

\$~43

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 2382/2017 & CM No.21216/2018**

SHRI NATHAN CHAUDHARY

..... Petitioner

Through: Mr Arun Kumar and Mr Rishesh
Manitripathi, Advocates.

versus

THE GOVT OF NCT OF DELHI AND ANR Respondents

Through: Mr Abhishek Kumar Singh, Advocate
for R-1.
Mr Anurag Mathur, Advocate for R-
2.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

%

16.08.2018

1. The petitioner has filed the present petition, *inter alia*, impugning an order dated 20.08.2016, whereby the bore-well at the petitioner's premises located at 7550-7551, Deena Nath Road, Khariyan Mohalla, Subzi Mandi, Near Subzi Mandi Railway Station, Delhi, has been directed to be sealed.
2. The petitioner states that it operates a water purification unit at its property bearing No.7951, Deena Nath Road, Roshnara Road, Ramesh Building, Subzi Mandi, Delhi-110007 and requires to draw underground water for the said purpose. The petitioner claims that the impugned order has been passed sealing the bore-well at the instance of Mr Puneet Kumar. It is claimed that Mr Puneet Kumar, is an IAS officer, is inimical to the petitioner and has influenced respondent no.1 to pass the impugned order.

3. The petitioner claims he has a factory licence (which is annexed to the present petition) and is operating the bore-well legally. The petitioner also claims that he has been paying water usage charges for extracting underground water from the bore-well.

4. Mr Mathur, the learned counsel appearing for the respondent no.2 handed over a copy of the office order dated 18.05.2010 issued by the Government of National Capital Territory of Delhi, Department of Environment under Section 5 of the Environment (Protection) Act, 1986. In terms of paragraph 1 of the said order, extraction of ground water without permission of the Competent Authority has been proscribed. In terms of para 2 of the said Office Order, the Competent Authority, the Deputy Commissioner (Revenue) of each revenue or GNCT of Delhi is appointed as an Authorized Officer for the purpose of regulation of ground water development and management, in the respective revenue areas under his/her jurisdiction. The relevant extract of the said Office Order is set out below:-

“(1) In the whole of the National Capital Territory of Delhi, no person, group, authority, association or institution shall draw ground water through bore-well or tube-well (both new as well as existing and drawing ground water without permission of Central Ground Water Authority) for domestic, commercial, agricultural and or industrial uses without the prior permission of the “**Competent Authority**” that is to say, the Delhi Jal Board or the New Delhi Municipal Council as the case may be.

(2) The issue of grant of permission for borewell/tubewell shall be dealt by Competent Authority through the Deputy Commissioner (Revenue) of each revenue areas, GNCTD, who is hereby appointed as “**Authorized Officer**” for the purpose of regulation of ground water development and management in the respective revenue areas under the jurisdiction.”

5. In view of the above, this Court had called upon the petitioner to point out whether petitioner had obtained any permission for operating a bore well from the Competent Authority. The learned counsel appearing for the petitioner was unable to answer the same in the affirmative. He, however, referred to the ground water cess/usage charges bill generated by respondent no.2 and submitted that since the petitioner was paying ground water cess/usage charges, it was implicit that he had the permission to extract the ground water. He also earnestly contended that there were several other bore wells that were operative and the orders sealing the petitioner's bore-well was discriminatory and violative of Article 14 of the Constitution of India. He also referred to the factory licence and submitted that the petitioner was entitled to operate a factory from the premises in question.

6. The contentions advanced on behalf of the petitioner are unpersuasive. The mere fact that the respondent no.2 has generated a ground water cess/usage charges bill calling upon the petitioner to pay water cess charges at the rate of ₹1670/- per month does not necessarily imply that the bore well operated by the petitioner is lawful. It is also relevant to state that the petitioner is extracting the ground water not for its self consumption but for selling the same. The factory licence relied upon by the petitioner issued by the Municipal Corporation of Delhi also indicates that the same is only in respect of trade/nature described as "Kulfi and Confectionary". Thus, the petitioner has not only failed to establish that he has the requisite permission to extract ground water, he has also failed to establish that he has any permission to operate a unit for purification and sale of water.

7. The contention that the respondents have not taken action against other bore wells and therefore, the impugned order is discriminatory is also unpersuasive. Plainly, the petitioner cannot claim that he is entitled to commit an illegal act merely because others are doing so.

8. In view of the above, the present petition is unmerited and is, accordingly, dismissed. The pending application also stands disposed of.

VIBHU BAKHRU, J

AUGUST 16, 2018

pkv