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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.09.2019

CORAM:

THE HONOURABLE Mr. JUSTICE T.S.SIVAGNANAM

and

THE HONOURABLE Mrs. JUSTICE R.THARANI

W.P. (MD)No.21351 of 2014 and 1074 of 2015

and

M.P. (MD)Nos.1 of 2014 and 1, 2 of 2015

W.P. (MD)No.21351 of 2014:

M.Neelraj

... Petitioner

Vs.

The Executive Officer,
Seithur Selection Grade Town Panchayat,
Seithur 626 121.
Rajapalayam Taluk,
Virudhunagar District.

... Respondent

PRAYER: The petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records of the respondent vide proceedings in Na.Ka.No.752/2014, dated 19.12.2014 and quash the same.

For Petitioner : Ms.K.Hemakarthiskeyan

For Respondent : Mr.A.K.Baskarapandian, Spl.G.P.

W.P. (MD)No.1074 of 2015:

M.Neelraj

... Petitioner

Vs.

1.Tamil Nadu Pollution Control Board,
Rep.by its Chairman,
76, Mount Salai,
Guindy, Chennai - 600 032.

2.M.Venkatachalam

... Respondents

PRAYER: The petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records of the first respondent vide proceedings in Proc.No.T11/TNPCB/F.12920/VNR/SEAL/A/2014, dated 03.12.2014 and quash the same.



For Petitioner : Ms.K.Hemakarthiskeyan
For Respondent : Mr.A.K.Baskarapandian, Spl.G.P.
For Respondent No.2 : Mr.M.Saravanakumar

COMMON ORDER

(Order of the Court was made by T.S.SIVAGNANAM,J.)

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The petitioner is aggrieved by the order passed by the Tamil Nadu Pollution Control Board and the consequential order passed by the Executive officer of Seithur Selection Grade Town Panchayat.

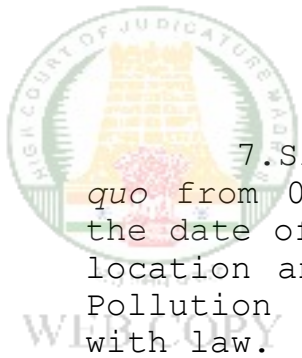
2.The petitioner has been running a power loom in his residential area. The 2nd respondent viz., M.Venkatachalam, the neighbour, complained of nuisance. Since no action was initiated, he had approached this Court by way of filing a Writ petition in W.P.(MD)No.12920 of 2014. The said Writ petition was heard by one of us (TSSJ) and disposed of by an order dated 07.08.2014, directing a surprise inspection to be conducted in the premises of the present Writ petitioner, who has been impleaded as the 4th respondent in the said Writ petition. The said inspection lead to the order of closure passed by the Tamil Nadu Pollution Control Board and the consequential order passed by the Town Panchayat.

3.The petitioner has filed the Writ petition in W.P.(MD) No.1074 of 2015 challenging the order of the Tamil Nadu Pollution Control Board. The said Writ petition was entertained and an interim order of status quo was granted on 02.02.2015. The said order is in force.

4.Earlier, since the Executive Officer of the Town Panchayat issued order of closure and the same was challenged by filing a Writ petition in W.P.(MD)No.21531 of 2014.

5.The learned counsel for the petitioner would vehemently contend that without taking note of the actual factual position, the Tamil Nadu Pollution Control Board has rendered a finding that the petitioner is running a power loom, whereas it is not a power loom and it is operating only with ½ H.P. motor. We cannot sit in judgment over the factual finding recorded by the Tamil Nadu Pollution Control Board after the surprise inspection. The petitioner cannot deny the fact that he is running the power loom in a residential area, which obviously will emanate high noisy, which result in air pollution.

6.Further more, we find that there is no error in the decision making process and the order passed by the Tamil Nadu Pollution Control Board cannot be found fault with. For such reason, we are not inclined to interfere with the impugned orders. Accordingly, the Writ petitions are dismissed.



7. Since the petitioner had the benefit of an order of *status quo* from 02.02.2015, we grant the petitioner six months time from the date of receipt of a copy of this order, to shift to a different location and then apply for necessary permission to the Tamil Nadu Pollution Control Board and carry on his activities in accordance with law.

8. The Writ petitions are dismissed with the aforesaid directions. No costs. Consequently, connected W.P.s. are closed.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

To

1. The Executive Officer,
Seithur Selection Grade Town Panchayat,
Seithur 626 121.
Rajapalayam Taluk,
Virudhunagar District.

2. The Chairman,
Tamil Nadu Pollution Control Board,
76, Mount Salai,
Guindy, Chennai - 600 032.

+1CC to MR.K.Hemakarthiskeyan, Advocate, SR.No. 85145.

+1CC to MR.M.Saravanakumar, Advocate, SR.No. 84987.

**W.P. (MD) No.21351 of 2014 and 1074 of 2015
03.09.2019**

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