



W.P.No.11327 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 13.04.2022

Pronounced on : 22.06.2022

CORAM

**THE HONOURABLE MR.JUSTICE T.RAJA
and
THE HONOURABLE MR.JUSTICE S.SOUNTHAR**

W.P.No.11327/2021 and WMP.No.11968/2021

M/s.JRS Crushers
rep. by its partner
Mr.M.Sathiamurthy,
No.7, E.W.S.Colony,
Opposite to ESI Hospital,
SIPCOT-I,
Hosur-635 126.

... Petitioner

-VS-

1. The Member Secretary,
Tamil Nadu Pollution Control Board,
No.76, Mount Salai, Guindy,
Chennai-32.
2. The District Environmental Engineer,
Tamil Nadu Pollution Control Board,
Hosur, Krishnagiri District.
3. A.Jayakanthan
4. J.Jayanth
5. T.Jaganathan

... Respondents



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Writ Petition filed under Article 226 of the Constitution of India

seeking for issuance of a Writ of Mandamus, directing the respondents 1 and 2 to consider the petitioner's representations dated 16.09.2020, 24.11.2020 and 01.12.2020 applied through OCMMS and grant CTE extension to the petitioner's firm.

For Petitioner : Ms.Kanimozhi Mathi
for M/s.Manoj Srivatsan

For Respondents : Mr.M.R.Gokul Krishnan
for Mrs.Shanmugavalli Sekar
for R1 and R2

Mr.K.Sivasubramanian
for R3 and R4

Mr.D.Gopal for R5

ORDER

(Order of the Court was made by **T.RAJA, J.**)

This Writ Petition has been filed seeking for issuance of a Writ of Mandamus, directing the respondents 1 and 2 to consider the petitioner's representations dated 16.09.2020, 24.11.2020 and 01.12.2020 applied through OCMMS and grant CTE extension to the petitioner's Firm.



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2. Learned Counsel appearing for the petitioner would submit

that the Petitioner's Firm is a registered Partnership Firm consisting of N.Ramesh, M.Sathiamurthy and M.Santhamurthy, A.Jayakanthan and J.Jayanth as its partners. This was established by the partners for the purpose of running the business of manufacturing and selling blue metal aggregates and other related products at S.F.No.354/1, Hosapuram Village, Denkanikottai Taluk, Krishnagiri District. One of the foremost reasons the partnership firm is entered into with the respondents 3 and 4 is that the land has the Pollution Control Board Clearance Certificate. The CTE (Consent to establish) was issued for the land in S.F.No.354/1, Hosapuram Village, Denkanikottai Taluk, Krishnagiri District in the name of M/s.Sree Hanuman Blue Metalz, a partnership Firm and was valid till 31.03.2020. Therefore, the petitioner's Firm applied for CTE extension through OCMMS vide Lr.No.F.HSR0574/OS/Court case/DEE/TNPCB/HSR/2020 with the 2nd respondent, who in turn, forwarded the same to the 1st respondent, namely, the Member-Secretary, Tamil Nadu Pollution Control Board, No.76 Mount Salai, Guindy, Chennai-32, for obtaining necessary legal opinion from the Board Standing Counsel as litigations are pending before the Arbitration and several Orders of the High Court are also existing. Based on the recommendation and suggestion of the 2nd respondent, the 1st respondent took the legal opinion dated



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30.10.2020 from the Standing Counsel in which it has been opined that if there is no other legal impediment in processing the request of the Unit, the Board can process the Unit's request for issuance of CTE Extension based on the possessory right, till the unit is evicted by due process of law at the instances of the lessor or subject to the final award to be passed in Arbitration O.P.No.347/2016. In spite of the said opinion given by the Standing Counsel to grant the CTE extension based on the possessory right, the 2nd respondent sent a communication dated 24.11.2020 informing that the "CTE" extension will be considered only on receipt of valid lease document or tenancy agreement as per the Board's instruction.

3. Learned Counsel for the petitioner would further submit that due to the non-co-operation of the partners A.Jayakanthan and J.Jayanth, the remaining partners found it difficult in running the business after the investment of Rs.4,00,00,000/- borrowed from the bank. Therefore, an application was taken out by the partners, namely, Mr.Sathiamurthy, Mr.Santhamurthy and Mr.Ramesh representing the partnership firm for appointment of Arbitrator in O.P.No.347/2016 before the Hon'ble Chief Justice of this Court. By an order dated 15.07.2016, a former District Judge Mr.Yousuf Ali was appointed as a Sole Arbitrator. Pursuant thereto, Mr.M.Sathiamurthy,



