



W.P.No.8086 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.06.2023

CORAM:

**THE HONOURABLE MR. JUSTICE D.KRISHNAKUMAR
AND
THE HONOURABLE MR JUSTICE P.DHANABAL**

**W.P.No.8086 of 2023
and WMP.No.8339 of 2023**

C.Krishnasamy

... Petitioner

Vs.

1.The District Collector,
Collectorate, Palladam Road,
Tiruppur-641 604.

2.The Assistant Director,
Department of Geology and Mining,
Collectorate, Palladam Road,
Tiruppur-641 604.

3.The District Pollution Control Board,
Rep by its Executive Engineer,
12/A, Pollachi Bypass Road,
Palladam, Tiruppur District.

4.M/s.Jayam Blue Metals,
Rep. by its Proprietor,
Kalaiselvi Jayaramakrishnan.

.. Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus directing the respondents 1 to 3 to take appropriate action against the 4th respondent, who is illegally operating the stone crushing unit in S.F.Nos.213/1C1A1 and 213/1C1A2 in Thungavi Villge, Madathukulam Taluk, Tiruppur District and consequently direct the 4th respondent to pay compensation to the petitioner for causing health hazards to the petitioner and his family members by the illegal operation of the stone crushing unit based on the petitioner's representation dated 15.02.2023, within at time frame fixed by this Court.

For Petitioners : Mr.Arun

For Respondents : Mr.A.Selvendran,
Special Govt. Pleader for R1 and R2

Mr.Shanmugavalli Sekar for R3

Mr.N.Manokaran for R4

ORDER

[Order of the Court was made by *D.KRISHNAKUMAR, J.*]

The writ petition has been filed for a Mandamus directing the directing the respondents 1 to 3 to take appropriate action against the 4th respondent, who is illegally operating the stone crushing unit in S.F.Nos.213/1C1A1 and 213/1C1A2 in Thungavi Villge, Madathukulam Taluk, Tiruppur District and consequently direct the 4th respondent to pay compensation to the petitioner for causing health hazards to the petitioner and his family members by the illegal operation of the



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stone crushing unit based on the petitioner's representation dated 15.02.2023, within at time frame fixed by this Court.

2. Today when the matter is taken up, Mrs.Shanmugavalli Sekar, learned Standing Counsel appearing for the third respondent / Tamil Nadu Pollution Control Board has produced the written instructions stating that the fourth respondent unit located at S.F.No.213/1C1A1, 213/1C1A2, Thungavi Village, Madathukulam Taluk, Tiruppur District has obtained consent for establishment, vide proceedings dated 08.02.2018 under Water (Prevention and Control of Pollution) Act, 1974 and Air (Prevention and Control of Pollution Act), 1981 for the product of various sizes of Blue Metal Jelly (1- ½”, ¾”, ½”, ¼”) - 5000 Tons / Month and stone dust – 500 Tons / Month. The 3rd respondent Board has received a complaint dated 01.04.2022 through the Hon'ble Chief Minister Special Cell and the District Collector, Tiruppur District stating that the unit is operating 24 hours day and night and dust particulars are emanated to the coconut farms located adjacently and also affect the livelihood of the family and coconut trading.



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3. Based on the said complaint, the Unit of the 4th respondent was inspected on 09.04.2022 and it was found that the Unit was found under operation with Mobile Crusher without obtaining consent and instructions were issued to the Unit vide letter dated 24.05.2022 to remove the Mobile Crusher. Therefore, the petitioner has filed an application before the National Green Tribunal (South Zone), Chennai against the District Collector, Tiruppur District and DEE, TNPCB, Tiruppur South @ Palladam in O.A.No.90 of 2022 and vide order dated 10.08.2022, NGT has directed the TNPCB to submit an inspection report regarding the operation of the Unit and pursuant to the same, the Unit was inspected on 03.09.2022 and a show cause notice dated 05.09.2022 was issued to the Unit and an Inspection Report was submitted to NGT, Chennai on 07.09.2022, mentioning that the Unit has removed the Mobile Crusher as per the previous inspection dated 09.04.2022 and the Unit was found not under operation.

4. NGT has disposed of the original application vide order dated 26.09.2022 and the same is extracted hereunder:

“When it is found by the Pollution Control Board itself that after the 'Consent to Establish' was granted, the unit was being run



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unauthorisedly with the help of the mobile crusher without getting the 'Consent to Operate' leading to such pollution which was complained by the applicant, the Pollution Control Board has to assess the Environmental Compensation. Therefore, it would be appropriate to direct the Pollution Control Board to assess Environmental Compensation as admittedly the 3rd respondent had not installed any air pollution control measures. Based on the report filed by the Pollution Control Board and the directions issued to the Pollution Control Board to assess the Environmental Compensation, the grievance of the applicant is addressed and the application is disposed of."

5. In pursuant to the order of NGT dated 26.09.2022, the levy of Environmental Compensation was calculated to the tune of Rs.4,60,938/- and the same has been submitted to the Board, vide letter dated 01.11.2022, followed by reminder dated 15.12.2022. The Board has called for clarification on the assessment of Environmental Compensation calculated vide Board's Memo dated 27.12.2022 and clarification report was also submitted to the Board, vide office letter dated 28.12.2022 and the Board has issued Show Cause Notice to the unit under Section 5 of the Environment Protection Act, 1987, vide proceedings dated



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01.02.2023, with a direction levying Environmental Compensation for the violations caused in respect of Air Pollution and Water Pollution and the Unit, the Environmental Compensation has been remitted by the Unit, vide letter dated 05.05.2023.

6. While that being so, the 4th respondent Unit has applied and obtained “Consent to Operate-Direct” of the Board, vide proceedings dated 29.12.2022, valid till 31.03.2024 for the change in product of (i) various sizes of Blue Metals (1- ½”, ¾”, ½”, ¼”) - 116.66 Tons / Day, (ii) M-Sand 50 Tons / Day, (iii) Stone Dust – 16.60 Tons / Day as the Unit has produced Air Pollution control measures such as (i) GI Sheet covered with water sprinklers arrangement to the jaw crusher-2 Nos & Vertical Shaft Impactor and (ii) G.I. Sheet cover to the Conveyor Belt Vibratory Screen – 2 Nos. and (iii) Water Sprinkler System within the unit premises, vehicular movement, loading and unloading area.

7. The aforesaid written instructions of the 3rd respondent / PCB is taken on record. In the light of the submission made by the respondent Pollution Control



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Board, the prayer sought for by the petitioner has become infructuous. If the petitioner is being aggrieved, it is open to him to challenge the consent order passed by the respondent Board in the manner known to law.

8. The Writ Petition stands disposed of with the above liberty. No costs. Consequently, connected miscellaneous petition is also closed.

(D.K.K., J.) (P.D.B., J.)
12.06.2023

Intex : Yes/No
Internet : Yes/No
Jvm

To

1. The District Collector,
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Tiruppur-641 604.
2. The Assistant Director,
Department of Geology and Mining,
Collectorate, Palladam Road, Tiruppur-641 604.
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