



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.06.2022

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD)No.4196 of 2022 and

W.M.P. (MD)Nos.3596 & 3597 of 2022

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M/s.LSML Pvt.Ltd.,
Formerly Known as M/s.Leitwind Shriram
Manufacturing Ltd.,
Rep. By its Authorised Signatory,
Mr. E. SabariSankar,
NO.337, 8th Main Road, MIG Phase I,
Mogappair West, Nolombur,
Chennai - 600 037.

... Petitioner

Vs.

1. The District Collector,
Tenkasi District,
Tenkasi.
2. The Revenue Divisional Officer,
Tenkasi District,
Tenkasi.
3. The Tahsilar,
Alangulam,
Tenkasi District,
4. The Assistant Engineer,
Sitraru Watershed Divisional,
Tenkasi District,
Tenkasi.
5. The Director (Generation),
TANGEDCO (TNEB),
144, Anna Salai,
Chennai-600 002.
6. The Assistant Director,
Panchayat Union,
Tenkasi District,
Tenkasi.
7. The Block Development Officer
(Village Panchayats),
Alangulam Panchayat Union,
Alangulam,
Tenkasi District.

... Respondents



Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records relating to the Order Na.Ka.No.M3/4041/2020 dated 25.02.2022 passed by the 7th respondent and quash the same.

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For Petitioner : Mr.M.Ajmal Khan,
Senior counsel,
for Mr. T. Sakthikumaran.

For R-1to
R-4 & R-6 : Mr. K. Balasubramani,
Special Government Pleader.

For R-5 : Mr.S. Deenadhayalan,
Standing Counsel.

For R-7 : Ms. D. Farjana Ghoushya,
Special Government Pleader.

* * *

ORDER

Heard the learned Senior counsel appearing for the writ petitioner and the learned Special Government Pleader appearing for respondents 1 to 4 ,6 and 7 and the learned Standing counsel appearing for the fifth respondent.

2. The petitioner questions the impugned memorandum dated 25.02.2022 issued by the Block Development Officer (Village Panchayats), Alangulam, calling upon the petitioner to produce a copy of the permission obtained from the local body for installing and running the windmill. In the event of failure of furnishing the letter of permission, the petitioner was called upon to remove the windmill itself. It is seen that two learned Judges of this Court have taken diametrically opposite views as to whether approval from the local body is required. Vide Order dated 17.11.2011 in W.P.(MD) No.9930 of 2011 His Lordship Hon'ble Mr.Justice V.Ramasubramanian (as His Lordship then was) had held that permission is required from the local body. Later another learned Judge took a contra view in the decision reported in 2012 (5) CTC 450 (The President, Gangaikondan Panchayat V. The Chief Engineer, NCES). It was held in subsequent decision that till the rules are framed as per Section 159 of the Panchayats Act, it cannot be insisted that license must be obtained from the local body or Panchayat President for running the windmill. It is not in dispute that till date the rules as indicated above have not been framed. The Hon'ble Division Bench is seized of the entire issue in W.A.(MD)No.765 of 2012. One can take judicial notice of the fact that the windmills are eco-friendly and generate clean energy.



3. It is also seen that Indian Wind Turbine Manufacturers Association (IWTMA) filed W.P.(MD)No.7925 of 2012 challenging the decision of the District Collector insisting for obtaining permission from the Panchayat President and the same has been stayed. The interim stay is still in force. In the interest of justice, the impugned decision is put on hold till final orders are passed by the Hon'ble Division Bench in the aforesaid writ appeal.

4. This writ petition stands accordingly disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS II)

// True Copy //

/07/2022

Sub Assistant Registrar(CS)

PMU

To:

1. The District Collector
Tenkasi District, Tenkasi.
2. The Revenue Divisional Officer,
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3. The Tahsilar,
Alangulam, Tenkasi District.
4. The Assistant Engineer,
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6. The Assistant Director,
Panchayat Union,
Tenkasi District,
Tenkasi.



7. The Block Development Officer
(Village Panchayats),
Alangulam Panchayat Union,
Alangulam, Tenkasi District.

+1 CC to M/s.T. SAKTHI KUMARAN, Advocate (SR-27812[F] dated
23/06/2022)

+1 CC to M/s.S. DEENADHAYALAN, Advocate (SR-27775[F] dated
23/06/2022)

+1 CC to M/s.D. FARJANA GHOSHIA, Advocate (SR-28049[F] dated
24/06/2022)

W.P. (MD)No.4196 of 2022
22.06.2022

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