

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED : 07.03.2018

CORAM :

THE HONOURABLE MR. JUSTICE M. SATHYANARAYANAN
and
THE HONOURABLE MRS. JUSTICE R. HEMALATHA

W.A. (MD) No. 455 of 2011

1. State Industries Promotion Corporation of Tamil Nadu Ltd.,
Rep. by Managing Director,
No.19-A, Rukmani Lakshmipathi Road,
Egmore, P.B.No.7223,
Chennai - 600 008.
 2. Project Officer,
SIPCOT,
SIPCOT Industrial Complex,
Tuticorin.
- ... Appellants/Petitioners

Vs.

Tuticorin SIPCOT Industrialist Association(40/95),
Through its President,
Having office at
No.C-18, SIPCOT Industrial Complex,
Tuticorin - 628 008.

... Respondent/Respondent

PRAYER : Writ Appeal is filed under Clause 15 of Letters Patent, against the order passed by this Court in W.P.(MD).0No.8928 of 2005, dated 23.11.2010.

Prayer in WP(MD). 8928/ 2005 :

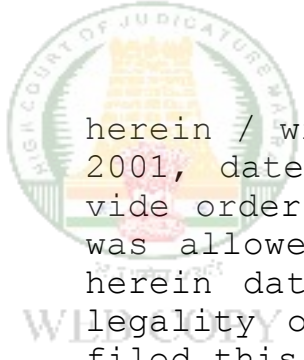
Writ Petition filed under Article 226 of the Constitution of India, praying for the issue of Writ of Certiorari Call for the records from the 1st respondent in Circular No.38 of 2001 dated 18.09.2001, quash the same.

For Appellants : Mr.N.Adithya Vijayalayan
For Respondent : No appearance

J U D G M E N T

(Judgment of the Court was delivered by M.SATHYANARAYANAN, J.)

The appellants are the respondents in W.P.(MD).No.8928 of 2005 filed by the respondent herein/writ petitioner. The respondent



herein / writ petitioner made a challenge to the Circular No.38 of 2001, dated 18.09.2001, issued by the first appellant herein and vide order dated 23.11.2010, passed in the said writ petition, it was allowed and the consequential order of the second appellant herein dated 24.05.2005, came to be quashed and challenging the legality of the same, the respondents in the writ petition had filed this writ appeal.

2. The learned counsel appearing for the appellants has drawn the attention of this Court to the Agreement for Sinking of Borewell, as well as the impugned Circular dated 18.09.2001, issued by the first appellant and would submit that though the learned Judge has sustained the said circular, has quashed only the consequential proceedings of the second appellant, dated 24.05.2005 and further invited the attention of this Court to Paragraph No.7 of the counter affidavit filed in support of the writ petition and would submit that as per the conditions, the allottees should draw the water from SIPCOT source, only after improving the water supply and even after getting sufficient water supply, the allottees are enjoying or drawing water from the borewell till date and refused to close the borewell and as such, they have to pay 50% of the prevailing cost and the said aspect has not been taken into consideration by the learned Judge, while allowing the writ petition and prays for interference.

3. The respondent/writ petitioner has been served and their name appears in the cause list and however, there is no representation on their behalf.

4. It is relevant to extract Clause No.'e' and 'f' of the Agreement for Sinking of Bore well between the SIPCOT and allottees.

"e. Once arrangement have been made by SIPCOT for meeting the full water requirements of the Company the bore well sunk by the Company should be plugged and handed over to SIPCOT.

f. In the event of the Company not getting any water from the Bore well sunk or for any reason the Company wants to shift the location of the bore well, then specific permission in writing should be obtained from SIPCOT."

5. A perusal of the impugned Circular would disclose among other thing that the first appellant / SIPCOT, taking into account the objections raised by some of the Companies, the Board has decided to reduce the water charges at 50% of the prevailing rate of water supplied by SIPCOT in the respective complexes / parks with effect from their borewells at their cost and accordingly, modified the condition No.19 also and also indicated that in future, the modified condition has to be incorporated in water supply agreement and allotment order.



6. The second appellant herein based on the said Circular, has issued the consequential proceedings dated 24.05.2005, wherein, requested the allottee to pay 50% of prevailing water charges for the quantity of water consumed through the borewell and also requested to fix water meter on or before 10.06.2005, to calculate the quantum of water consumed from the borewell and to pay 50% of the present water charges of Rs.26.50/1000 liter.

7. In the considered opinion of the Court that the impugned order quashing the consequential proceedings of the second appellant herein per se unsustainable for the reason, it came to be issued only in pursuant to the impugned Circular dated 18.09.2001 bearing No.38 of 2001 and the said Circular has not been quashed.

8. In the result, the Writ Appeal is allowed and the impugned order dated 23.11.2010, passed in W.P.(MD).No.8928 of 2005 is set aside and the Writ Petition is dismissed. However, in the circumstances of the case, there shall be no order as to costs.

Sd/-

Assistant Registrar(T&P)

/True Copy/

Sub Assistant Registrar

To

Tuticorin SIPCOT Industrialist
Association(40/95),
Through its President,
Having office at
No.C-18, SIPCOT Industrial Complex,
Tuticorin - 628 008.

+ 1 cc TO Mr.N.Adithyavijayalayan, Advocate in SR No. 54169

akv

AE/SKN RSK/SAR3/12.04.2018/3P/3C

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