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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 9.1.2020

CORAM

THE HONOURABLE DR.JUSTICE VINEET KOTHARI
AND
THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P.No.3046 of 2019
and
W.M.P.No.3320 of 2019

Voice of Nature (Regn.No.21/2014)
rep. by its President,
No.4, Adhigathur Road,
Vengathur Kandigai,
Manavalanagar, Thiruvallur 602 002.

Petitioner

Versus

The Central Pollution Control Board,
rep. by its Member Secretary,
Parivesh Bhavan, East Arjun Nagar,
New Delhi 110 032.

Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of certiorari calling for the records of the respondent culminating in direction "a" of the directions in F.No.B-29012/MSMEs/IPC-VI/2017-18/12189-12230 dated 2.11.2018 issued by the Respondent Board and quash the same.

For petitioner : Mr.V.Chetana
For Respondent : Mr.D.S.Ekambaram

ORDER

(Order of the court was made by Dr.VINEET KOTHARI, J.)

The Petition has been filed in the PIL jurisdiction of this Court by a Society viz., Voice of Nature with a prayer to quash clause "a" of the directions issued by the Central Pollution Control Board by communication dated 2nd November 2018 to the State Pollution Control Board purportedly in exercise of powers under Section 18(1) of the Water (Prevention and Control of Pollution) Act, 1974.

2. The operative portion of the communication is quoted below for ready reference:-



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"NOW, THEREFORE, in view of the above and exercising the powers conferred to Central Pollution Control Board under Section 18(1)(b) of the Water (Prevention & Control of Pollution) Act, 1974 and 18(1)(b) of the Air (Prevention & Control of Pollution) Act, 1981, following directions are issued for regulation of industries including MSMEs:

- a) For Industries requiring Environmental Clearance (EC), issuing of consent by SPCBs/PCCs shall be one step process and Environmental Clearance will be deemed as Consent to Establish (CTE) in such cases, SPCBs/PCCs shall be involved in the process of granting of EC.
- b) SPCBs/PCCs shall issue the expanded list of green and white categories of industries incorporating new/left over industrial sectors, which are being operated in their State/ Union Territory with a month.
- c) Inspections for compliance verification of environmental standards by SPCBs/PCCs shall be random and based on risk assessment. SPCBs/PCCs shall develop mechanism for random selection of industries for inspection purpose including self-certification.

The SPCBs/PCCs shall acknowledge the receipt of the directions and submit the Action Taken Report (ATR) in compliance of these directions to CPCB within one month from receipt of directions."

3. The prayer made in the Writ Petition is also quoted below for ready reference:-

"Writ of certiorari calling for the records of the respondent culminating in direction "a" of the directions in F.No.B-29012/MSMEs/IPC-VI/2017-18/12189-12230 dated 2.11.2018 issued by the Respondent Board and quash the same."

4. The learned counsel appearing for the Petitioner sought to urge before us that by this impugned direction in clause "a" quoted above, the Central Pollution Control Board sought to curtail the process prescribed under section 25 of the Act while issuing Consent to Establish (CTE) by deeming the Environmental Certificate as Consent to Establish and thereby cut short it to one step process as against two step process envisaged under Section 25 of the Act.



5. Section 25 of the Water (Prevention & Control of Pollution) Act, 1974 reads as under:-

"25. RESTRICTIONS ON NEW OUTLETS AND NEW DISCHARGES.

(1) Subject to the provisions of this section, no person shall, without the previous consent of the State Board,--

(a) establish or take any steps to establish any industry, operation or process, or any treatment and disposal system or any extension or addition thereto, which is likely to discharge sewage or trade effluent into a stream or well or sewer or on land (such discharge being hereafter in this section referred to as discharge of sewage); or

(b) bring into use any new or altered outlet for the discharge of sewage; or

(c) begin to make any new discharge of sewage;

Provided that a person in the process of taking any steps to establish any industry, operation or process immediately before the commencement of the Water (Prevention and Control of Pollution) Amendment Act, 1988, for which no consent was necessary prior to such commencement, may continue to do so for a period of three months from such commencement or, if he has made an application for such consent, within the said period of three months, till the disposal of such application."

6. Having heard the learned counsel appearing for the parties, we are satisfied that no cause of action has, actually, arisen to the petitioner or any Public Cause has arisen to invoke the extraordinary jurisdiction under Article 226 of the Constitution of India. The direction of the Central Pollution Control Board appears to have been issued in exercise of powers conferred to the Board under Section 18 of the Act to reduce the delays caused in issuing the Environmental Clearance and CTE under the Pollution Control Enactments and no Statutory provisions or procedural requirements have been cut down by the Central Pollution Control Board, nor in our opinion, it amounts to any amendment of law by Central Pollution Control Board. Moreover, since no prejudice is said to have been caused to any public and therefore, no case for invoking the PIL jurisdiction is made out. The Court cannot undertake the academic interpretation of the Statutes unless a cause of action is shown to have arisen when a public cause is espoused by any individual or Society.



7. Therefore, we are not inclined to interfere in the matter and the PIL Writ Petition is liable to be dismissed. Accordingly, it is dismissed. No costs. Consequently, the connected Miscellaneous Petition is also dismissed.

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s/d-
Assistant Registrar(J)

True Copy

Sub-Assistant Registrar

ssk.

To:

1. The Member Secretary,
Central Pollution Control Board,
rep. by its Member Secretary,
Parivesh Bhavan, East Arjun Nagar,
New Delhi 110 032.
 2. The President, Voice of Nature (Regn.No.21/2014)
No.4, Adhigathur Road,
Vengathur Kandigai,
Manavalanagar, Thiruvallur 602 002.
- +1 CC to Mr.D.S.Ekambaram, advocate sr 2092.

W.P.No.3046 of 2019

SP(22/01/2020)