



WEB COPY



W.P. No. 30155 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.07.2023

CORAM :

THE HON'BLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE P.D.AUDIKESSAVALU

W.P. No. 30155 of 2018

and

W.M.P. Nos. 35197 and 35198 of 2018

D.Harikrishnan

.. Petitioner

-vs-

1. Union of India

Rep. By its Secretary to Government
Ministry of Environment, Forest and Climate Change
Jhorbagh, New Delhi.

2. State of Tamil Nadu

Rep. By its Secretary to Government
Department of Environment and Forest
Fort St. George
Chennai – 600009.

3. The Nandivarm Guduvancherry Town Panchayat

Rep. By its Executive Officer
Kancheepuram District.

4. The Commissioner

Director of Town and Country Planning
807, Anna Salai
Chennai – 600002.

5. The Tamil Nadu Pollution Control Board

Rep. By its Member Secretary
76, Mount Salai
Guindy, Chennai – 600032.

.. Respondents



W.P. No. 30155 of 2018

Prayer: Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records of the respondents culminating in the Tender Notice bearing Na.Ka. No.019/2018/A1 dated 22.10.2018, published on 29.10.2018 issued by the third respondent, quash the same.

For the Petitioner : Mr.M.R.Elavarasan
for Mr.K.Balu

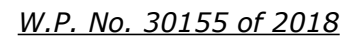
For the Respondents : Mr.K.M.D.Muhilan, AGP (RR2 & 4)
Mr.J.Madanagopal Rao (R1)
Mr. V.Jaiprakash Narayan (R3)
Mrs.Shanmugavalli Sekar (R5)

ORDER

(Order of the Court was made by The Hon'ble Chief Justice)

We have heard Mr.M.R.Elavarasan, learned counsel for the petitioner; Mr.J.Madanagopal Rao, learned counsel, for respondent 1; Mr.K.M.D.Muhilan, learned Additional Government Pleader, for respondents 2 and 4; Mr. V.Jaiprakash Narayan, learned counsel, for respondent 3 and Mrs.Shanmugavalli Sekar, learned counsel, for respondent 5.

2. The issue raised in the present writ petition is covered under the Full Bench of this court in the case of **P.Karthikeyan and ors. Vs. Commissioner, Coimbatore Corporation**, reported in 2021 SCC



"250. Accordingly, the following directions are given to the State Government:

(2) The Committees, apart from chosen officials, may also include a concerned member, from the neighbourhood wherever such MCCs or the Compost Yard is to be located.

(4) Once the site for location of a MCC or other Compost Yard is identified and set up, thereafter, the objections regarding the proper maintenance of the park / recreational area from being spoiled by the operation of



W.P. No. 30155 of 2018

MCC, if raised, shall be addressed, with all earnestness.

WEB COPY

(5) The officials who are incharge of MCCs and Compost Yards shall ensure that the disposal facility does not fall into disuse, resulting in the place becoming a dumping yard of garbage, leading to the degradation of the entire open space toxically detrimental to the citizens enjoyment of clean environment.

(6) Any negligence of officials towards proper upkeep and maintenance of MCC or Compost Yards, stern disciplinary action to be initiated promptly against the officials concerned and if negligence is proved, appropriate punishment to be imposed on them.

(7) The Government is directed to issue a comprehensive Circular incorporating all necessary guidelines for the State/ District/ Panchayat Committees in implementation of the various facets of the SWM Rules, 2016, ensuring that the guidelines are strictly followed and implemented on the ground.

251. This Bench, in the conspectus of the above judicial discourse, answers the reference as follows.

252. Location of MCCs or the Compost Yard in the park/play field cannot be construed as Development in



WEB COPY



W.P. No. 30155 of 2018

terms of the scheme of the Act, 1971 or the Combined Development Rules, 2019, and therefore, any prohibition contemplated in the statutory rules and regulations does not apply to the implementation of the concept of solid waste management as envisaged in the SWM Rules, 2016.

253. The SWM Rules, 2016, are framed under the Central enactment, viz., the Environment [Protection] Act, 1986. The Rules thus prevail over the State laws to the extent of the implementation of the policies outlined towards solid waste management. Even otherwise, this Court does not see any palpable repugnancy between the SWM Rules, 2016 and the State laws.”

3. In the light of that, the apprehension raised in the present Writ Petition is covered under the judgment of the Full Bench of this Court, as referred to above. As such, the Writ Petition stands disposed of. There will be no order as to costs. Consequently, W.M.P. Nos. 35197 and 35198 of 2018 are closed.

(S.V.G., CJ.)

(P.D.A., J.)

27.07.2023

Index : yes/no

Neutral Citation : Yes/No

Maya

Page 5 of 7



W.P. No. 30155 of 2018

To:

1. The Secretary to Government
Ministry of Environment, Forest and Climate Change
Jhorbagh, New Delhi.
2. The Secretary to Government of Tamil Nadu
Department of Environment and Forest
Fort St. George
Chennai – 600009.
3. The Executive Officer
Nandivarm Guduvancherry Town Panchayat
Kancheepuram District.
4. The Commissioner
Director of Town and Country Planning
807, Anna Salai
Chennai – 600002.
5. The Member Secretary
Tamil Nadu Pollution Control Board
76, Mount Salai
Guindy, Chennai – 600032.



WEB COPY



W.P. No. 30155 of 2018

THE HON'BLE CHIEF JUSTICE
AND
P.D.AUDIKESAVALU, J.

(Maya)

W.P. No. 30155 of 2018

27.07.2023