 2nd respondent on 14.06.2016, 03.03.2017 and 20.06.2016, there was no action taken by the respondent Board. Hence, the petitioner made a representation on 06.03.2017 requesting to consider granting 20 KW minimum power requirement for carrying out repairs and also to make ZLD compliant, which was followed by similar representations on 05.04.2017 and 18.11.2017. But, they did not evoke any response from the respondent Board. Hence, the present writ petition for the relief aforesaid.

5. The learned counsel for the appellant submitted that to enable the petitioner to comply with the directions issued by the respondent Board as per the order of the National Green Tribunal, suitable directions may be given to respondents 1 and 2 to direct the 3rd respondent to provide 20 KW electricity connection to the petitioner's factory for the purpose of carrying out repair and maintenance work and to make the unit ZLD compliant. The learned counsel for the appellant has also drawn the attention of this Court to the representation dated 18.11.2017 wherein the petitioner has stated that they will not commence commercial production without prior permission of the Board and that in fact, they are also not in a position to commence commercial operations and that the requirement of 20 KW power supply is only for carrying out simple repair and maintenance work and for lighting purpose.

6. Heard the learned counsel for the 1st and 2nd respondents.

7. Considering the submissions made by the learned counsel on either side and the pendency of the representation of the petitioner dated 18.11.2017, without going into the merits of the

claim made by the petitioner, this Court directs the 1st and 2nd respondents to consider the representation of the petitioner dated 18.11.2017, with regard to grant of 20KW power supply to its unit, taking into account the undertaking given by the petitioner in the aforesaid representation and pass appropriate orders, on merits and in accordance with law, within a period of two weeks from the date of receipt of a copy of this order. The writ petition is disposed of accordingly. No costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

nv

To

1. The Chairman,
Tamil Nadu Pollution Control Board,
No.76, Mount Road,
Guindy, Chennai - 600 032.
2. The District Environment Engineer,
The Tamil Nadu Pollution Control Board,
No.167, Bhavani Road,
1st Floor, VRV Complex,
Perundurai - 638 052.
3. The Superintending Engineer,
TANGEDCO, Gobichettipalayam,
Erode.

+1cc to Mr.K.Ramu, Advocate, S.R.No.9156
+1cc to M/s.Rita Chandrasekar, Advocate, S.R.No.8914

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KAN(CO)
RRK(14/02/2018)

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