

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.06.2019

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH

and

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.34773 of 2018

G.Chinnaraju

.. Petitioner

Vs.

1. The Member Secretary,
Tamil Nadu Pollution Control Board,
No.76, Mount Salai,
Guindy, Chennai-600 032.

2. The District Environmental Engineer,
Tamil Nadu Pollution Control Board,
Hosur, Krishnagiri District.

3. M/s.J.R.S.Crusher,
Rep. by its Partner Mr.N.Ramesh,
SF.No.351/1, Hosapuram Village,
Denkanikottai Road,
Krishnagiri District.

4. Mr.Sathyamurthy

5. Mr.S.Santhamurthy

6. Thiru.A.Jayakanthan

7. Thiru.A.Jayanth

8. Tmt.Kannammal

(Respondents 6 to 8 impleaded as
per Order of Court, dated 17.06.2019
passed in W.M.P.No.4941 of 2019
in W.P.No.34773 of 2018)

.. Respondents

Writ Petition filed under Article 226 of the
Constitution of India, praying for issuance of a Writ of
Mandamus to direct the respondents 1 and 2 to consider the
petitioner's representations, dated 05.03.2018 and
02.04.2018, thereby direct the respondents 1 and 2 to
cancel the consent order, dated 15.11.2017 issued by the
second respondent in favour of the third respondent.

For petitioner : Mr.L.Chandrakumar for Mr.B.Sundarapandiyan

For respondents : Mr.C.Kasirajan for RR-1 and 2

Mrs.Kanimozhi Mathi for RR-3 to 5

Mr.C.Prakasam for RR-6 to 8 (impleaded respondents)

ORDER

(The Order of the Court was made by R.Subbiah,J)

The petitioner has come forward with the present Writ Petition praying for issuance of a Writ of Mandamus to direct the respondents 1 and 2 to consider the petitioner's representations, dated 05.03.2018 and 02.04.2018, thereby direct the respondents 1 and 2 to cancel the consent order, dated 15.11.2017 issued by the second respondent in favour of the third respondent.

2. The case of the petitioner is that he is running Blue Metal Crushing Unit in the name and style of M/s.Sree Hanuman Blue Metals in S.No.354/1, Hosapuram Village, Denkanikottai Taluk, Krishnagiri District, with all infrastructure facilities obtained from the Tamil Nadu Pollution Control Board, vide its order in No.DEE/HSR/1711/A/KRI/2009, dated 10.07.2009 and necessary certificate was also obtained from all the authorities. The petitioner transferred the above Blue Metal Crushing Unit with entire assets, in favour of his sister, namely Tmt.Kannammal, by way of Gift Deed and subsequently, she executed a registered Gift Deed, dated 13.02.2013 in favour of her son, namely Mr.Jayakanthan (impleaded sixth respondent herein) who is running the Unit in the above said name of the Unit, i.e. M/s.Sree Hanuman Blue Metals.

3. It is the further case of the petitioner that while the sixth respondent is running the said Unit, he entered into a Partnership Agreement with Mr.Sathyamurthy/fourth respondent, Mr.Santhamurthy/fifth respondent and N.Ramesh/the partner of M/s.J.R.S.Crusher/third respondent and started a Jelley Manufacturing unit in the name and style of M/s.J.R.S.Crusher instead of M/s.Sree Hanuman Blue Metals. It is further stated by the petitioner that the respondents 3 to 5 forged the petitioner's signature as if the petitioner has given "No Objection" to the District Environmental Engineer/second respondent in favour of the respondents 3 to 5 to enable them to apply and process for further statutory requirements.