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representing the petitioner's Firm along with another three partners initiated arbitration proceedings in O.P.No.347/2016 on the file of the Arbitration Centre before the sole Arbitrator Mr.Yousuf Ali for damages along with I.A.No.3/2016 seeking an order of injunction not to interfere with the peaceful possession and to direct Jayakanthan and J.Jayanth to abide by the terms and conditions of the partnership agreement and undertake all activities including obtaining license, raw materials and all running licences to ensure the operation of the partnership agreement. The learned Arbitrator, by his order dated 22.04.2017 granted interim injunction restraining the respondents, namely, Jayakanthan and J.Jayanth to abide by the terms and conditions of the partnership agreement and undertake all activities including obtaining licence, raw materials and all running licenses to ensure the operation of the crushing plant. The learned Arbitrator also, after considering the rival claims has concluded that the reason for the disputes between the partners will have to be decided only after evidence having been let in and Mr.N.Ramesh, Mr.M.Sathiamurthy and M.Santhamurthy, being 80% partners and the business having been started with the financial assistance from banks to the tune of Rs.4,00,00,000/-, if allowed to be dormant, would result in substantial loss to the firm. Therefore, finding prima facie case and balance of convenience on the side of Mr.N.Ramesh,



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Mr.M.Sathiamurthy and Mr.M.Santhamurthy, an interim order was granted. That was challenged in CMA.No.1575/2017 by Mr.A.Jayakanthan and Mr.J.Jayanth and the same was dismissed by this Court with a cost of Rs.10,000/- payable by the appellants in CMA.No.1575/2017 observing that the respondents being major shareholders, they would be affected by the non-running of the business, therefore, they are entitled to the interim orders as prayed for.

4. Learned Counsel for the petitioner would further submit that subsequently, when there was a violation of the interim order, Contempt Petition No.851/2019 was filed and this Court after affording opportunity to the parties concluded that the act of A.Jayakanthan and J.Jayanth is detrimental to the Firm and running of the business, therefore, passed an order directing the respondents not to indulge in any such activities detrimental to the running of the said partnership firm. It is also found in the said order that the respondent and his son are having only 20% share in the partnership Firm. Therefore, when the petitioners are having 80% shares and the opposite parties are having 20% shares and there was a direction to the respondents to co-operate with the petitioners, the issue has been resolved. Now the Pollution Control Board has to grant CTE to the petitioner's Firm and



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though representations dated 16.09.2020, 24.11.2020 and 01.12.2020 applied through OCMMS to grant CTE extension to the petitioner's Firm, the same have not been considered. Therefore, the petitioner has approached this Court by filing the present Writ Petition.

5. A detailed common counter affidavit has been filed by the respondents 1 and 2 and the 5th respondent has also filed a typed set of papers including an order passed by the 2nd respondent Board dated 06.08.2020.

6. At the outset, a perusal of the typed set of papers filed by the 5th respondent shows that the 2nd respondent has passed an order dated 06.08.2020 against the petitioner's Firm in respect of granting CTE. The relevant portion is given as under:

"The unit of M/s.J.R.S.Crusher has not furnished the valid registered land ownership/lease land document to this office having authority over the land in which the Crusher unit is located at S.F.No.354/1, Hosapuram Village, Denkanikottai Taluk, Krishnagiri District.



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In view of the above, after having careful examination on the merits of documents furnished and available in the office, it is stated that the issue of CTE-Extension to the unit of M/s.J.R.S.Crusher, S.F.No.354/1, Hosapuram Village, Denkanikottai Taluk, Krishnagiri District under Water (P&CP) Act, 1974 as amended and Air (P&CP) Act, 1981 as amended could not be considered by the Board since the unit has not furnished the valid registered land ownership/lease land document having authority over the said location of S.F.No.354/1, Hosapuram Village, Denkanikottai Taluk, Krishnagiri District."

However, at this stage, learned counsel for the petitioner submitted that the Tamil Nadu Pollution Control Board has mistakenly taken a stand that the petitioner should produce either the registered sale deed or tenancy agreement for running the Crusher Unit, because the place of business does belong to the petitioner.

7. In our considered view, such a stand taken by the Board is unnecessary, for the place of business covered in S.F.No.354/1 which belongs to the petitioner and his partners, there is no need for producing either registered sale deed or tenancy agreement. Secondly, the learned Counsel for the petitioner also submitted that the arbitration proceeding will also come to an end within a month.



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Thus, in view of the above, we hereby direct the Tamil Nadu Pollution Control Board to consider the application of the petitioner after the result of the arbitration proceedings without reference to the lease deed or tenancy agreement since the partnership firm is also existing in the land covered in S.F.No.354/1 and pass an appropriate order at the earliest point of time.

8. With the above directions, the writ petition stands disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

(T.R.J.,) (S.S.J.,)

22.06.2022

tsi

To

1. The Member Secretary,
Tamil Nadu Pollution Control Board,
No.76, Mount Salai, Guindy,
Chennai-32.
2. The District Environmental Engineer,
Tamil Nadu Pollution Control Board,
Hosur, Krishnagiri District.



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**T.RAJA,J.
AND
S.SOUNTHAR, J.
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Pre-delivery Order in
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