

THE HON'BLE THE CHIEF JUSTICE SRI THOTTATHIL B. RADHAKRISHNAN
AND
THE HON'BLE SRI JUSTICE S.V.BHATT

WRIT PETITION No.28361 of 2018

ORDER: (Per the Hon'ble the Chief Justice Sri Thottathil B. Radhakrishnan)

This matter is before the Division Bench since the plea is of deficiency in the action taken by the agent of the Andhra Pradesh Pollution Control Board (APPCB).

2. We have heard the learned counsel for the writ petitioner and the learned counsel for the respondents.

3. Musical chair and passing the basket are normally games to be played by school children or as measures of leisure by those who have time to do so. These games are not to be played in governance when different limbs of the Sovereign, Socialist, Secular, Democratic Republic of India operates its way through the chartered regime in terms of the Constitution and the Laws. While the complaint of the petitioner is that the Tahsildar has not acted in terms of Ex.P6, which was issued to him by the Environmental Engineer, the fact of the matter remains that the document referred to at serial No.2 therein is an e-mail from the District Collectorate, Ongole, on 06.01.2018. The Environmental Engineer, on 06.01.2018, had prepared Ex.P6 communication, though it appears to have been signed on 08.01.2018. The ultimate requirement expressed by the APPCB official is that the Tahsildar has to take necessary action against the brick kiln units operating in the area in question to mitigate air pollution problems. The Tahsildar was also required to communicate to the APPCB office as to what action has been taken. Delegation of power is part of administrative exercise. There is no

authority in the Anti Pollution Laws to delegate the authority of the Pollution Control Board Environmental Engineer to a Tahsildar. The provisions of the Cr.P.C cannot also be invoked as if it is an off the cuff exercise.

4. Learned counsel appearing for the APPCB is justified in saying that the Environmental Engineer ought to have ensured that even if there is a complaint, there is due consideration of that complaint in terms of the Environment Protection Laws and also G.O.Ms.No.80, dated 22.04.2010. The Directive Principles of the State Policy in Part IV of the Constitution constantly guide the State in making different laws including to protect and manage the environment. This has led to a large sector of environment protection laws, as we call them. The spectrum of laws, which relate to management of air pollution, water pollution etc., gives sufficient power for the authorities who are so empowered. We state all this to leave the petitioner to pursue his remedy before the Environmental Engineer of the APPCB, Regional Office, Nellore.

With such liberty, this Writ Petition is dismissed.

The miscellaneous petitions pending in this Writ Petition, if any, shall stand closed. There shall be no order as to costs.

THOTTATHIL B. RADHAKRISHNAN, CJ

S.V.BHATT, J

13.08.2018
vs