4. It is also stated by the petitioner that the second respondent issued a letter to the petitioner on 18.11.2015, vide proceedings in Lr.No.F HSR 0574/DEE/TNPCB/HSR 2015, which was received by the petitioner on 30.11.2015 and immediately, the petitioner gave objection to the second respondent on 01.12.2015, thereby, not to issue any consent order in favour of the third respondent, as the said No

Objection, which is dated 02.11.2015 said to have been given by the petitioner, to the second respondent, was a forged one, as the petitioner did not sign any papers. Further, based on the forgery of the petitioner's signature for giving consent letter, the respondents 3 to 5 gave an application in File No.CTE 3234752 on 07.12.2015 requesting consent order from the second respondent for running M/s.J.R.S.Crusher. In this regard, the petitioner made a complaint to the respondents 1 and 2 requesting not to close the petitioner's file in respect of M/s.Sree Hanuman Blue Metals, so as to resume the operations early.

5. It is the grievance of the petitioner that the respondents 3 to 5 colluded each other and forged the petitioner's signature and thereby, created No Objection Certificate from the second respondent/DEE of the TNPCB. Moreover, the petitioner personally approached the first respondent/TNPCB and informed about the alleged forged "No Objection Certificate" stated to have been given by the petitioner in respect of the consent being given for running the Unit. It is the further stand of the petitioner that he had not signed any letter to M/s.J.R.S.Crusher, Partners, who are respondents 3 to 5, who have impersonated and forged the petitioner's signature. In this backdrop, the petitioner lodged a complaint to the Superintendent of Police, Krishnagiri, on 19.03.2018 in File No.659 of 2018, and this complaint was forwarded to the Inspector of Police, District Crime Branch, Krishnagiri in File No.129 of 2018, which is pending for enquiry.

6. Since the respondents 3 to 5 impersonated and forged the petitioner's signature and obtained an illegal consent order from the second respondent, the petitioner gave representations to the first respondent on 05.03.2018 and 02.04.2018, followed by reminder dated 02.06.2018, for cancellation of the alleged consent order, dated 15.11.2017 issued by the second respondent in favour of the third respondent. Since no action is taken on the said representations, the petitioner has come before this Court by filing this Writ Petition for the relief stated supra.

7. Learned counsel appearing for the respondents 3 to 5, by filing counter affidavit, inter-alia stated that as against the order passed by the first and second respondents, the petitioner has to only prefer appeal under the provisions of the Air and Water (Prevention and Control of Pollution) Act. Learned counsel appearing for the respondents 3 to 5 further submitted that absolutely, there is no forgery or collusion as alleged by the petitioner. Hence, he prayed for dismissal of the present Writ Petition.

8. Be that as it may. This Court is not conducting any roving enquiry on the disputed questions of facts alleged in this Writ Petition. Since the prayer in the Writ Petition is only for a Mandamus to direct the respondents 1 and 2 to consider the said representations, it is sufficient to issue direction to the respondents 1 and 2 as stated above.

9. Accordingly, without expressing any opinion on the merits of the matter, and also considering the limited scope of the prayer made in this Writ Petition, this Court directs the respondents 1 and 2 to consider the said representations, dated 05.03.2018 and 02.04.2018, conduct enquiry, afford an opportunity of hearing to the petitioner and necessary parties including the respondent 3 to 8, pass appropriate orders and dispose of the said representations, on merits and in accordance with law, within a period of two months from the date of receipt of a copy of this order. It is made clear that this Court has not expressed any opinion on the merits of the claim made by the petitioner and it is for the respondents 1 and 2 to decide the same while disposing of the said representations purely on merits.

10. With the above observations and directions, the Writ Petition is disposed of. No Costs.

Sd/-

Assistant Registrar(insp cell)

//True Copy//

Sub Assistant Registrar

CS
To

1. The Member Secretary,
Tamil Nadu Pollution Control Board,
No.76, Mount Salai,
Guindy, Chennai-600 032.

2. The District Environmental Engineer,
Tamil Nadu Pollution Control Board,
Hosur, Krishnagiri District.

+1cc to Mr.C.Prakasam , Advocate SR.No. 50068
+1cc to Mrs.Kanimozhi Mathi , Advocate SR.No. 49226
+1cc to Mr.B.Sundarapandiyan , Advocate SR.No. 49204

W.P.No.34773 OF 2018

A.SK(01/08/2019)