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W.P.Nos. 27992 and 27996 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.09.2023

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**THE HONOURABLE MRS.JUSTICE J.NISHA BANU
AND
THE HONOURABLE MRS.JUSTICE N.MALA**

**W.P.Nos. 27992 and 27996 of 2023
and WMP.Nos.27499, 27500, 27505 and 27506 of 2023**

1. M/s Sri Ram Bricks
Rep.by its Occupier
P.S.Saravanakumar

...Petitioner in W.P.No.27992 of 2023

2. M/s. GEMS Chamber Bricks
Rep. By its Proprietor
T.N.Veluswamy

...Petitioner in W.P.No.27996 of 2023

Vs.

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

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.



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4.The District Environmental Engineer,
Tamil Nadu Pollution Control Board,
Coimbatore North,
No.5, Ramasamy Nagar,
Kavundampalayam, 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 W.Ps.,

Prayer in W.P.No.27996 of 2023: Writ Petition is filed under Article 226 of Constitution of India to issue a Writ of Certiorari, calling for the records of the 3rd respondent in Proceedings No. T2/TNPCB/F.24093/Brick kiln /130 / CBN /Directions/2019, dated 06.12.2022 and to quash the same as arbitrary, unjust and illegal.

Prayer in W.P.No.27996 of 2023: Writ Petition is filed under Article 226 of Constitution of India to issue a Writ of Certiorari, calling for the records of the 3rd respondent in Proceedings No. T2/TNPCB/F.24093/Brick kiln /74 / CBN /Directions/2019, dated 06.12.2022 and to quash the same as arbitrary, unjust and illegal.



W.P.Nos. 27992 and 27996 of 2023

For Petitioners : Mr. Muralikumar, Senior Counsel
(in Both Wps) for Mc Gan Law Firm

For Respondents : Mr.E.Vijay Anand, AGP
(in Both Wps) for RR1, 2 & 6
Mrs.Shanmugavalli Sekar, Standing Counsel
for RR3 to 5

COMMON ORDER

(Order of the Court was made by J.NISHA BANU, J.)

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

2. The petitioners' unit are involved in the manufacture of bricks and involved in the quarrying of brick earth. They are conducting their business in Coimbatore District. Since the petitioners had not obtained consent to operate brick kilns under the relevant environmental statutes, 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 should not be levied under Environmental Protection Act, 1986.



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 and prayed to pass orders in the light of the above order.

4. The relevant portion of the order passed in the above W.P.No.34307 of 2022 etc., batch, is extracted below:-

“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 .



(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 3 to 5 has no objections to pass the similar order.

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. In the result, these writ petitions are disposed of on the above terms. No costs. Consequently, connected Miscellaneous Petitions are closed.

(J.N.B., J.) (N.M., J.)
25.09.2023

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Index: Yes / No

Internet: Yes / No

Neutral citation : Yes / No



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