



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.11.2021

CORAM

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.No.19906 of 2021

and

WMP.No.21153 of 2021

Sri Srivastha Paper Mills (P) Ltd.,
Rep. by its Managing Director,
D.Gnanavadivel,
No.37, Malyappa Gounder Layout,
5/219, main Road,
Udumalpet 642 154,
Thiruppur District.

... Petitioner

-Vs-

1. The Principal Secretary
Public Works Department,
Government of TamilNadu,
Secretariat, Chennai-9.

2. The Superintending Engineer, PWD,
Water Resource Department,
Nanganjiyar Basin Division, Palani,
Dindugul District.

3. The Executive Enginner/WRD,
Nanganjiyar Basin Division,
Palani, Dindugul District.

... Respondents

Prayer: Petitions filed under Article 226 of the Constitution of India, for issuance of Writs of Certiorarified Mandamus, calling for the records pertains to the impugned letter bearing No.Lr.No.DB/DO/F.85/Royalty/257/m/2021 dated 02.08.2021 issued on the file of the third respondent insofar as demanding penalty charges of Rs.4,15,572/- (Rupees Four Lakhs fifteen thousand five hundred and seventy two only) for the February 2020 to June 2021 and quash the same and consequently direct the respondents 1 and 2 to renew the water drawal agreement/license from Shanmuganathi river to the petitioner's paper industry.

For petitioner : Mr. U.Karunakaran

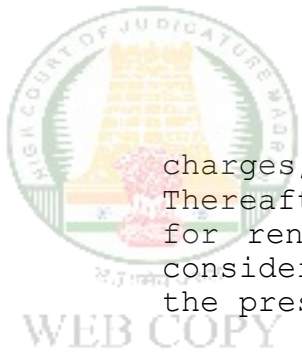
For Respondents : Mr. M.R.Gokul Krishnan
Government Advocate



O R D E R

The Writ Petition has been filed to issue a Writ of Certiorarified Mandamus calling for the records pertains to the impugned letter bearing No.Lr.No.DB/DO/F.85/Royalty/257/m/2021 dated 02.08.2021 issued on the file of the third respondent insofar as demanding penalty charges of Rs.4,15,572/- (Rupees Four Lakhs fifteen thousand five hundred and seventy two only) for the February 2020 to June 2021 and quash the same and consequently direct the respondents 1 and 2 to renew the water drawal agreement/license from Shanmuganathi river to the petitioner's paper industry.

2. The case of the petitioner is that he started the above said company in the year 2011 for manufacturing of paper. The petitioner company had obtained permission from the Government for water drawal from Shanmuga river to the well situated at Mannur Village in Suvey No.50/2 and 901. The petitioner company used water for the purpose of manufacturing paper and drinking from the well vide G.O.No.126/PWD(S2) dated 22.07.2009. Pursuant to the above said G.O. the petitioner company had entered into an agreement with the second respondent for the usage of the Shanmuga river water and the same was ended on 28.07.2014. In the year 2016, for non payment of debts, the petitioner company has become Non Performing Asset and hence, the petitioner company was taken over by M/s Asset Reconstruction Company India Ltd., (ARCI). On the initiation of the ARCIL, the National Company Law Tribunal, Chennai, initiated the process of Corporate insolvency Resolution Process (CIRP) vide CP/762/IB/2018 and consequently, one Mr.A.Arumugam was appointed as interim resolution professional (IRP) on 14.12.2018. Thereafter, the IRP has called for expression of interest by disclosing all the liabilities of the company from the prospective applicant for submitting resolution plan for the purchase of Corporate Debtor viz., Sri Srivastha Paper Mills Private Ltd., vide advertisement dated 26.01.2019 in the process of revival of the sick company. Pursuant to the same, M/s.Hi-Tech Bio Products has submitted its resolution plan. The IRP has published the list of stockholders and amount of settlement as per resolution plan where under the amount payable to the PWD/WRD shown as Rs.32,157/- In CP.No.762/2018, the National Company Law Tribunal has approved the resolution Plan submitted by the M/s.Hi-Tech Bio Products vide order dated 19.07.2019 the IRP has paid the dues payable to the 3rd respondent i.e.32,157/-. On 09.08.2019, the above said company has paid all the dues. Thereafter, due to financial crises, the petitioner company has not paid water royalty charges to the Government. On 18.06.2020, the petitioner company has submitted renewal of water drawal agreement from the Shanmuga River as per NCLT order to the third respondent. For non payment of the royalty of water



charges, the third respondent has not renewed the license. Thereafter, the petitioner company sent several representation for renewal of water. Till date, the third respondent has not considered the representations, the petitioner company has filed the present writ petition before this Court.

3. The learned counsel for the petitioner submitted that on instructions, the petitioner company is ready to pay all the dues regarding water royalty charges to the Government within a period of one week and this Court may issue a direction to the third respondent to consider the representations made by the petitioner within the stipulated time as fixed by this Court.

4. The learned Government Advocate submitted that if the petitioner is ready to pay the entire dues to the Government, the respondents will consider the representation made by the petitioner company in accordance law within the stipulated time as fixed by this Court.

5. Heard the learned counsel for the petitioner and the learned Government Advocate and perused the materials available on record.

6. The petitioner is a company and they have manufactured paper. The petitioner company had obtained permission from the Government for water drawal from Shanmuga river, for which, the petitioner company entered into agreement with the second respondent and the company used the said river water for the purpose of manufacturing paper and drinking. The said license period was expired on 28.07.2014. Thereafter, the petitioner company made several representations to the third respondent for renewal of license for water drawal. For non-payment of water royalty charges from February 2020 to June 2021, the proposals have not considered by the respondents.

7. The second respondent has also issued the impugned letter dated 02.08.2021 to the petitioner, calling upon the petitioner to pay the entire dues and also send a proposal for renewal of licence. The learned counsel for the petitioner fairly submitted that the petitioner company is ready to pay all the dues regarding water royalty charges.

8. Considering the facts and circumstances of the case and having regard to the submissions made by the learned counsel appearing for either side, this Court directs the petitioner company to pay entire dues with regard to the water royalty charges to the Government within a period of one week from the date of receipt of a copy of this order. After the payment made, the petitioner shall make a fresh representation/application to the 3rd respondent along with all the relevant documents and



also a copy of this order. After producing the such receipt and representation/application, the third respondent is directed to consider the same and pass appropriate orders in accordance with law within a period of two weeks, thereafter.

WEB COPY

9. This writ petition is disposed of with the above directions. Consequently, the connected miscellaneous petition is closed. No costs.

s/d-

Assistant Registrar(CS VI)

True Copy

Sub-Assistant Registrar

rli
To

1. The Principal Secretary
Public Works Department,
Government of TamilNadu,
Secretariat, Chennai-9.
2. The Superintending Engineer, PWD,
Water Resource Department,
Nanganjiyar Basin Division, Palani,
Dindugul District.
3. The Executive Enginner/WRD,
Nanganjiyar Basin Division,
Palani, Dindugul District.

+lcc to Mr.U.Karunakaran, Advocate Sr.61396

W.P.No.19906 of 2021
and
WMP.No.21153 of 2021

jp[col]
srg 26/11/2021