



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED **01.02.2023**

CORAM

THE HONOURABLE MR. JUSTICE C.V.KARTHIKEYAN

W.P.No. 1322 of 2023

And

W.M.P.No. 1373 of 2023

S.Velmurugan

... Petitioner

..Vs..

1. Government of Puducherry
Department of Science
Technology and Environment
Puducherry Pollution Control
Committee, 3rd Floor PHB Building
Puducherry – 605 005.

2. The Member Secretary
Puducherry Pollution Control
Committee
3rd Floor PHB Building
Puducherry – 605 005.

... Respondents

PRAYER: Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorarified Mandamus calling for the records relating to the impugned notice No. 6318/PPCC/SCN/NCP/AEE/2022/1517 dated 24.11.2022, issued by the second respondent pertaining to the closure of the petitioner's rice flour mill bearing Plot No.35, R.S.No. 37/1A/50, No.8,



1st Cross Street, V.S.Nagar, Madukkarai Revenue Village, Nettapakkam Commune Panchayat, Puducherry and quash the same as illegal and consequently permit him to run the same.

For Petitioner :: Mrs. Hepzhiba

For Respondents :: Mrs. A.Sathya Bama
Additional Government Pleader
(Puducherry)

ORDER

This Writ Petition has been filed in the nature of Certiorarified Mandamus seeking the records relating to a notice No. 6318/PPCC/SCN/NCP/AEE/2022/1517 dated 24.11.2022, issued by the second respondent / Member Secretary, Puducherry Pollution Control Committee at Puducherry, relating to the closure of the rice flour mill of the petitioner at Plot No. 35, R.S.No. 37/1A/50, No.8, 1st Cross Street, V.S.Nagar, Madukkarai Revenue Village, Nettapakkam Commune Panchayat, Puducherry and to quash the same.

2. In the affidavit filed in support of the Writ Petition, it had been stated that the petitioner S.Velmurugan is running a flour mill under the name



and style of M/s. Lakhmi Flour Mill at the aforementioned address from the year 2014. He had also obtained Site Clearance certificate which was issued by the Commissioner Nettapaam Commune Panchayat, Government of Puducherry and also a no objection certificate from Commissioner, Nettapakkam Commune Panchayat, Puducherry Planning Authority, Jawahar Nagar, Boomianpet, Puducherry and a further no objection certificate with respect to pollution from the Department of Science, Technology and Environment Puducherry Pollution Control Committee.

3. The petitioner carries on flour grinding and edible oil extraction. A further no objection certificate had also been obtained from the Inspector of Factories, Government of Puducherry. Permission to establish the factory was obtained from the Nettapakam Commune Panchayat. According to the petitioner, all the aforementioned permission / certificates are still in force.

4. A trade license had also been issued to the petitioner. It had been further stated that on 29.07.2020, the petitioner had received a notice from the second respondent directing the petitioner to comply with certain conditions and to submit a compliance status within a period of 15 days. He



then received a show cause notice on 11.01.2021 giving opportunity to appear before the Member Secretary, Puducherry Pollution Control Committee and to submit the compliance status.

5. The petitioner claims that he had appeared before the said Committee and it was stated that the authorities agreed that the unit had complied with directions of the Pollution Control Committee. The petitioner then received a letter dated 19.04.2022 issued by the respondents once again directing him to comply with the conditions imposed. It was also stated that renewal of the license had been applied but the license had not been issued. The petitioner had also obtained certain documents under the Right to Information Act 2005.

6. The petitioner claims that the petitioner is following all the requisite conditions as are required for the running of the flour mill and states that the impugned order which has been issued by the second respondent has to be interfered with by this Court.

7. The impugned order is dated 24.11.2022 whereby it was stated that the petitioner had given an undertaking that he would close down the flour mill if there are objections raised by the public and that several



complaints had been received causing noise pollution. It was stated that the factory premises was inspected on 29.03.2022 and it was found that various compliances had to be done by the petitioner herein. Since the petitioner had not complied with the same, the impugned order had been issued directing the petitioner to stop all activities. This order had been passed under Section 31-A of the Air (Prevention and Control of Pollution) Act, 1981.

8. A counter had been filed on behalf of the respondents and quite apart from examining the issues on facts, it had also been stated that as against the said order, there is a right of appeal as provided under Section 31 of the Act. It had also been stated that the Union Territory of Puducherry had constituted an Appellate Authority as early as on 12.12.1989. It had also been stated that as against any order passed by the Appellate Authority under Section 31-B of the Act, the petitioner can file a further Appeal before the National Green Tribunal.

9. It is thus seen that the petitioner had unfortunately come to the wrong forum for examining the grievances. The petitioner should file an appeal before the appropriate authorities as specified in the said Act. The



right to file an Appeal is a statutory right and there cannot be any caveat against the petitioner for filing such appeal. It is however seen that the time for filing an appeal is 30 days.

10. The impugned order was passed on 24.11.2022. The present Writ Petition had been filed on 08.12.2022 which in effect means that the petitioner had filed the Writ Petition within a period of about two weeks. The petitioner will therefore have the advantage of a further two weeks to file an appeal in accordance with the provisions of the said Act. The said Appeal is directed to be filed on or before 15.02.2023 and if further time is sought by the petitioner to file appeal, then the said authority may be addressed for condonation of delay. Such application, if filed may be considered independently by the said authority examining the reasons given in the said application.

11. Recording as above, the Writ Petition stands disposed of. Till 15.02.2023, since the period of appeal is there, no coercive action should be taken by the respondents herein. No order as to costs. Consequently,



connected Civil Miscellaneous Petition is closed.

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01.02.2023

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Index: Yes/No

Internet: Yes/No

Speaking / Non Speaking Order

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