



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.11.2019

CORAM:

**THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
AND
THE HONOURABLE MRS.JUSTICE R.THARANI**

W.P(MD)NO.25031 of 2018

and

W.P(M)Nos.1621 and 2057 OF 2019

and

W.M.P(MD)Nos.1379, 1380, 1661,1662 of 2019 and 22687,22688 of 2018

W.P(MD)NO.25031 of 2018

M/s.Varnalakshmi Industrites(P)Limited,
represented by its Managing Director,
Thiru.N.Prabu Anand,
Office at No.1/234, Nilayur,
Thirupparankundram Post,
Madurai 625 005.

:Petitioner

.vs.

1.The Union of India,
represented by Secretary to Government,
Ministry of Environment and Forest,
New Delhi.

2.The State of Tamil Nadu,
represented by its Secretary to Government,
Environmental Forest (EC-2)Department,
Fort St.George,
Chennai - 600 009.

: Respondents

W.P(MD)No.1621 OF 2019

M/s.Thermofarmers Allied Manufacturer's Association,
represented by its Secretary,
Mr.P.Rajesh Kumar,
Son of Parasmal,
No.173, SIDCO Industrial Estate,
Kappalur,
Madurai - 625 008.

:Petitioner

//vs//



1.The State of Tamil Nadu,
through Chief Secretary,
St.George Fort,
Chennai - 600 009.

2.The State of Tamil Nadu,
through the Principal Secretary,
Department of Environment and Forests,
St.George Fort,
Chennai - 600 009.

3.The Union of India,
through the Secretary,
Department of Chemical and Petrochemicals,
Ministry of Chemicals and Fertilizers, 341-(c),
A-Wing,
Third Floor, Shastri Bhawan,
New Delhi - 110 001.

4.The Union of India,
through its Secretary,
Ministry of Environment and Forest Department,
Paryawaran Bhawan, CGO Complex,
New Delhi.

:Respondents

W.P(MD)No.2057 of 2019

T.R.Susila

:Petitioner

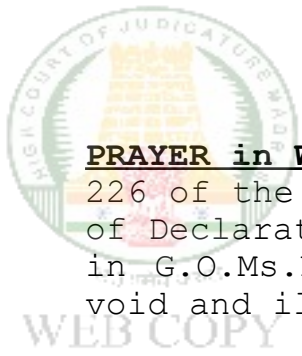
//vs//

1.The State of Tamil Nadu,
through Chief Secretary,
St.George Fort,
Chennai- 600 009.

2.The State of Tamil Nadu,
through the Principal Secretary,
Department of Environment and Forests,
St.George Fort,
Chennai - 600 009.

3.The Principal Secretary/Chairman,
Tamil Nadu Pollution Control Board,
No.76, Mount Salai, Guindy,
Chennai - 600 032.

:Respondents



PRAYER in W.P(MD)No.25031 of 2018: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Declaration declaring the impugned order of the second respondent in G.O.Ms.No.84, dated 25.6.2018 as ultra vires, unconstitutional, void and illegal insofar as the Petitioner is concerned.

PRAYER in W.P(MD)No.1621 of 2019: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for the impugned Government Order passed in G.O(Ms)No.84, dated 25.6.2018, on the file of the respondents 1 and 2 and to quash the same as unconstitutional, illegal being arbitrary and ultra vires to the Environment (Protection)Act, 1986 insofar as inclusion of Cups made of Polypropylene(PP) of over 60 Micron thickness are concerned and direct the respondents to ensure the enforcement and implementation of Solid Waste Management Rules, 2016, Plastic Waste Management Rules, 2016 as framed under the Environment(Protection)Act, 1986 as per the time-lines prescribed within the Rules and Prevention of Cruelty to Animals Act, 1960 and Rules framed thereunder in letter and spirit and further to direct the respondents to issue appropriate directions to all municipalities/municipal corporations to forthwith prohibit and or to phase out in a time bound manner the open garbage disposal system and to remove the open garbage receptacles.

PRAYER in W.P(MD)No.2057 of 2019: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for the impugned Government Order passed by the first respondent in G.O.Ms.No.84, Environment and Forest (EC.2) Department, dated 25.6.2018 and the impugned Letter No.22592/EC.2/2018-1, passed by the second respondent dated 8.12.2018 and to quash the same as being unconstitutional, illegal, arbitrary and ultra vires to the Environment(Protection)Act, 1986 insofar as inclusion of Non-Woven(Carry)Bags made of polypropylene (PP) are concerned and further to direct the respondents to ensure the enforcement and implementation of Solid Waste Management Rules, 2016, Plastic Waste Management Rules, 2016 as framed under the Environment(Protection)Act, 1986 as per the time lines prescribed within the Rules and Prevention of Cruelty to Animals Act, 1960 and Rules framed thereunder in letter and spirit.

