



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **24.04.2019**

CORAM:

THE HONOURABLE MR. **JUSTICE K.K.SASIDHARAN**
and

THE HONOURABLE MR. **JUSTICE P.D.AUDIKESAVALU**

Review Application (MD) No.20 OF 2019

M/s.Punitha Arocia Annai Crusher

@ R.R.Crusher,

rep. By its Proprietor,

R.R.Rasu

: petitioner/5th Respondent

versus

1.Mathiyalagan

2.The District Collector,
Pudukottai District.

3.The Tamil Nadu Pollution Control Board,
76, Anna Salai, Guindy

4.The District Environmental Engineer,
Tamil Nadu Pollution Control Board,
SIPCOT Factory Campus,
SIPCOT Post, Pudukottai.

5.The Assistant Director,
Mines Department,
District Collector Office Campus,
Pudukottai.

: Respondents/Respondents 1 to 4

Petition filed under order 47 Rule 1 & 2 r/w Section 114 of CPC to review the order passed in W.P.(MD) No.24533 of 2018 dated 23.01.2019.

Prayer in WP(MD). 24533 of 2018 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a writ of Mandamus, directing the respondents to take immediate steps for close and sealing the 5th respondents quarry situated at Sandhana Viduthi village, Thoolayanoor Panchayat, Thirumayam Taluk, Pudukkottai Dist, by consider the representation dated 27.08.2018.

For petitioner : Mr.B.Saravanan

For respondents : Mr.A.V.Rajasekaran,
for 1st respondent

Mr.V.R.Shanmugasundaram, Spl.G.P.
for respondents 2 and 5

Mr.V.Vasanthakumar,
for respondents 3 and 4

**ORDER**

This review application is filed to review the order dated 23 January 2019 in W.P.(MD) No.24533 of 2018 whereby and whereunder, a direction was issued to the review applicant to close the unit, taking into account the counter affidavit filed by the Tamil Nadu Pollution Control Board dated 21 January 2019 indicating that the unit has not provided adequate Air Pollution Control Measures.

2. The review applicant has come up with this review application on the ground that there is an error apparent on the face of the record inasmuch as the Court has not taken note of the removal of additional machineries, on the basis of which, adverse remark was made in the counter affidavit filed by the Tamil Nadu Pollution Control Board.

3. When this review application came up for hearing on 15 April 2019, the learned Standing Counsel for the Tamil Nadu Pollution Control Board, on instruction, submitted that the applicant has complied with the direction, by removing the additional machineries. According to the learned Standing Counsel, the unit was given consent and the same is valid up to 31 March 2020.

4. In view of the submission made on behalf of the Tamil Nadu Pollution Control Board, we directed the Board to conduct a fresh inspection, to ascertain as to whether the industry has complied with all the statutory requirements.

5. The District Environmental Engineer, Tamil Nadu Pollution Control Board, Pudukottai, pursuant to our order dated 15 April 2019, conducted inspection in the presence of the review applicant and the first respondent.

6. The report submitted by the District Environmental Engineer dated 22 April 2019 indicates that the unit has removed additional machineries for manufacturing M Sand. The unit has also provided 25 numbers of water sprinklers in the passage of vehicle moving area so as to avoid fugitive emission. The District Environmental Engineer in his report has also submitted that the unit is having valid consent and it was renewed up to 31 March 2020.

7. This Court, taking into account the counter affidavit filed by the Tamil Nadu Pollution Control Board, directed closure of the industry. Before filing the counter affidavit, the industry was inspected by the District Environmental Engineer. The counter affidavit prepared by the Board prior to the inspection was given a new date and the same was filed in Court. It was only on the basis of the said counter affidavit, we have directed that the industry must be closed. The District Environmental Engineer made the position very clear that the industry has complied with the statutory requirement. The additional machineries were all removed.



The said fact was not properly informed to this Court and the same resulted in passing the order for closure.

8. This Court, with a view to ascertain the factual position, once again directed the District Environmental Engineer to inspect the industry. The Inspection Report dated 22 April 2019 supports the case pleaded by the review applicant. We are therefore of the view that the Writ Petition should be heard on merits. This is more so on account of the fact that the first respondent, who is the writ petitioner, wanted the Tamil Nadu Pollution Control Board to test the ground water samples in and around the premises of the industry.

9. We recall the order dated 23 January 2019. The Writ Petition in W.P.(MD) No.24533 of 2018 is restored to file.

10. We direct the Registry to post the Writ Petition for hearing before the concerned Bench as per roster, on 10 June 2019.

11. The review application is allowed as indicated above. No costs. Consequently, W.M.P.(MD) No.4029 of 2019 is closed.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar (CS)

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To

1.The Assistant Director,
Mines Department,
District Collector Office Campus,
Pudukottai.

2.The District Collector,
Pudukottai District.

3.The Tamil Nadu Pollution Control Board,
76, Anna Salai, Guindy

4.The District Environmental Engineer,
Tamil Nadu Pollution Control Board,
SIPCOT Factory Campus, SIPCOT Post, Pudukottai.

+1CC TO MR.B.SARAVANAN, Advocate Sr. No. 62539

+1CC TO MR.A.V.RAJASEKARAN, Advocate Sr. No.62282

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24.04.2019**