

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.07.2018

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THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.18044 of 2018 and
W.M.P.Nos.21329 & 21330 of 2018

White Horse Aqua Farms
rep by its Proprietor G.Raviraj
No.19, Ettiyappa Naicker Nagar,
Secretariat Colony, Lakshmipuram, Thiruvallur,
Chennai - 600 009. ... Petitioner

Vs.

- 1.The Secretary to Government of Tamil Nadu
Public Works (R2) Department,
Fort St.George, Chennai - 600 009.
- 2.The Chief Engineer,
State Ground and Surface Water
Resources Data Centre,
Public Works Department Taramani,
Chennai - 600 113.
- 3.The District Collector,
Thiruvallur District.
- 4.The Revenue Divisional Officer,
Ambattur Taluk, Thiruvallur District.
- 5.The Tahsildar,
Madhavaram Taluk, Madhavaram. .. Respondents

Petition under Article 226 of the Constitution of India,
praying for the issue of a Writ of certiorari calling for the
records in respect of the impugned lock and seal
RC.PD1.No.371/2016/A1 notice dated 19.05.2018 of the 5th
respondent and quash the same.

For Petitioner : Mr.M.Govindaraju

For Respondents: Mr.V.Jayaprakash Narayanan,
Special Government Pleader (R1 to R5)

O R D E R

The learned counsel for the petitioner submitted that the Tahsildar, Madhavaram, who is not a Competent Authority, has wrongly passed the impugned order, that too, under the repealed Act viz., Tamil Nadu Groundwater (Development and Management) Act, (Tamil Nadu Act 3 of 2003). Therefore, the impugned order passed by the 5th respondent to close down the running water treatment plant is liable to be set aside.

2.The learned Special Government Pleader appearing for the respondents submitted that in similar circumstances in W.P.No.14307 of 2018, by order dated 13.07.2018, this Court has already passed the following order:

"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, Madavaram 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) CMWSSB, 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."

3. In the light of the above order, the impugned order is set aside and the 5th respondent is directed to de-seal the running water treatment plant of the petitioner forthwith.

4.In view of the above, the Writ Petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS IX)

//True copy//

Sub Assistant Registrar

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TO

- 1.The Secretary to Government of Tamil Nadu
Public Works (R2) Department,
Fort St.George, Chennai - 600 009.
- 2.The Chief Engineer,
State Ground and Surface Water Resources Data Centre,
Public Works Department Taramani,
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Thiruvallur District.
- 4.The Revenue Divisional Officer,
Ambattur Taluk, Thiruvallur District.
- 5.The Tahsildar,
Madhavaram Taluk, Madhavaram.

+1cc to Mr.M.Govindaraju, Advocate SR.No.47181

GN(18/07/2018)

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