

**THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE SMT JUSTICE KONGARA VIJAYA LAKSHMI**

Writ Petition No.17756 of 2018

Order: (Per the Hon'ble The Acting Chief Justice Ramesh Ranganathan)

Heard Sri D. Arun Kumar, learned counsel for the petitioner, learned Government for Environment, Sri P. Shiv Kumar, learned Standing Counsel for the Telangana State Pollution Control Board (the "Board" for short), and Sri A. Ravinder, learned counsel for the 5th respondent and, with their consent, the Writ Petition is disposed of at the stage of admission.

A show cause notice was issued to the petitioner on 6.10.2017 informing him that he was operating the Unit without obtaining Consent for Establishment and Consent for Operation from the Board under Section 31(A) of the Air (Prevention & Control of Pollution) Amendment Act, 1987 and under Section 33(A) of the Water (Prevention & Control of Pollution) Amendment Act, 1988. In reply thereto, the petitioner, by his letter dated 13.10.2017, informed the authorities that he had obtained such permission. Thereafter, the impugned order dated 5.5.2018 came to be passed informing the petitioner that his unit was causing air and noise pollution to the surroundings. By virtue of the powers vested with the Board under Section 33(A) of Water (Prevention and Control of Pollution) Amendment Act, 1998 (hereinafter referred to as "the Water Act"), and under Section 31(A) of the Air (Prevention and Control of Pollution) Amendment Act, 1987 (hereinafter referred to as "the Air Act"), the Board directed that the unit be closed.

While Sri D.Arun Kumar, learned counsel for the petitioner, would submit that the order was passed based on a report of TF Committee dated 2.5.2018, a copy of which was not even furnished to the petitioner, Sri P. Shiv Kumar, learned Standing Counsel for the Telangana State Pollution Control Board, would draw our attention to para-5 of the very same order which refers to the representative of the Unit having informed

the Board that they would utilize both virgin and re-cycled plastic to produce pipes, to submit that this itself shows that the impugned order was passed after hearing the petitioner.

It is wholly unnecessary for us to dwell on this aspect, as Sri D. Arun Kumar, learned counsel for the petitioner, would fairly state that he would make a representation in this regard by tomorrow, ie, 19.06.2018, and it would suffice if the representation is directed to be considered within a specified time frame. Learned Counsel would submit that, in case the petitioner is informed of the measures he could take to bring the noise and air pollution levels below the prescribed norms, he would immediately take necessary action in this regard; and, on its being satisfied that the unit is no longer causing noise and air pollution, the Board should be directed to accord permission to re-open and run the Unit.

Both Sri P. Shiv Kumar, learned Standing Counsel for the Telangana State Pollution Control Board, and Sri A. Ravinder, learned counsel for the 5th respondent, would fairly state that such an order may be passed, provided the petitioner is not permitted to operate the unit in the interregnum.

We consider it appropriate, in such circumstances, to dispose of the Writ Petition directing the Board to consider the petitioner's representation within ten days from the date of its receipt; suggest measures by which the petitioner could bring the noise and air pollution levels below the prescribed limits; and satisfy itself that such measures have been taken by the petitioner, and the air and noise pollution levels are brought down within permissible limits. On the petitioner submitting another representation, furnishing proof of compliance with the measures suggested by the Board, the Board shall cause an inspection, and take a decision, whether or not to revoke the closure order, within two weeks from the date of receipt of the said representation.

The Writ Petition is disposed of accordingly. Miscellaneous Petitions pending, if any, shall also stand disposed of. There shall be no order as to costs.

(RAMESH RANGANATHAN, ACJ)

(KONGARA VIJAYA LAKSHMI, J)

18th June, 2018

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