

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.08.2018

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

AND

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

W.P.No.15822 of 2018
and WMP Nos.18815 & 18816 of 2018

M/s. Ambika Vyapar
Rep. By Managing Director,
Door No.82, GV Building,
Peruvoyal Village, Kavarapet Post,
Gummidipoondi Taluk,
Tiruvallur District 601 206.Petitioner

Vs.

1. The District Collector,
Collectorate, Master Plan Complex, NH 205
Thiruvallur 602 001.
2. The Tamil Nadu Pollution Control Board,
Rep. By its Chairman
No.76, Mount Salai, Guindy, Chennai.
3. The District Environmental Engineer,
Tamil Nadu Pollution Control Board,
AO Bock, EPIP, SIPCOT Industrial Complex,
Gummidipoondi, Thiruvallur District.
Thiruvallur 602 001.
4. The Assistant Engineer
TANGEDCO, No.465, G.N.T.Road,
Kavaraipettai, Gummidipoondi Taluk,
Thiruvallur 601 206.Respondents

Writ Petition Prayer:- Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari calling for the records of the 2nd respondent culminating in the order dated 13.06.2018 made in proceedings No.TS1/TNPCB/F.014427/DGL/OS/Closure/W&A/2018 and subsequent order dated 13.06.2018 made in proceedings No.TS1/ TNPCB/ F.014427/DGL/OS/Closure/EB/2018, quash the same.

For Petitioner : Mr.S.Saisathyajith

For Respondents: Mr. Mr.Alchol Akbar Ali for R1
Government Advocate

Mrs.Rita Chandrasekar for RR 2 & 3
Mr.P.R.Dhilip Kumar for R4

O R D E R

(Judgment of the Court was delivered by R.SUBRAMANIAN, J.)

The petitioner challenges the order of the 2nd respondent Tamil Nadu Pollution Control Board, dated 13.06.2018, directing closure of the Unit of the petitioner, since it was found that the unit was operating without obtaining necessary consent from the Board. The claim of the petitioner is that it is engaged in "plastics re-cycling", since the year 2015. The Unit of the petitioner is situate an extent of 35 cents of land in Survey No.164/1A and 1B of Peruvoyal Village, Gummidipooindi Taluk, Tiruvallur District. It is claimed by the petitioner is that when it approached the 2nd respondent Board seeking consent, it was informed that the Application could not be considered until a land use certificate was obtained by the petitioner.

2. It is averred in the affidavit filed in support of the Writ petition that the petitioner had applied through the land owner seeking No Objection Certificate for conversion of lands into industrial use on 20.11.2015. It is also stated that the concerned Authorities, viz. the District Revenue Officer and the Deputy Director of Town and Country Planning Authority had after inspection recommended the land for conversion. The Executive Engineer of the Public Works Department has also vide letter dated 12.05.2017 recommended for conversion of the lands as per the norms of the Directorate of Town and Country Planning. It is stated that the application for conversion is still pending.

3. It is further averred that the petitioner had filed WP No.13135 of 2018, in this Court seeking a Writ of Mandamus, directing the Authority to consider and dispose of its Application dated 20.11.2015 and this Court by order dated 31.05.2018 had directed the District Collector to pass orders within a period of 6 weeks from the date of receipt of a copy of the order. Though, the order of this Court was served and acknowledged by the District Collector on 09.06.2018, no orders have been passed till date. While so, on a complaint made by some of the disgruntled elements, the 3rd rekjspondent, namely

the District Environmental Engineer, inspected the Unit on 02.05.2018 and on the same day a show cause notice was issued, requiring the petitioner to show cause why further proceedings should not be taken in terms of Section 33A of the Water (Prevention and Control of Pollution) Act, 1974 and Section 31 (A) of Air (Prevention and Control of Pollution) Act, 1981. The petitioner submitted its explanation. Not satisfied with the explanation, the 2nd respondent had directed disconnection of Electricity supply as well as closure of the Unit by its order dated 13.06.2018.

4. Aggrieved the petitioner has come forward with the above Writ Petition.

5. We have heard Mr.S.Saisathyajith, learned counsel appearing for the petitioner, Mr.Akil Akbar Ali, learned Government Advocate appearing for the 1st respondent, Mrs.Rita Chandrasekar, learned counsel appearing for the respondents 2 & 3 and Mr.P.R.Dhilip Kumar, learned counsel appearing for the 4th respondent.

6. Admittedly, the activity of the petitioner unit requires consent from the 2nd respondent Board and the fact that no consent has been obtained is also not disputed. The only grievance of the petitioner is that it is because of the pendency of its application for conversion before the Authority concerned, it is unable to apply for consent. Once it is admitted that the activity requires consent of the Board, the petitioner Unit cannot be allowed to operate without consent having been obtained.

7. The application of the petitioner seeking conversion is said to be pending before the 1st respondent and this Court had already directed the 1st respondent to dispose of the Application within a period of 6 weeks from the date of receipt of a copy of the order made in WP No.13135 of 2018. It is also stated that the copy of the order has been served on the 1st respondent as early as on 09.06.2018.

8. Taking into account the averments made in the affidavit filed in support of the Writ Petition, and the fact that Authorities had also recommended for conversion of the land in question, we expect the 1st respondent viz. the District Collector, Thiruvallur to dispose of the application of the petitioner seeking conversion of the land in question, so as to enable the petitioner to apply for consent before the 2nd

respondent Board. We hope the District Collector, Thiruvallur, viz. the first respondent herein would take note of the urgency and pass a suitable orders at the earliest.

9. The Writ Petition therefore disposed of with the above observation. However, in the circumstances there will be no order as to costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

jv

To

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+1cc to the Government Pleader, S.R.No.56446

rrs 04.09.2018