IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.02.2022

C O R A M

THE HON'BLE MR. JUSTICE KRISHNAN RAMASAMY

W.P.No.25476 of 2018
and W.M.P.No.29644 of 2018

Ruby Bricks,
Rep by its Proprietor Shanmugasundaram ...Petitioner

Vs

1.Tamil Nadu Electricity Board,
Rep. by its Chairman,
NPKRR Maligai,
144, Anna Salai,
Chennai - 600 002.

2.The Superintending Engineer,
Mechanics-II,
Mettur Thermal Power Plant,
Mettur Dam-6. ... Respondents

Prayer Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Certiorarified Mandamus, calling for records dated 07.12.2017 and 29.12.2017 on the file of the second respondent and quash the same and direct the second respondent to supply Fly Ash to the petitioner continuously without stoppage.

For Petitioner : Mr.V.Chandrakanthan
For Respondents: No Appearance

ORDER

This Writ Petition has been filed seeking for the issuance of Writ of Certiorarified Mandamus, calling for records dated 07.12.2017 and 29.12.2017 on the file of the second respondent and quash the same and direct the second respondent to supply Fly Ash to the petitioner continuously without stoppage.

2. When the matter came up for hearing on 24.01.2022, this Court passed the following order:

> "This Writ Petition has been filed to quash the impugned order passed by the second respondent dated 07.12.2017.

2. The grievance of the writ petitioner is that they have made an application to the second respondent for fly ash to manufacture bricks but the same was refused stating that the petitioner is not carrying any business activities.

3. However, the learned counsel appearing for the petitioner submits that the petitioner has been carrying on the manufacturing activities and also effected supply to various persons. To substantiate his contention, he has referred the GSTR-3B returns filed for payment of GST for supply of bricks to various persons and he further submits that they are having small quantity of fly ash supplied by NLC by which they have produced bricks and supplied.

4. However, on the other hand, the learned counsel appearing for the respondents would submit that the petitioner is not at all carrying any business.

5. Under these circumstances, this Court is of the view that it would be appropriate to direct the 2nd respondent to inspect the premises of the petitioner and file a Report before this Court on 02.02.2022 and also directed to give one day advance notice to the petitioner before inspecting the premises, and find out whether the petitioner is carrying on the business of manufacture / production of bricks or not?

6. Post this matter on 04.02.2022."

3. However, when the matter is taken up for hearing today, none appeared on behalf of the respondent. The petitioner has produced the GST return for the year 2021 - 2022 (Oct-Dec) and photographs of the Company in order to prove that he is carrying on the business of fly ash bricks manufacture in the name and style of 'Ruby Bricks'.

4.Heard the learned counsel for the petitioner and perused the materials available on record.

5. On perusal it appears that by virtue of the order dated 23.05.2017, the second respondent supplied 250 metric tons of dry fly ash to the petitioner every month. Subsequently, it was temporarily stopped vide show cause notice dated 07.12.2017 stating that as per the report of the inspection team, the petitioner is not using the fly ash for manufacturing bricks. Further, it appears that the petitioner has been carrying on the business of manufacture of fly ash bricks and the case of the petitioner appears to be genuine. Therefore, this Court is of the view that, it would be appropriate to direct the second respondent to supply 250 metric tons of dry fly ash every month to the petitioner as per the order dated 23.05.2017.

6.Accordingly, the notice dated 07.12.2017 and 29.12.2017 is quashed and the petitioner is directed to produce the order of this Court to the second respondent within a period of two weeks from the date receipt of a copy of this order. On receipt of the same, the second respondent shall supply 250 metric tons of dry fly ash, within a period of two weeks thereafter. The second respondent shall continuously supply 250 metric tons of dry fly ash to the petitioner every month.

7.With the above directions, this Writ Petition is disposed of. No Costs. Connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

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To:
1.Tamil Nadu Electricity Board,
Rep. by its Chairman,
NPKRR Maligai,144, Anna Salai,
Chennai - 600 002.

2.The Superintending Engineer,
Mechanics-II,
Mettur Thermal Power Plant,
Mettur Dam-6.

+1 cc to Mr.V.Chandrakanthan , Advocate Sr.NO.7446
+1 cc to Mr.M.Abdul Kalam, Advocate Sr.NO. 8078

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KG(CO)
A.SK(14/03/2022)