

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 18.03.2019

CORAM
THE HONOURABLE MR.JUSTICE R.SUBBIAH
and
THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

Writ Petition No.1505 of 2019
and WMP.No.1673 of 2019

R.Duraisamy

...Petitioner

Vs

1. Tamil Nadu Pollution Control Board
Rep.by its Chairman
No.76, Mount Road, Guindy,
Chennai - 32.
2. The District Environmental Engineer,
Tamil Nadu Pollution Control Board,
Tiruppur North,
Tiruppur District.
3. V.Kannammal
4. S.Prema

... Respondents

R3 & R4 are impleaded vide order dated 12.02.2019 made in WMP.3794 of 2019 in W.P.No.1505 of 2019 by RPSJ & KRJ.

Writ Petition filed under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorari calling for the records relating to the Proceedings issued by the first respondent in Proc.No.T5/TNPCB/F.27444/TPR(N)/w/2019 dated 11.01.2019 and quash the same.

For Petitioner : Mr.N.Sridhar
for M/s.R.Bharath Kumar

For Respondents: Mr.C.Kasirajan for R1 & R2
Mr.S.Sathiyandarayanan for R3 & R4

O R D E R
[Order of the Court was made by R.SUBBIAH,J]

The petitioner has filed the above Writ Petition praying for issuance of a Writ of Certiorari calling for the records relating to the proceedings issued by the first respondent in

Proc.No.T5/TNPCB/F.27444/TPR(N)/w/2019 dated 11.01.2019 and quash the same.

2. The learned counsel appearing for the first and second respondents submitted that the first respondent passed an order on 11.01.2019 directing that the Unit of M/s.Magaarani Dyeings, SF No.117, 118, 119 & 120, Andipalayam Village, Tiruppur South Taluk, Tiruppur District shall be closed with immediate effect and that the electricity supply to the above said Unit shall be disconnected with immediate effect as they have not complied with the stipulated order and the reply furnished by the Unit for the show cause notices is not satisfactory.

3. When the writ petition came up for hearing before this Court during earlier occasion, the respondents 3 & 4 represented that they are also partners of the said Unit and they got impleaded themselves in the writ petition and filed a counter affidavit and opposed the prayer of the petitioner stating that there are certain internal disputes between the partners and unless the said disputes are resolved, the petitioner cannot be permitted to operate the Unit.

4. At this juncture, the learned counsel appearing for the petitioner submitted that only for the purpose of rectifying the defects pointed out by the first respondent - Pollution Control Board, the petitioner is requesting to set aside the impugned order dated 11.01.2019 and further he stated that the petitioner will not operate the Unit. When the matter came up on earlier occasion, in view of the submission made by the learned counsel for the petitioner, the petitioner was directed to file an affidavit of undertaking to that effect. Accordingly the undertaking affidavit dated 16.03.2019 is filed today (18.03.2019), which reads as follows:-

"In continuation of the earlier affidavits of undertaking filed by me before this Hon'ble Court, I am filing this affidavit to express my willingness for the presence of respondents 3 and 4 in the process of completing the tasks enlisted in my earlier affidavit dated 13.03.2019 without in any way interfering with the completion of those tasks. I am filing this affidavit without prejudice to my legal rights to challenge the Arbitral Award of the Arbitral Tribunal dated 27.10.2019".

5. As per the affidavit of undertaking the petitioner agreed to carry out the process of completing the tasks in the presence of 3rd and 4th respondents. Further the petitioner has also stated that he will not operate the Unit. As per the undertaking, the 3rd and 4th respondents also have no objection for carrying out the rectifying defects in their presence. Therefore, by recording the above undertaking affidavit, this

writ petition is disposed of with the following directions:-

1. The order passed by the Tamil Nadu Pollution Control Board Proc.No.T5/TNPCB/F.27444/TPR(N)/W/2019, dated 11.01.2019 is set aside .

2. The petitioner is permitted to carry out the rectifying defects in the presence of 3rd and 4th respondents.

3. For the purpose of rectifying the defects, electricity connection can be restored and the entire exercise shall be completed within three months from the date of receipt of a copy of this order.

No costs. Consequently connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

dpq

To

1. Tamil Nadu Pollution Control Board
Rep.by its Chairman
No.76, Mount Road, Guindy,
Chennai - 32.

2. The District Environmental Engineer,
Tamil Nadu Pollution Control Board,
Tiruppur North,
Tiruppur District.

+1cc to Mr.C.Kasirajan, Advocate, S.R.No.25189

+1cc to Mr.R.Bharath Kumar, Advocate, S.R.No.25799

+1cc to Mr.S.Sathyanarayanan, Advocate, S.R.No.25279

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VN-II(CO)

rrs 26/03/2019

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