



W.P.Nos.20050 & 20055 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.07.2023

CORAM

THE HON'BLE MR.JUSTICE R.SURESH KUMAR

AND

THE HON'BLE MR.JUSTICE K.KUMARESH BABU

W.P.Nos.20050 and 20055 of 2023
and W.M.P.Nos.19398, 19400, 19403 and 19404 of 2023

Malladi Drugs and Pharmaceuticals Ltd
Represented by its Authorised Signatory
R.Prabhakaran, having registered office
at SKCL Tech Square, 7th Floor, Plot No.SP 14
Thiru.Vi.Ka.Industrial Estate, Guindy
Chennai 600 032.

.... Petitioner in both W.Ps

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 in both W.Ps

Prayer in W.P.No.20050 of 2023: Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari to call for the records of the 1st respondent proceeding bearing reference Proc.No.T6/TNPCB/F.026091-1/NGT/2020 dated 22.08.2022 and further proceedings of the 1st respondent bearing reference



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Lr.No.T6/TNPCB/F.026091-1/2021 dated 18.04.2023, quash the same as arbitrary, illegal and in violation of principles of natural justice.

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Prayer in W.P.No.20055 of 2023: Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari to call for the records of the 1st respondent proceeding bearing reference Proc.No.T6/TNPCB/F.026091-2/NGT/2020 dated 22.08.2022 and further proceedings of the 1st respondent bearing reference Lr.No.T6/TNPCB/F.026091-2/2021 dated 19.04.2023, quash the same as arbitrary, illegal and in violation of principles of natural justice.

In both W.Ps.

For Petitioner : Mr.Vishwanathan, Senior Counsel
for Mr.C.B.Vishnu

For Respondents : Mrs.Shanmugavalli Sekar

COMMON ORDER

(Order of the Court was made by R.SURESH KUMAR, J.)

Since the issue raised in both the writ petitions is common, with the consent of the learned counsel appearing for both sides, the writ petitions are disposed of by this common order.

2. The petitioners are industries and they come under the 'Red' category as they are pharmaceutical industries. Insofar as the environmental pollution that allegedly these industries made is concerned, since there has been a complaint to the



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respondent Tamil Nadu Pollution Control Board, not only against these industries, but also some other similarly placed industries, a Joint Committee was constituted and the said Committee was inspected these industries sometime in the year 2020 and filed a detailed report.

3. In the said report, the Joint Committee had consolidated nearly about 13 industries like the present two petitioners and quantified the environmental compensation also. In respect of the petitioner industry in W.P.No.20050 of 2023, a sum of Rs.40,95,000/- was fixed and in respect of the petitioner industry in W.P.No.20055 of 2023 is concerned, a sum of Rs.93,60,000/- has been fixed as environmental compensation payable by them.

4. Based on the said Joint Committee Report, show cause notice was issued by the Pollution Control Board on 23.03.2022 seeking show cause from the industries. In response to the same, on 30.03.2022, the industries had given reply. But, before the said issue was decided by the Pollution Control Board, these industries approached the National Green Tribunal, Southern Zone by filing interlocutory application in I.A.No.102 of 2022 seeking to get impleaded in Original Application No.186 of 2020 SZ.

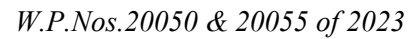
5. While deciding the interlocutory application, the National Green Tribunal Southern Zone, by order dated 01.07.2022 directed the industries to approach the



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Tamil Nadu Pollution Control Board to give reply to the show cause notice already received by them. A further direction was given to the Pollution Control Board that, after hearing the industries, by considering the reply to be given by them to the show cause notice, orders can be passed by the Tamil Nadu Pollution Control Board on the proposed levy of compensation.

6. Pursuant to the said order dated 01.07.2022, such an opportunity should have been given to the industries. However, without giving such an opportunity, based on the earlier order passed on 22.08.2022, the respondent Pollution Control Board passed the present order dated 18.04.2023, under which the aforestated proceedings have been referred. But, no opportunity had been given to these petitioner industries as to on what basis the Joint Committee had come to such a conclusion by making the quantification of such amount as compensation, as according to the petitioner industries, the Joint Committee had not given proper opportunity to the industries to put forth their case. Therefore, in order to explain the position that they are not liable to pay any such compensation, they want one more opportunity, which in fact was directed by the National Green Tribunal Southern Zone. Despite that, since the present order has been passed by the Pollution Control Board directing the industries to pay the compensation already quantified by the Joint Committee, aggrieved over the same, the present writ petitions are filed.



9. We have considered the submissions made by the learned counsel on either side and have perused the materials placed on record.



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10. When we perused the order passed by the National Green Tribunal Southern Zone dated 01.07.2022 in paragraph No.5 of the order, the following direction was issued.

" 5. Under such circumstances, we feel that there is no necessity to implead the applicant in the Interlocutory Application No.102 of 2022 (SZ) and the Interlocutory Application can be disposed of by giving direction to the applicant in the Interlocutory Application to submit their objections to the show cause notice has been issued and if such objection is filed, then Tamil Nadu Pollution Control Board is directed to pass appropriate orders in accordance with law in respect of imposition of environmental compensation and directions if any issued."

11. Pursuant to the said direction, the Pollution Control Board ought to have given such an opportunity to the petitioner industries and thereafter an order could have been passed. However, such an opportunity since has not been given as they passed the impugned order dated 18.04.2023 and 19.04.2023 respectively only based on the reply already given on 30.03.2022 to the show cause notice dated 20.03.2022, we feel that the direction given by the National Green Tribunal has not been fully complied with by the respondent Pollution Control Board. Therefore, for that reason, the impugned orders dated 18.04.2023 and 19.04.2023 would not be sustained.



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Therefore, we have no hesitation to hold that the impugned orders are liable to be interfered with. Accordingly, those orders are set aside. As a result, the matters are directed to be remitted back to the Pollution Control Board, where it is open to them to issue fresh show cause notice to the petitioner industries. On receipt of such show cause notice, it is open to the petitioner industries to give a detailed fresh reply with supporting documents. Based on the said documents, if the Pollution Control Board wants to have a limited enquiry, such an opportunity shall be given to the petitioner industries by fixing a date. On that date, the petitioner industries ie., their representatives shall appear before the Pollution Control Board and give their explanation with substantiating documents. On receipt of such documents and after hearing the representatives of the petitioner industries, the Pollution Control Board can pass final orders thereafter. Needful as indicated above as a whole shall be undertaken within a period of three months from the date of receipt of a copy of this order.

12. With the above directions, these writ petitions are disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

(R.S.K.,J.) (K.B.,J.,)
06.07.2023

Index : Yes/No
Internet : Yes/No
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