W.P(MD)NO.25031 of 2018

For Petitioner : Mr.Veerakathiravan
Senior Counsel
for M/s.Veera Associates

For Respondent-1 : Mr.G.Rajaraman
Central Govt.Standing Counsel



For Respondent-2

:Mr.A.Muthukaruppan
Addl.Govt.Pleader

W.P(MD)NOS.1621and 2057 of 2019

WEB COPY

For Petitioner
in both W.Ps'

:Mr.B.Saravanan

For Respondents
1 and 2
in both W.Ps'

:Mr.A.Muthukaruppan
Addl.Govt.Pleader

For Respondents
3 and 4
in W.P(MD)No.
1621 of 2019

:M/s.H.Lakshmi Shankar
Central Govt.Standing Counsel

For Respondent-3
in W.P(MD)No.
2057 of 2019

:Mr.Vasanthakumar

COMMON ORDER

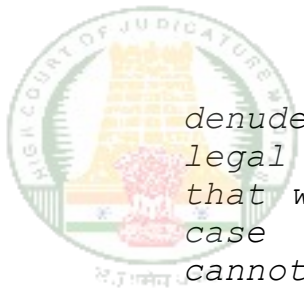
[Order of the Court was made by **T.S.SIVAGNANAM.,J.**]

We have heard Mr.Veerakathiravan, learned Senior Counsel and Mr.B.Saravanan, learned counsel appearing for the Petitioners and the learned counsel appearing for the respondents in all these Writ Petitions.

2.The prayer sought for in these Writ Petitions is to declare G.O.Ms.No.84, dated 25.6.2018 as unconstitutional.

3.Similar challenge to the above Government Order was rejected by the Honourable Division Bench of this Court in **W.P(MD)No.10131 of 2018 in the case of(Yagappa Nagar West Residents Welfare Association //vs// The Chief Secretary and others)**.This Court had an occasion to deal with the challenge to the impugned G.O.Ms.No.84, dated 25.6.2018 in **W.P(MD)No.19130 and 19133 of 2019, dated 3.9.2019** and rejected the claim made by the Petitioners therein and the operative portion of the above order reads as under:

''7.Therefore, for the above two reasons we cannot accede to the submission made by the learned counsel for the petitioner with regard to the power of delegated authority. It is no doubt true that the settled legal position is that when the authority delegates the power to another authority, it is not



denude of exercising such power. This is a settled legal principle. What we are required to see is that whether this principle could be applied to the case on hand. In our considered view, the same cannot be applied for the simple reason that the power exercisable under Section 5 of the Environment Protection Act by the Central Government can be delegated in favour of the State Governments and this delegation has been done by exercising the power under Section 23 of the Environment Protection Act and the State of Tamil Nadu is empowered to exercise the powers which were exercisable by the Central Government. Plastic Waste Management Rules 2016 was enacted in exercise of power conferred under Section 3, 6 and 25 of the Environment Protection Act in supersession of the Plastic Waste Management Act handling Rules 2011. Therefore, there is nothing to hold that the notification dated 10.02.1998 has been superseded by the Central Government while issuing the notification dated 18.03.2016. Therefore, we are unable to accept the argument of Mr.Prabhakaran on the said issue. In any event, the order passed by the State Government in G.O.Ms.No.84 is in public interest and the direction contained therein clearly shows as to the purpose for which the said direction has been issued and the State Governments has rightly referred to Article 48 (A) of the Constitution of India which envisages that the State Government shall make every endeavour to protect and improve the environment. Therefore, we are of the considered view that the petitioner has not made out any ground to interfere with the impugned Government Order and the relief sought for in the writ petition cannot be granted.

8.With the above observations, these writ petitions stand dismissed. No costs. Consequently, the connected miscellaneous petitions are closed.''

4.Following the same, in similar lines, these Writ Petitions stand dismissed. No costs. Consequently, connected Miscellaneous Petitions are dismissed.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)



To

- 1.The Secretary to Government,
Government of Tamil Nadu,
Environmental Forest (EC-2)Department,
Fort St.George, Chennai - 600 009.
- 2.The Chief Secretary,
Government of Tamil Nadu,
St.George Fort, Chennai - 600 009.
- 3.The Principal Secretary,
Government of Tamil Nadu,
Department of Environment and Forests,
St.George Fort, Chennai - 600 009.
- 4.The Secretary, Government of India,
Department of Chemical and Petrochemicals,
Ministry of Chemicals and Fertilizers, 341-(c),
A-Wing, Third Floor, Shastri Bhawan,
New Delhi - 110 001.
- 5.The Secretary,
Government of India,
Ministry of Environment and Forest Department,
Paryawaran Bhawan, CGO Complex, New Delhi.
- 6.The Principal Secretary/Chairman,
Tamil Nadu Pollution Control Board,
No.76, Mount Salai, Guindy,
Chennai - 600 032.

+1 CC to M/s.G.RAJARAMAN, Advocate (SR-97421[F]
+1 CC to M/s.VEERA ASSOCIATES, Advocate (SR-97613[F]
+1CC TO MR.H.LAKSHMI SHANKAR, Advocate Sr. No. 97691

COMMON ORDER MADE IN
W.P(MD)NO.25031 of 2018
and W.P(M)Nos.1621 and 2057 OF 2019
and
W.M.P(MD)Nos.1379, 1380, 1661,1662 of 2019 and
22687,22688 of 2018
11.11.2019

SV2 (CO)
TR(16.12.2019) 6P 10C