



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 20.11.2018

CORAM:

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THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
and
THE HONOURABLE MR.JUSTICE P.D.AUDIKESAVALU

W.P. [MD]No.2988 of 2015
and
M.P. [MD]Nos.1 & 2 of 2015

R.Selvaraj

: Petitioner

Vs.

- 1.The State of Tamil Nadu,
Rep. by its Secretary to Government,
Environment & Forests Department,
Fort St. George, Chennai - 600 009.
- 2.The District Collector,
Thoothukudi District,
Thoothukudi.
- 3.The Assistant Director (Panchayats),
Thoothukudi District,
Thoothukudi.
- 4.The Tamil Nadu Pollution Control Board,
Rep. by its Secretary,
Poonamallee Road,
Arumbakkam, Chennai.
- 5.The Environmental Engineer,
Tamil Nadu Pollution Control Board,
C7, SIPCOT Industrial Complex,
Meelaivittan,
Thoothukudi - 8.
- 6.The Assistant Director,
Town and Country Planning,
Tirunelveli Zone,
108, Trivandrum Road,
Tirunelveli - 2.
- 7.The Member Secretary,
Local Planning Authority,
31, West Car Street,
Thoothukudi.



8.The Central Ground Water Authority,
Rep. by its Authorised Officer,
Tirunelveli.

9.The District Fire Officer,
Thoothukudi District,
Thoothukudi.

10.The Saminatham Panchayat,
Rep. by its President,
Saminatham Village,
Ottapidaram Taluk,
Thoothukudi District.

11.The Tamil Nadu Electricity Board,
Rep. by its Superintending Engineer,
Thoothukudi Electricity Distribution Circle,
Thoothukudi.

12.Ind - Barath Thermal Power Limited,
Rep. by its Managing Director,
Puthiamputhur Road,
Saminatham Village,
Ottapidaram Taluk,
Thoothukudi District.

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for a Writ of Prohibition, prohibiting the 12th respondent company from running the Unit in view of the non obtainment of necessary license and permission as the same is evident from the letter of the third, fifth and seventh respondents dated 05.09.2013, 08.10.2013, 23.09.2013 respectively, and direct the respondents 1 to 8 to take appropriate action against the unlawful commencement of the 12th respondent company.

For Petitioner : G.Thalai Mutharasu
for Mr.D.Selvanayagam

For Respondents 1 to 3 & 6 to 9 : Mr.N.Shanmugaselvam
Additional Government Pleader

For Respondent No.10 : No appearance

For Respondent No.11 : Mr.A.U.Ramanathan

For Respondent No.12 : Mr.R.Jameel Arasu

**O R D E R**

[Order of the Court was made by **K.K.SASIDHARAN, J.**]

The petitioner filed this Writ Petition in *pro bono publico*, for a direction to the respondents 1 to 11, to take appropriate action against the 12th respondent, on account of its functioning without obtaining statutory license and permission from the authorities.

2.The 12th respondent appears to have established a factory for production of thermal power, by using coal as raw material. It is the grievance of the petitioner that statutory clearance was not taken before establishing the factory by the 12th respondent. Even though, a representation was submitted to the authorities, there was no follow up action, resulting in filing this writ petition.

3.The Assistant Director, Town and Country Planning Department, the sixth respondent herein, filed a counter affidavit, indicating that the 12th respondent constructed a factory building without obtaining license and permission and as such, notice was issued to show cause as to why action should not be taken against the factory.

4.The learned Counsel for the petitioner, on instructions, submitted that the 12th respondent discontinued the production and as such, the factory is not functioning as on today.

5.The learned Counsel for the 12th respondent, on instructions, submitted that the factory discontinued its manufacturing activity and as such, the relief in the writ petition has become infructuous.

6.The petitioner has filed the writ petition on an allegation that the 12th respondent established the factory in question without obtaining the statutory clearance from the authorities. The fact that the 12th respondent has not obtained building permission is revealed from the counter affidavit filed by the Assistant Director, Town and Country Planning Department, Tirunelveli.

7.Since, the 12th respondent is no longer engaged in manufacturing of thermal power, there is no need for a direction to close the factory as such. We only direct the concerned respondents, and more particularly, the Tamil Nadu Pollution Control Board, the Environmental Engineer and the Assistant Director, Town and Country Planning Department, to ensure that the 12th respondent engages in the production activity, only after complying with the statutory obligation under various Acts, including the provisions of the Tamil Nadu Town and Country



Planning Act, 1971, and the Regulations made thereunder.

8. The Writ Petition is disposed of, with the above direction. No costs. Consequently, connected miscellaneous petitions are closed.

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Sd/-

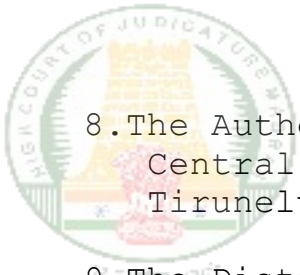
Assistant Registrar (CrI.Side)

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Sub Assistant Registrar (CS-III)

To

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Fort St. George, Chennai - 600 009.
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Thoothukudi.

+1cc to MR.B.Jameelarasu, Advocate, Sr.No.96437.

Order made in
W.P.[MD]No.2988 of 2015
Dated: 20.11.2018

mr

RAM-ES/RSK/SAR 3/26.12.2018/5P/11C