



W.P.No.13837 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.06.2023

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

AND

THE HONOURABLE MR.JUSTICE P. DHANABAL

W.P.No.13837 of 2023

M/s.Swiss Labss Private Limited
Plot No.88-89 Phase-II
SIPCOT Industrial Complex,
Ranipet, Walaja Taluk,
Ranipet District,
PIN:632403.

... Petitioner

Vs.

- 1.The Member Secretary,
Tamil Nadu Pollution Control Board,
76, Mount Salai,
Guindy,
Chennai-600 032.
- 2.The Joint Chief Environmental Engineer,
Tamil Nadu Pollution Control Board,
Vellore.
- 3.The District Environmental Engineer,
Tamil Nadu Pollution Control Board,
Vellore

...Respondents



W.P.No.13837 of 2023

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, for the issuance of a writ of Certiorari, calling for the records of the order dated 02.09.2022 passed by the National Green Tribunal in O.A.No.186 of 2020 insofar as it relates to the petitioner and the proceedings of the first respondent bearing No.T6/TNPCB/F.026091-3/NGT/2020, dated 22.08.2022 and Letter No.T6/TNPCB/F.026091/2021, dated 24.03.2023 and quash the same.

For Petitioner	: Mr.K.S.Viswanathan Senior Counsel for Mr.T.Hemalatha
For Respondents	: Mr.M.R.Gokul Krishnan for Ms.Shanmugavalli Sekar Standing Counsel for respondents 1 to 3

ORDER

(Order of the Court was made by *D.KRISHNAKUMAR, J.*)

The writ petition has been filed for a Certiorari, calling for the records of the order dated 02.09.2022 passed by the National Green Tribunal in O.A.No.186 of 2020 insofar as it relates to the petitioner and the proceedings of the first respondent bearing No.T6/TNPCB/F.026091-3/NGT/2020, dated 22.08.2022 and Letter No.T6/TNPCB/F.026091/2021, dated 24.03.2023 and quash the same.



W.P.No.13837 of 2023

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2. It is the case of the petitioner that the National Green Tribunal, on the basis of a News item in the New Sunday Express Newspaper dated 20.07.2020 "Ranipet Waste Killing agriculture in Ranipet poses long term health risks", took up a suo moto case on its own motion and appointed a Joint Committee consisting of various officials from the MOEF, CPCB etc., to inspect the chromium contaminated site at Ranipet and submit a report. The said Joint Committee accordingly made inspection of the site and submitted its report on 09.12.2021 to NGT and the same has been referred in the order passed by NGT on 27.01.2022. Pursuant to the said order passed by the NGT, the petitioner unit has received a show cause notice dated 23.03.2022 from the first-respondent under Section 5 of the Environment Protection Act, 1986. In response to the said show cause notice, the petitioner unit has submitted a reply on 11.04.2022 by pointing out that they are not involved in the manufacture of any off-specification products and further explanation dated 19.04.2022 was also submitted with regard to the defects pointed out by the Board. Without giving any opportunity to the petitioner, the respondent has passed the impugned order dated 22.08.2022 under Section 5 of the Environment Protection Act, 1986, calling upon the



W.P.No.13837 of 2023

petitioner to remit environmental compensation of Rs.2,65,00,000/- (Rupees Two Crores and Sixty Five Lakhs Only) on the recommendation of the Joint Committee appointed by the National Green Tribunal. In response to the aforesaid show cause notice, the petitioner has again submitted a detailed reply on 18.10.2022 explaining all the details and requesting to withdraw the show cause notice and waive the Environmental compensation. Without considering the said reply submitted by the petitioner, the first-respondent has passed the final impugned order on 24.03.2023, by directing the petitioner to remit the environmental compensation as levied by the Board in its proceedings dated 22.08.2022 and 24.03.2022. Challenging the said order, the petitioner has filed the instant writ petition.

