



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.12.2021

CORAM :

**THE HON'BLE MR.MUNISHWAR NATH BHANDARI,
ACTING CHIEF JUSTICE**

AND

THE HON'BLE MRS.JUSTICE PUSHPA SATHYANARAYANA

W.P.(MD) No.22493 of 2021 and

W.M.P.(MD).Nos.19024 and 19025 of 2021

Lazer

.. Petitioner

Vs.

1. The Chairman,
Tamil Nadu Pollution Control Board,
No.76, Mount Road, Guindy, Chennai-600 032.
2. The District Collector,
Nagercoil, Kanyakumari District.
3. The District Environment Engineer,
Tamil Nadu Pollution Control Board,
Water Tank Road, Nagercoil, Kanyakumari.
4. The Executive Engineer,
Palugal Town Panchayat,
Palugal Post, Kanyakumari District.

5. C.Alexander Joseph

.. Respondents

PRAYER: Petition under Article 226 of the Constitution of India seeking issuance of a writ of Certiorarified Mandamus, to call for the records pertaining to the impugned proceedings passed by the 1st respondent herein, in Proceedings No.TNPCB/T2/F.023606/NGL/Sealing/W&A/2021, dated 16.11.2021 and quash the same as illegal and consequently direct the respondents 1 to 4 herein, to open the petitioner's Small Scale Industry in the name and style, of 'L.V.S. Cement Works' situated at R.S.No.116/11, Near Triveni Medical Centre, Kannumamoodu, Palugal Village, Kanyakumari District, forthwith.

For Petitioner	: Mr.C.Kishore
For R1 & R3	: Mrs.Vijayalakshmi Natarajan
For R2	: Mr.P.Subbaraj
	Special Government Pleader
For R4	: Mr.Ramesh Arumugam

ORDER

[Order of the Court was made by The Hon'ble ACTING CHIEF JUSTICE]

By this writ petition, the challenge is made to the order dated 16.11.2021 passed by the Chairman, Tamilnadu Pollution Control Board, to seal the unit. The order aforesaid was passed



referring to Section 33A of the Water (P&CP) Act, 1974 as amended in 1988 and Section 31A of the Air (P&CP) Act, 1981 as amended in 1987.

2. The learned counsel for the petitioner submits that the impugned order has been passed by the Chairman, Tamil Nadu Pollution Control Board, without giving an opportunity of hearing. Referring to the show cause notice, he submits that despite a reply to it, the Chairman, Tamil Nadu Pollution Control Board, ignored it, rather, recorded a finding that no reply to the show cause notice was given, going contrary to the record.

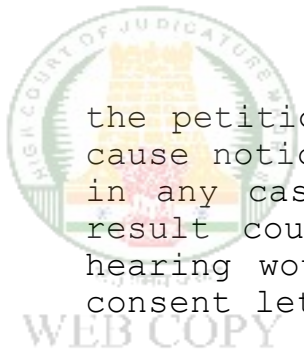
3. In view of the above, the impugned order deserves to be set aside. However, the quasi-judicial authority is required to follow the principles of natural justice in passing the orders. In the instant case, the petitioner was denied opportunity of hearing, despite the fact that his industrial unit has been ordered to be sealed.

4. We have considered the submissions made by the learned counsel for the petitioner and perused the records.

5. Perusal of the order shows that the petitioner was operating industrial unit without a consent from the Tamil Nadu Pollution Control Board. The fact aforesaid is quite relevant and goes to the root of the case. The counsel for the petitioner was asked to refer the consent order to operate the industrial unit. He fairly admits that the consent letter has not been issued by the Tamil Nadu Pollution Control Board. Though he had referred to the submission of the on-line application for it, mere submission of on-line application does not allow the industrial unit to run. It can be only when the consent is given by the Tamil Nadu Pollution Control Board.

6. In view of the facts aforesaid, we do not find a case for remand of the matter to the Chairman, Tamil Nadu Pollution Control Board, for hearing, because, it would be a post-decisional hearing and as an empty formality to comply with the principles of natural justice. In fact, the principles of natural justice are to be followed, when no illegality is committed and the rights are clean, based on the principles of law or Act, within the framework of law. In the instant case, the petitioner could not produce the consent letter of the Tamil Nadu Pollution Control Board and in the absence of it, he was not authorised to run the industrial unit.

7. At this stage, the learned counsel for the petitioner made a reference to the order passed by this Court to inspect the industrial unit, to find out whether it is causing pollution or not. We are not required to refer to the said order because the Chairman of the Tamil Nadu Pollution Control Board has passed the order to inspect the industrial unit, finding no consent and for that,



the petitioner was given show cause notice. The reply to the show cause notice was given after the expiry of the period of 7 days and in any case, even if it was within the time frame, a favourable result could not have been achieved, even if the opportunity of hearing would have been given to the petitioner in the absence of consent letter of the pollution Control Board.

8. In view of the above, we do not find any reason to cause interference of the order.

9. The writ petition is accordingly dismissed. However, it will not close the rights of the petitioner to pursue his on-line application to obtain a consent. There will be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (P&A)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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 Chairman,
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No.76, Mount Road, Guindy, Chennai-600 032.
 2. The District Collector,
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 4. The Executive Officer,
Palugal Town Panchayat, Palugal Post, Kanyakumari District.
- +1 CC to M/s.C.KISHORE, Advocate (SR-40033[F] dated 22/12/2021)

W.P. (MD) No.22493 of 2021

20.12.2021

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