



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.09.2018

CORAM :

WEB COPY

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH
AND
THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P (MD) No.18790 of 2018

and

W.M.P (MD) Nos.16648 to 16650 of 2018

G.Devasahayam

... Petitioner

vs.

1. The Chief Secretary
Government of Tamil Nadu,
Secretariat,
Fort St. George,
Chennai 600 009.
2. Principal Secretary to Government
Environment and Forest Department
Government of Tamil Nadu
Secretariat,
Fort St. George,
Chennai- 600 009.
3. Chairman
Tamil Nadu Pollution Control Board,
Guindy
Chennai- 600 032.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Mandamus to direct the 1st and 2nd respondents herein to immediately frame appropriate guidelines or recruitment rules, considering the institutional requirements of the third respondent Board in compliance of the directions of the Hon'ble Supreme Court of India in Civil Appeal No.1359 of 2017 in the case of Techhi Tagi Tara v. Rajendra Singh Bhandari Others, dated 22.09.2017.

For Petitioner : Mr.Henri Tiphagne

For Respondents : Mr.Aravind Pandian
Additional Advocate General
assisted by
Mr.C.V.Shajiandharen
Govt. Advocate

**O R D E R****(Order of the Court was made by M.M.SUNDRESH, J.)**

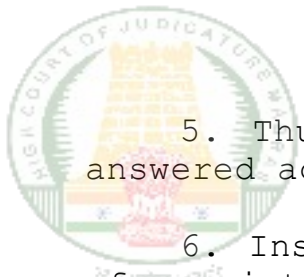
The petitioner has come forward to file this Writ Petition seeking a writ of Mandamus directing the respondents 1 and 2 to frame appropriate guidelines by taking into consideration the institutional requirements of respondent No.3 in tune with the directions of the Apex Court in Civil Appeal No.1359/2017 dated 22.09.2017.

2. The learned counsel for the petitioner would submit that the respondents are yet to take a decision with respect to the directions issued by the Hon'ble Apex Court in the judgment referred supra. Reliance has been made on the following Paragraph:

"33.Keeping the above in mind, we are of the view that it would be appropriate, while setting aside the judgment and order of the NGT, to direct the Executive in all the States to frame appropriate guidelines or recruitment rules within six months, considering the institutional requirements of the SPCBs and the law laid down by statute, by this Court and as per the reports of various committees and authorities and ensure that suitable professionals and experts are appointed to the SPCBs. Any damage to the environment could be permanent and irreversible or at least long-lasting. Unless corrective measures are taken at the earliest, the State Government should not be surprised if petitions are filed against the State for the issuance of a writ of quo warranto in respect of the appointment of the Chairperson and members of the SPCBs. We make it clear that it is left open to public spirited individuals to move the appropriate High Court for the issuance of a writ of quo warranto if any person who does not meet the statutory or constitutional requirements is appointed as a Chairperson or a member of any SPCB or is presently continuing as such."

3. The learned counsel for the petitioner also submitted that in the meanwhile, the earlier officer, who was in charge of the respondent No.3 has been transferred, since independent committee constituted has to do his job, he should be allowed to continue.

4. The learned Additional Advocate General for the respondents would submit that insofar as the guidelines issued by the Hon'ble Apex Court is concerned, the matter is pending consideration and a final decision would be taken within a period of ninety days from the date of receipt of a copy of this order. This statement made by the learned Additional Advocate General stands recorded.



5. Thus, the relief sought for in the writ petition stands answered accordingly.

6. Insofar as the incidental relief sought for though by way of an interim order, we have perused the order passed by the National Green Tribunal in Appeal No.87/2018 dated 20.08.2018. In the aforesaid order, a decision has been made to seek a report by referring the matter to the independent committee. Now, a committee has been constituted. In paragraph No.12 of the order, the respondent No.3 herein was asked to provide all logistical support to the committee. Thus, a decision has been taken to leave the entire work to the independent committee. Incidentally, the respondent No.3 was directed to give only logistical support. Thus, as rightly submitted by the learned Additional Advocate General, the role of the respondent No.3 is rather limited.

7. In such view of the matter, there may not be any need to consider the prayer sought for by the petitioner. However, this will not stand in the way of the committee to independently seek assistance from the transferred officer, if so required. We are also of the view that there is nothing wrong in the order of transfer passed, which is one of a mass transfer. Moreover, the respondent No.3 itself has got a limited role to play. Therefore, it is a matter between the independent committee constituted by the National Green Tribunal and the officer concerned. We also make it clear that the statement made by the learned Additional Advocate General is without prejudice to the contentions of the respondent Nos.1 and 2 in the Special Leave Petition filed challenging the order of the National Green Tribunal.

8. Accordingly, the writ petition is disposed of. No costs. Consequently connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(CS-I)

/True Copy/

Sub Assistant Registrar(CS-I)

To

1. The Chief Secretary
Government of Tamil Nadu,
Secretariat, Fort St. George,
Chennai 600 009.
2. Principal Secretary to Government
Environment and Forest Department
Government of Tamil Nadu
Secretariat, Fort St. George, Chennai.



3. Chairman
Tamil Nadu Pollution Control Board,
Guindy, Chennai.

+1cc to Spl.Government Pleader Sr.No.82194

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VB/SKN/SAR1/24.09.2018/4P/5C

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