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W.P.No. 13008 & 13013 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.06.2023

CORAM

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

**W.P.Nos. 13008 & 13013 of 2023
and WMP.Nos.12804, 12807, 12810 and 12811 of 2023**

1. M/s.CSD Chamber Bricks
Rep. By its Proprietor
P.Devaraj,
Thadagam Village,
Chinnathadagam,
Coimbatore North Taluk,
Coimbatore – 641108.

..Petitioner in W.P.No. 13008 of 2023

2. M/s. KRG Chamber Bricks
Rep. By its Proprietor
K.S.Rajkumar,
No.24, Veerapandi Village,
Coimbatore North Taluk,
Coimbatore – 641108.

..Petitioner in W.P.No. 13013 of 2023

Vs.

1.The Principal Secretary to the Government of Tamil Nadu,
Industries Department,
Government Secretariat,
Fort St.George, Chennai-600009.



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2. The Secretary to the Government of Tamil Nadu
Department of Environment & Forests,
Government Secretariat, Fort St.George,
Chennai-600009.

3. The Chairperson,
Tamil Nadu Pollution Control Board,
No. 76, Anna Salai, Guindy,
Chennai-600032.

4. The District Environment Engineer,
Tamil Nadu Pollution Control Board,
Coimbatore North,
No.5, Ramasamy Nagar,
Kavundapalayam, Coimbatore -641030.

5. The Joint Chief Environmental Engineer,
Tamil Nadu Pollution Control Board,
Coimbatore North,
4th Floor, No. 34, Bharathi Park 8th Cross Street,
Saibaba Colony, Coimbatore-641011.

6. The District Collector,
Coimbatore District,
Coimbatore-641018.

...Respondents in both WPs

Prayer: Writ Petitions are filed under Article 226 of Constitution of India to issue a writ of certiorarified mandamus, calling for the records of the 3rd respondent in Proceedings T2/TNPCB/F.24093/Brickkiln /107 / CBN /Directions/2019, dated 06.12.2022 and to quash the same as arbitrary, unjust and illegal.

For Petitioners : Mr. Muralikumar, Senior Counsel
(in Both WPs)



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For Respondents : Mr.J.Ravindran, AAG
(in Both Wps) Assisted by Mrs.Shanmugavalli Sekar, -
R2 to R5
Mr.A.Selvendran, Spl.GP – R1 & R6

COMMON JUDGMENT

(Judgment of the Court was made by D.KRISHNAKUMAR, J.

Challenging the penalty order dated 06.12.2022 issued by the 3rd respondent, these writ petitions are filed.

2. The petitioners' unit are brick manufacturing units and involved in the quarrying of brick earth. The said unit were closed by the District Collector by order dated 13.03.2021 for not having necessary registration certificate and permission for quarrying brick earth. Thereafter, the 3rd respondent has served show cause notice dated 25.07.2022 on the petitioners' unit asking to show cause why a purported environmental compensation of Rs.32,06,250/- should be levied under Environmental Protection Act, 1986.



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3. The learned counsel for the petitioners has submitted that earlier a batch of writ petitions have been filed before this Court in W.P.Nos. 34307 of 2022 etc., batch. The Hon'ble Division Bench of this Court after elaborate discussions, by order dated 27.04.2023, has allowed the writ petitions by giving directions to the authorities concerned .

4. The learned counsel appearing for the petitioners submitted that the directions issued by this Court in the said order is squarely applicable to the facts of the cases on hand, therefore similar relief may be granted in the present writ petitions. Relevant portion of the order is extracted hereunder;

“43. In fine, we hold as follows:-

(1) In terms of the delegated power under Section 5 r/w 23 of the Environment (Protection) Act, 1986, the Chairman, Tamil Nadu Pollution Control Board, is entitled to levy damages / penalty / compensation.

(2) The Chairman, Tamil Nadu Pollution Control Board, prior to fixing damages, shall strictly follow the methodology given by the Central Pollution Control Board's In-house Committee for assessing environmental compensation and action plan in particular, as per Guidelines 1.3.2 .



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(3) Copy of the Report of the Committee appointed by the Chairman, TNPCB, under Guidelines 1.3.2, shall be given to each of the units.

(4) The Chairman, Tamil Nadu Pollution Control Board need not give a personal hearing, however, the Committee will hear the petitioners herein individually prior to its assessment and receive their replies.

(5) The Chairman, Tamil Nadu Pollution Control Board shall pass a reasoned order on all the matters individually referring to the report as well as the objections, if any.

(6) The period of damage shall be from the date of commencement of the operation by the individual brick kiln which can be found out from the Annual Brick Fee paid by them or from such material as the Chairman / the Committee so decides and shall conclude with the date of closure passed by the District Collector, Coimbatore, i.e., 13.06.2021.

(7) The said exercise shall be concluded within a period of six months from the date of receipt of a copy of this order. Till the completion of the assessment by the Committee, the parties shall maintain status quo. “



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5. The learned Standing Counsel appearing for the respondents has no objections for the said submissions made by the learned counsel for the petitioners' unit .

6. Considering the facts and circumstances of the case and the submissions made by the learned counsels appearing on either side, the 3rd respondent is directed to pass appropriate orders in light of the judgment of the Hon'ble Division Bench of this Court passed in W.P.No.34307 of 2022 and etc., batch, as expeditiously as possible, preferably within a period of six months from the date of receipt of a copy of this Judgment.

7. With the above, these writ petitions are allowed. No costs. Consequently, connected Miscellaneous Petitions are closed.

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

05.06.2023

Index: Yes / No

Internet: Yes



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