

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 20.02.2018

Coram

The Hon'ble Mr. Justice R. Subbiah
and
The Hon'ble Mr. Justice P.D. Audikesavalu

W.P.No.1955 of 2018
and
W.M.P.No.2460 and 2461 of 2018

K. Jaganathan
Proprietor of M/s. K.J. Metal Industries. .. Appellant

Vs.

1. The Tamil Nadu Pollution Control Board,
rep. by its Chairman,
No.76, Anna Salai,
Guindy Industrial Estate, Guindy,
Chennai - 600 032.
2. The District Environmental Engineer,
The Tamil Nadu Pollution Control Board,
First Floor, No.6/1, Sri Jothi Complex,
Murugesan Street, Balavinayagar Nagar,
Arumbakkam, Chennai - 600 106.
3. The Superintending Engineer (Chennai EDC/North)
Tamil Nadu Electricity Generation and
Distribution Corporation (TANGEDCO)
Chennai Electricity Distribution Circle/North,
Ground Floor, 5B Block,
No.144, Anna Salai, Chennai - 600 002.
4. The Assistant Executive Engineer (O & M Tondiarpet)
Tamil Nadu Electricity Generation and
Distribution Corporation (TANGEDCO)
33/11, KV Sub-station,
Tolgate Substation, Chennai - 600 081. ... Respondents

Prayer

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a writ of certiorari to call for the records of the first respondent in its proceedings in Proc.No.T1/TNPCB/F 32081/OS/CHN/W &A/2017, dated 04.01.2018, culminating into impugned order of the first respondent in Proc. No.T1/TNPCB/F/32081/OS/CHN/EB/2017, dated 04.01.2018 and to quash the same insofar as the same relates to being issued under Section 33 A of Water Act.

For Appellants : Mr.D. Ravichander

For Respondents 1 & 2 : Mrs. Rita Chandrasekar

For Respondents 3 & 4 : Mr. P.R.Dhilipkumar

O R D E R

(Order of the Court was delivered by R.Subbiah,J.)

Heard Mr.D. Ravichander, the learned counsel appearing for the petitioner, Mrs. Rita Chandrasekar, the learned counsel for the respondent/Tamil Nadu Pollution Control Board and Mr. P.R.Dhilipkumar, the learned counsel for the respondent/TANGEDCO.

2. The challenge in this Writ Petition is to the order of closure passed by the first respondent and the consequential order of disconnection of electricity service connection to the petitioner's business premises.

3. The case of the petitioner is that, he is the Proprietor of M/s. K.J. Metal Industries, a manufacturing unit at No.163, S.N. Chetty Street, Royapuram, Chennai. The petitioner-Unit is engaged in the manufacture of aluminium circles, which includes melting of scrap, aluminium melting in furnace, conversion of molten aluminiums into blocks using dyes, etc. The petitioner-Unit is a Small Scale Industrial Unit, registered with the Department of Industries and Commerce. The petitioner is also a registered dealer on the file of the Commercial Taxes Department, under the provisions of Tamil Nadu Value Added Tax Act, 2006 and Tamil Nadu General Sales Tax Act, 1959, and has obtained all necessary licenses for running the said manufacturing Unit.

4. Whiles, the petitioner has been issued with two show causes notices, both dated 01.08.2017, alleging violation of Section 25 of Water (Prevention and Control of Pollution) Act and Section 21 of the Air (Prevention and Control of Pollution) Act respectively. Though the petitioner has sent reply to the

show causes notices, vide reply, dated 11.08.2017, denying the alleged violation, the first respondent, not being satisfied with the explanation/reply offered by the petitioner, passed the impugned order of closure of the petitioner-Unit and also ordered for disconnection of the electricity service connection to the petitioner-Unit. Aggrieved by the same, the present Writ Petition is filed.

5. When the Writ Petition came up for consideration today, the learned counsel appearing for the petitioner submits that, the petitioner has filed an affidavit, inter alia stating that they decided to discontinue the industrial operations in the present site and to relocate the same to a new location and intended to use the present site as godown Unit. At this stage, it would be useful to refer to the relevant para from the said affidavits, which is extracted hereunder:-

"3. I state that, I have decided to discontinue industrial operations of my concern M/s KJ Metal Industries at its present site at No.163, S.N.Chetty Street, Royapuram, Chennai - 600 013 and to relocate the same to a new location. There are machineries, that includes melting furnace, rolling machine etc, worth of several lakhs lying idle inside my above mentioned closed unit and the same may be permitted by this Hon'ble forum to be removed from my above mentioned closed unit and the same may be permitted by this Hon'ble forum to be removed from my above mentioned closed unit. As almost all machineries were attached to earth, a short span of one month may be required for the completion of entire process of removal of all machineries, that includes mobilization of funds, manpower etc. Further, sufficient lighting arrangement is required during the process of removal machineries.

4. I state that the above mentioned premises at No.163, S.N. Chetty Street, Royapuram, Chennai - 600 013 was leased to me and subsequent to the removal of machineries. I intend to use the same as godown on commercial basis and thus the restoration of electricity is inevitable for the same. In the said circumstances, unless this Hon'ble Court permits the petitioner herein to remove all the machineries of his

concern "M/s KJ Metal Industries" from its present site at No.163, S.N.Chetty Street, Royapuram, Chennai - 600 013 within stipulated timeframe and meanwhile directs the Respondents 3&4 to restore electricity connection in S.C.No.01-002-020-1415, I will be put to serious prejudice and untold hardships."

6. The learned counsel, therefore, seeks permission of this Court for removal of all the machineries/equipments lying at the present site to be shifted to some other place, for which purpose, electricity service connection is utmost required, and hence, prays that appropriate direction may be issued to the respondent/TANGEDCO to provide electricity to the service connection, bearing No.01-002-020-1415.

7. In the light of the affidavit filed by the learned counsel for the petitioner, no further adjudication is required in this Writ Petition. Accordingly, this Writ Petition is closed, with a direction to the petitioner to remove all the machineries/equipments from the present site, viz., at No.163, S.N. Chetty Street, Royapuram, Chennai, on or before 31st March, 2018. Till such time, the respondent/TANGEDCO is directed to provide the electricity service connection to the petitioner's present Unit. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

1. The Chairman,
Tamil Nadu Pollution Control Board,
No.76, Anna Salai,
Guindy Industrial Estate, Guindy,
Chennai - 600 032.
2. The District Environmental Engineer,
The Tamil Nadu Pollution Control Board,
First Floor, No.6/1, Sri Jothi Complex,
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33/11, KV Sub-station,
Tolgate Substation, Chennai - 600 081.

+1cc to Mr.D.Ravichander, Advocate, S.R.No.13134 (27/02/2018)

W.P.No.1955 of 2018

SV(CO)
RRK(26/02/2018)



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