

**THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE Ms. JUSTICE J. UMA DEVI**

WRIT PETITION NO.16078 OF 2018

ORDER: (per Hon'ble the Acting Chief Justice Ramesh Ranganathan)

A peculiar relief is sought in this Writ Petition. The petitioner seeks a mandamus to permit them to withdraw Appeal No.23 of 2016 pending on the file of the Appellate Authority under the Water (Prevention and Control of Pollution) Act, 1974 and Air (Prevention and Control of Pollution) Act, 1981. The petitioner herein filed an appeal, before the Appellate Authority, under the Water (Prevention and Control of Pollution) Act, 1974 and the Air (Prevention and Control of Pollution) Act, 1981, in Appeal No.23 of 2016 against the order of closure passed by the Telangana State Pollution Control Board. An interim order was granted staying the order of closure passed by the Pollution Control Board for a period of two months. This order, according to Sri K. Venumadhav, Learned Counsel for the petitioner, was extended thereafter.

The term of office of the earlier Chairman and members of the Appellate Authority expired, and the State Government is said not to have filled up the vacant posts thereafter. As on today the Appellate Authority is not functioning as the State Government has not appointed its Chairman or the members. The petitioner, therefore, seeks permission of this Court to withdraw Appeal No.23 of 2016 filed by them before the Appellate Authority.

The grievance of the petitioner, as put forth by Sri K. Venumadhav, Learned Counsel for the petitioner, is that, since the State Government has not appointed the Appellate Authority, they

are in no position to withdraw the appeal preferred by them before the authority; and, consequently, they are forced to invoke the jurisdiction of this Court under Article 226 of the Constitution of India.

The effect of granting the relief, sought for by the petitioner in this Writ Petition, is that the order of closure, passed by the Telangana State Pollution Control Board, would revive and continue to remain in force. Sri P. Shiva Kumar, Learned Standing Counsel for the Telangana State Pollution Control Board, would submit that the Pollution Control Board has no objection for the appeal, preferred by the petitioner before the Appellate Authority, being permitted to be withdrawn as it would only result in revival of the order of closure passed by the Telangana State Pollution Control Board earlier.

As Sri P. Shiva Kumar, Learned Standing Counsel for the Telangana State Pollution Control Board, expresses no objection for the relief, sought for in the Writ Petition, being granted; and as the Appellate Authority is not functioning, we consider it appropriate to exercise our extraordinary jurisdiction under Article 226 of the Constitution of India, and permit the petitioner herein to withdraw Appeal No.23 of 2016 filed by them before the Appellate Authority under the Air and Water (Prevention and Control of Pollution) Acts. Suffice it to make it clear that the effect of withdrawal of the appeal would result in revival of the order of closure passed by the Telangana State Pollution Control Board. Let a copy of this order be communicated to the Registrar, in the office of the Appellate Authority, for their information.

The Writ Petition is disposed of accordingly. The miscellaneous petitions pending, if any, shall stand closed. No costs.

(RAMESH RANGANATHAN, ACJ)

(J. UMA DEVI, J)

Date: 06.06.2018
MRKR

