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W.P.No.31186 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.10.2023

CORAM

**THE HON'BLE MRS. JUSTICE J.NISHA BANU
AND
THE HON'BLE MRS. JUSTICE N.MALA
W.P.No.31186 of 2019**

Sri Murugan Blue Metal,
Rep by its Proprietor P.Jayavel,
S/o.Perumal,
S.F.No.192 and 193/06, Venkatesapuram Post,
Desapaqlli Dinna,
Hosur Taluk, Krishnagiri District.

... Petitioner

Vs

1. The Tamil Nadu Pollution Control Board,
Rep by its Chairman,
No.76 Mount Road,
Guindy, Chennai 32

2. The District Environmental Engineer,
Tamil Nadu Pollution Control Board,
Hosur, Krishnagiri District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records from the 2nd respondent pertaining to the impugned order dated 26.07.2018 made in Lr. No. F.HSR0519/ OS/ DEE/ HSR/ 2018 issued by the 2nd respondent herein, and to quash the same and consequently direct the 2nd respondent to issue a consent order to the petitioner as per their Application dated 11.04.2018.



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For Petitioner : Mr. R.Agilesh
For Respondents : Mrs. Shanmugavalli Sekar
Standing Counsel

ORDER

(Order of the Court was made by J.Nisha Banu,J.)

This writ petition has been filed challenging the impugned order dated 26.7.2018 made in Lr. No. F.HSR0519/ OS/ DEE/ HSR/ 2018 passed by the 2nd respondent and consequently direct him to issue a consent order to the petitioner as per their Application dated 11.04.2018.

2. According to the petitioner, the petitioner is the proprietor of small scale industry, for the purpose of crushing Blue Metal Jelly Stone. He has obtained a provisional registration as Small Scale Industry on 20.07.2004. As per demand notice dated 01.09.2018, he has remitted the dues in respect of consent fees, water cess fess and analytical charges to the 2nd respondent herein on 11.04.2018. He has complied with all the conditions and obtained licence from Soolagiri Panchayat Union and No Objection Certification from the Public Health Department and other Local Authorities like Divisional Fire Officer.

3. While the petitioner was operating the industry after complying with all the statutory requirements, all of a sudden on 31.05.2007, the respondents issued closure of unit and stoppage of



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electricity on the ground that Air Control measures were not properly installed. There was no prior notice about inspection and closure order was issued without following the due process of law.

4. The petitioner submitted his representation on 14.09.2007 enclosing the photographs as well as the compliance report dated 16.07.2007. Earlier the petitioner filed a writ petition in W.P.No.33537 of 2007 and the same was disposed of by directing the petitioner to avail the Appellate remedy. Thereafter, he filed an appeal before the Appellate Authority-Tamil Nadu Pollution Control Board in Appeal No.42 of 2007. The appellate authority vide order dated 07.12.2007 allowed the appeal and remitted the matter to the Board. The operative portion of the order is extracted as ready reference:

“In the result, the appeal is allowed and the matter is remitted back to the 1st respondent for further consideration and fresh disposal in accordance with law. The 1st respondent shall take the matter back to his file. The 1st respondent shall issue notice to the above said Mr. Raghuram Singh and if he puts in appearance, he should be given opportunity to lead both oral and documentary evidence and put forth his case in this matter. The 1st respondent shall give opportunity to both sides to lead both oral and



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documentary evidence and then pass fresh orders in accordance with law and in the light of the observations contained in this order.

The appellant unit shall also satisfy the respondent Board by producing documentary evidence that there is no legal obstacle by way of a prohibitory order or stay order from any civil Court against operating the appellant unit. If the appellant unit is able to do so, the respondent Board shall then consider the case of all the parties and pass appropriate orders for revoking the order for closure of appellant unit. The appeal is ordered accordingly.”

5. Heard the learned counsel on both sides and perused the materials available on record.

6. A perusal of the record would go to show that the 2nd respondent/District Environmental Engineer had passed the impugned order dated 26.07.2018 pointing out that the application will be processed only after the disposal of the S.A.No.275 of 2015, pending before the High Court.

7. In view of the pendency of the said Second Appeal No.275 of 2015 and the issue has not yet been finally decided, the petitioner is directed to pursue the second appeal and based on the result of the second



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appeal, the petitioner shall approach the respondents. The respondents at such point of time, shall process the petitioner's application and pass appropriate orders in accordance with law.

8. Accordingly, this writ petition is disposed of. No costs.

(J.N.B,J.) (N.M., J.)

30.10.2023

Index : Yes / No
msv

To

1. The Chairman
Tamil Nadu Pollution Control Board,
No.76 Mount Road,
Guindy, Chennai 32

2. The District Environmental Engineer,
Tamil Nadu Pollution Control Board,
Hosur, Krishnagiri District.

J. NISHA BANU, J.
and
N.MALA,J.



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