



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.07.2021

CORAM :

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P. (MD) .No.8530 of 2021

G.S.Products,
Rep. by its Proprietor,
L.Chandraprabhu
No.3/780, Nadu Salai, Mangudi,
Valayapettai, Kumbakonam - 612 702. ... Petitioner

Vs.

1.The Chief Engineer,
WRD,
State Ground Water & Surface Water Resources Data Centre,
Public Works Department, Tharamani, Chennai - 600 113.

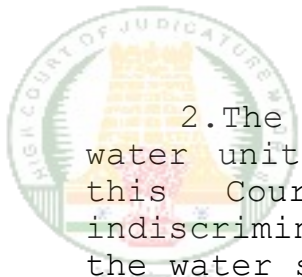
2.The Executive Engineer,
PWD, Ground Water Division,
Railway Building No.102, Vallam Road,
Tanjore - 613 007. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents to grant No Objection Certificate to the petitioner for transportation and drawal of water from any nearby Safe and Semi-Critical areas within time frame as per the order of the Division Bench, dated 11.11.2020, passed in W.P.No.16299 of 2018.

For Petitioner : Mr.K.Ravi Anantha Padmanaban
For Respondents : Mr.M.Lingadurai
Government Advocate

ORDER

This writ petition has been filed for the issue of a Writ of Mandamus directing the respondents to grant No Objection Certificate to the petitioner to enable the petitioner to draw water and transport the same from the nearby Safe and Semi-Critical areas and allow the petitioner to do his water supply business.



2.The case of the petitioner is that he was running a drinking water unit from the year 2004. A writ petition was filed before this Court in W.P.(MD).No.16299 of 2018, questioning the indiscriminate manner in which water is drawn through bore well by the water supply units. This Court passed orders and gave directions and pursuant to the same, the areas were categorised as Safe and Semi-Critical area and Critical and Over Exploited area. Insofar as the first category is concerned, the water supply units were allowed to draw the water subject to certain conditions imposed by the respondents. Insofar as the second category is concerned, the drawal of water was totally banned and the bore wells belonging to the water supply companies were also sealed. Accordingly, the water supply unit of the petitioner was also directed to stop drawing water, since it fell within the Critical and Over Exploited area.

3.The further case of the petitioner is that even when the orders were passed in W.P.(MD).No.16299 of 2018, it was made clear that there can be no impediment in granting No Objection Certificate to draw water from the Safe and Semi-Critical areas and transport the same, to the units that are run in the Critical and Over Exploited area. It is stated that many units were granted No Objection Certificate in this regard.

4.The petitioner has also placed reliance upon the proceedings of the District Collector, dated 07.04.2020, wherein, it has been specifically provided that the units that have been identified to fall under the Critical and Over Exploited area can be permitted to bring water from the Safe and Semi-Critical area and purify the same in their units subject to the conditions prescribed in the proceedings of the District Collector. The petitioner, therefore, made a representation in this regard, on 04.05.2020.

5.In the meantime, the Division Bench of this Court by an order, dated 11.11.2020, clarified to the effect that the water can be drawn from the safe zones and while bringing water to the purifying units situated in the Critical and Over Exploited area, necessary proof must be shown to the concerned authorities that the water has been drawn from the safe zone. For proper clarity, the relevant portions in the order are extracted hereunder:

"2.The complaint of the applicants represented by Mr.Ravi Anantha Padmanabhan from the District of Erode is that instead of closing down only the Borewell for withdrawal of underground water from the critical or unsafe zone of Erode, the concerned administrative authorities have disconnected the entire power supply, thus preventing the production of purification and supply of water, which has entirely crippled the entire business of the applicants.



3.These applicants have clearly undertaken before the respondent authorities that they may be permitted only to transport water from the other safe zones, withdrawn in such safe zones only, and then bring them to their water purifying units situated in Erode, and after purification, may be allowed to sell such water, so that the business activity is not stopped altogether. He has drawn our attention to the Court order, dated 23.03.2020 in this regard.

....

