



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.10.2021

CORAM

THE HONOURABLE MR. JUSTICE R. MAHADEVAN

W.P. No. 22898 of 2021

and

W.M.P. Nos. 24100 and 24101 of 2021

M/s.Quality Glue Factory
Rep. by its Manager Mr. T.S. Sukkinder
Baloor Village
Kothur Post (Omerabad-Via)
Pernambut Taluk
Vellore District

... Petitioner

Versus

1. General Groundwater Division
PWD Complex
Rep. by its Executive Engineer
PWD, WRO, III Floor
Gandhi Nagar East
Municipal Colony
Vellore - 632 004.

2. V. Mohan
Executive Engineer, PWD, WRO
III Floor, Gandhi Nagar East
Municipal Colony
Vellore - 632 004.

...Respondents

Petition filed under Article 226 of The Constitution of India praying to issue a Writ of Certiorari to call for the entire relating to the impugned order dated 11.10.2021 in Ka.No. 470M/Ko 555 NOC /2021 of the First Respondent and quash the same.

For Petitioner : Mr. Murali Kumaran
For M/s. Mcgan Law Firm

For Respondents: Mr. Stalin Abhimanyu
Government Counsel for R1



ORDER

This writ petition has been filed by the Petitioner seeking to issue a Writ of Certiorari to quash the order dated 11.10.2021 passed by the first respondent.

2. The petitioner industry was established in the year 1985 and it is functioning with due consent from the Tamil Nadu Pollution Control Board from time to time. The locality in which the petitioner factory was established, was earlier classified as semi-critical area till 2014 and thereafter, by virtue of G.O. Ms. No.142, Public Works Department dated 23.07.2014, it was classified as over-exploited area. Pursuant to such change in the classification of the locality, the Central Ground Water Authority issued a notification dated 24.09.2020 stating that the industries established in over-exploited area have to obtain No Objection Certificate for withdrawal of water and pay necessary fees for consumption of water. According to the petitioner, the notification dated 24.09.2020 will be applicable only to new industries set up after the date of notification and not to the petitioner industry, which is in existence from 1985. Even though there is no necessity for the petitioner to obtain No Objection Certificate, they applied for such certificate to the Public Works Department through an application dated 23.09.2020. On receipt of the application, the first respondent issued a show cause notice dated 23.09.2021 calling upon the petitioner to explain as to why the borewell used by them be not sealed for drawal of water without obtaining any permission from the Public Works Department. The petitioner sent a reply dated 03.10.2021 to the first respondent. However, the first respondent, without considering the said reply or the documentary evidence produced, has passed the order dated 11.10.2021 without assigning any reason. Therefore, this writ petition.

3. The learned counsel appearing for the petitioner assails the order dated 11.10.2021 mainly on the ground that it is a non-speaking order passed by the first respondent without any application of mind. It is his further contention that the impugned order is bereft of any material particulars or reason for rejection of the application of the petitioner. He therefore prayed this Court to set aside the impugned order and to remand the matter back to the first respondent to afford opportunity to the petitioner before passing any order.

4. Conceding the submissions made by the learned counsel for the petitioner, the learned Government Counsel, who accepts notice on behalf of the Respondents, fairly submitted that first



respondent would pass an order afresh, after hearing the petitioner and upon examining the documentary evidence that may be produced by them.

5. In view of the facts and circumstances of the case, more particularly, that paragraph 3(II)(3) of G.O.Ms.No.142 Public Works (R2) Department, dated 23.07.2014 specifically stated that no objection certificate is required for drawal and transportation of ground water for industries, however, the same will not apply to the existing industries, and having regard to the submissions made by the learned counsel on either side, the impugned order in Ka.No. 470M/Ko 555 NOC /2021 dated 11.10.2021 passed by the first respondent is set aside. The matter is remanded back to the first respondent for fresh consideration. The first respondent is directed to pass a speaking order on merits and in accordance with law, after affording opportunity of personal hearing to the Petitioner. Such an exercise shall be completed within a period of six weeks from the date of receipt of a copy of this order.

6. Accordingly, this writ petition stands disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

Maya/rsh
To

The Executive Engineer,
General Groundwater Division,
PWD Complex,
PWD, WRO, III Floor,
Gandhi Nagar East,
Municipal Colony,
Vellore - 632 004.

+1cc to M/s.McGan Law Firm, Advocate Sr.54461
+1cc to the Government pleader Sr.55048

W.P. No. 22898 of 2021

br[co]
srg 16/11/2021