3. According to the petitioner, in the proceedings in Application No.186 of 2020 before the Tribunal, the petitioner was not a party. It was a suo moto action initiated by the Tribunal and subsequent to the directions of the Tribunal, a Joint Committee has been constituted and then the Reports of the Joint Committee had been simply accepted by the Tribunal even without hearing any of the industries, including the



W.P.No.13837 of 2023

petitioner herein, before acting upon the report of the Joint Committee. In view of the above action of the Tribunal, the petitioner had to appear before the board and submit its written reply and therefore could not challenge the order passed by the Tribunal. Further, the Pollution Control Board, being an statutory authority, is duty bound to assess the nature of violations, if any, independently after affording an opportunity to the party concerned and decide upon levy of environmental compensation. However, in the instant case, the Board did not act independently upon the report of the Joint Committee submitted before the Tribunal, before which the petitioner was not at all a party. Accordingly, the doctrine of estoppel would fairly apply to the facts of this case.

4. The learned counsel for the petitioner, further submitted that the petitioner has not been given sufficient opportunity to put forth its contention before the Board and reply which has been submitted by the petitioner has not been duly considered by the respondent-board, on the other hand, the respondent Board has passed a cryptic and non speaking order. It is further submitted on behalf of the petitioner that in the Joint Committee second-report submitted on 25.03.2022 before



W.P.No.13837 of 2023

the Tribunal, clearly stated that the petitioner-unit is not generating any off-specification product. This aspect has not been considered in proper perspective by the Board and it simply rejected the claim of the petitioner. On these aspects, the petitioner requires interference of this Court as the impugned order has been passed in violation of the principles of natural justice. Therefore, without exhausting the alternative remedy, the petitioner has approached this Court by filing the present writ petition before this Court.

5. Learned counsel for the Board has not disputed the fact that the petitioner was not made a party before the Tribunal, but submitted that only on the basis of the order passed by the Tribunal, a Joint Committee has been constituted and the said Joint Committee has inspected all the industries and submitted a report. On the basis of the report of the Joint Committee, the Pollution Control Board has issued show cause notice to the petitioner, and after getting explanation from the petitioner, the Board has passed the impugned order. Further, as far as the petitioner is concerned, the report of the joint committee has already been submitted to the Tribunal and based on the said report, the Board has rightly passed the impugned order.

6/10



W.P.No.13837 of 2023

WEB COPY

6. On a perusal of the impugned order, this Court finds that no specific reason has been assigned by the respondent in its order for the explanation submitted by the petitioner by raising several grounds to show that there is no liability on the part of the petitioner unit. To that extent, learned counsel for the Board also fairly accepted that no independent reason has been adduced in the said impugned order passed by the respondent board, for rejecting the explanation given by the petitioner. He submits that if the Court comes to a conclusion requiring re-consideration by the Board, the respondent board will re-consider the same within a stipulated time, after providing opportunity to the petitioner.

7. In view of the aforesaid submissions made by the parties, we are satisfied with the contention of the petitioner that the first-respondent Board has not considered the explanation of the petitioner in a proper prospective. The first-respondent Board has passed the impugned order in a cryptic manner without giving any reason in the order for the detailed explanation submitted by the petitioner-unit and therefore we have no hesitation to set aside the impugned order passed by the first respondent-Board dated 22.08.2022 followed by



W.P.No.13837 of 2023

the order dated 24.03.2023 and remit back the matter to the first-respondent to consider afresh and pass appropriate order, after affording an opportunity to the petitioner-unit, by providing personal hearing to the petitioner, within a period of twelve weeks from the date of receipt of a copy of this order.

8. With the above, the impugned order in proceedings No.T6/TNPCB/F.026091-3/NGT/2020, dated 22.08.2022 followed by Letter No.T6/TNPCB/F.026091/2021, dated 24.03.2023, passed by the first-respondent Board, is set aside and consequently, the writ petition is allowed to the above extent. Insofar as the other prayer is concerned, namely challenging the order dated 02.09.2022 passed by NGT in O.A.No.186 of 2020, we are not interfering with the said order. There will be no order as to costs. Consequently, W.MP.Nos.13502 and 13503 of 2023 are closed.

[D.K.K., J.] [P.D.B., J.]
06.06.2023

Index : Yes/No
Neutral Citation : Yes/No
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W.P.No.13837 of 2023

To

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W.P.No.13837 of 2023

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