7.After hearing the learned counsels, to balance the equities between the parties in this regard, we are inclined to direct that the petitioners/applicants, representing the water purifying units of Erode, will not be permitted to withdraw the underground water from any of the areas of unsafe and critical nature in Erode District, and even transport of such water withdrawn from underground units of such areas, in whose favour "No Objection Certificates" have been issued to the water purifying units and carry on their operations.

8.However, instead of closing down the entire unit of the applicants, only their Borewells concerned may be completely sealed in such a manner that water withdrawal from such Borewells is not permitted.

9.It will also be ensured that the water withdrawn from any of such units in the critical areas is not allowed to be brought to the water purifying units of the Erode District to carry on their purification operations. The necessary documents viz., vouchers, invoices etc. accompanying the transportation vehicles for bringing such water should be produced for inspection of concerned authorities in support of the proof that water is being withdrawn from the safe areas only by the Units having due No Objection Certificates in their favour in terms of G.O.(MS).No.142 Public Works Department, dated 23.07.2014."

6.The representation made by the petitioner was not considered by the respondents and the No Objection Certificate was not granted and hence, the present writ petition has been filed before this Court.



7.Heard Mr.K.Ravi Anantha Padmanaban, learned counsel appearing for the petitioner and Mr.M.Lingadurai, learned Government Counsel, appearing for the respondents.

8.The only issue that has been urged before this Court is that the water units, which are situated in the Critical and Over Exploited area can continue with their operations of purifying water by bringing the water from the Safe and Semi-Critical area. For this purpose a No Objection Certificate must be taken from the concerned authority and the unit must satisfy the conditions imposed by the authority in line with the proceedings of the District Collector, dated 07.04.2020.

9.In order to substantiate this claim made by the petitioner, the copy of the No Objection Certificate granted by the PWD in favour of one M/s.Pure One Products was also produced before this Court. It is seen from records that the said M/s.Pure One Products was also having the unit in the Critical and Over Exploited area like that of the petitioner. They have applied for No Objection Certificate to the PWD to draw water from the area falling under the Safe and Semi-Critical area and to bring it to their unit for purification. Such a No Objection Certificate has been granted by the PWD by imposing certain conditions. The relevant proceedings of the PWD was also placed before this Court.

10.In the present case, the petitioner wants to draw water from a safe zone situated at Chozhan Maligai, Patteeswaram Village, Thanjavur District. The petitioner has entered into a lease agreement with the owner of the property in this regard, on 22.04.2020. The same has also been filed in the typed set of papers. According to the petitioner, this area falls under the safe zone and therefore, the petitioner must also be granted No Objection Certificate to draw water from this area and to bring it to his unit for purification.

11.In the considered view of this Court, a similarly placed unit namely M/s.Pure One Products has been granted Renewal of No Objection Certificate by the PWD Department under similar circumstances. Therefore, the case of the petitioner should also be considered in line with the said M/s.Pure One Products and the No Objection Certificate can be granted subject to the petitioner satisfying all the conditions.

12.In view of the above discussion, there shall be a direction to the petitioner to make a fresh representation to the second respondent and the second respondent on receipt of the representation shall consider granting No Objection Certificate to the petitioner in line with the proceedings of the District Collector, Thanjavur District, dated 07.04.2020, by imposing the necessary conditions, within a period of four weeks from the date of

<https://hcservices.mca.gov.in/hcservices/> of this order.



13.This writ petition is disposed of accordingly. No costs.

Sd/-

Assistant Registrar (AD-II)

// True Copy //

WEB COPY

/ /2021

Sub Assistant Registrar(CS)

TM

NOTE: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1.The Chief Engineer,

WRD,

State Ground Water & Surface Water Resources Data Centre,
Public Works Department, Tharamani, Chennai - 600 113.

2.The Executive Engineer,

PWD, Ground Water Division,

Railway Building No.102, Vallam Road,
Tanjore - 613 007.

+1 CC to M/s.SPL GP (SR-22311[F] dated 13/07/2021)

W.P. (MD) .No.8530 of 2021
12.07.2021

LS (CO)

LR (19.07.2021) 5P 4C