



W.P.(MD)No.9468 of 2020

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :17.04.2023

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THE HONOURABLE MS.JUSTICE P.T.ASHA

W.P.(MD)No.9468 of 2020

and

W.M.P.(MD).No.8566 of 2020

T.Kanagaraj

... Petitioner

Vs.

1.The District Collector,
Dindigul District,
Dindigul.

2.The Assistant Director (Panchayats),
Panchayat Office,
Dindigul District, Dindigul.

3.The Panchayat President,
Kamatchipuram Panchayat,
Dindigul District.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari and Mandamus, calling for the records relating with the impugned order passed by the third respondent dated 24.07.2020 and quash the same as it is arbitrary and illegal and in consequence to direct the respondents to restore the professional tax register



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fees to the third respondent without any arrears. While so, without issuing any prior show cause notice, the third respondent had passed an order dated 12.06., calling upon the petitioner to close the plant permanently and ordered cancellation of the professional tax and license fees, on the basis of a resolution said to have been passed by the panchayat on 26.01.2020. This was followed by another order of the third respondent dated 24.07.2020, directing the petitioner to shut down the plant permanently and the same is under challenge in this writ petition.

3. The petitioner would make submissions as set out in the affidavit filed in support of the petition and would bring to the notice of this court, the fact that the Tamil Nadu Pollution Control Board, by its order dated 22.05.2020, has extended the consent order upto 31.03.2022. He would further submit that mere reading of the impugned order would show that the impugned order and the order preceding it [12.06.2020] would clearly shows that no prior notice has been issued to the petitioner and no enquiry has been conducted before passing the impugned order. He would therefore submit that since there is violation of the principle of natural



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justice the order impugned in this writ petition has to be quashed.

4. Per contra, Mr.Krishna Doss, learned counsel appearing for the respondents would submit that the order passed by the Tamil Nadu Pollution Control Board was valid only till 31.03.2020. He would further submit that the local residents has been protesting against the running of the petitioner's plant, since it was causing a great environmental and health hazard. He would further agree that the professional tax has been paid by the petitioner only for the period 2018-2019 and thereafter, there has been no payment. Therefore, the writ petition questioning the order has to definitely fail.

5. Heard, Mr.Amjadkhan, learned Government Advocate appearing for the respondents 1 and 2 who would support the contention made by the counsel for the third respondent.

6. Heard the learned counsel appearing on either side and perused the entire materials available on record.



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7. A perusal of the records would show that the petitioner had obtained necessary license from the third respondent for running the business and the license fee had been paid up to the period 2018-2019 and property tax has also been paid. Thereafter, the third respondent had not received the tax which has prompted the petitioner to file the present writ petition. It is also seen that the Pollution Control Board has extended the consent upto 31.03.2022. While so, by the impugned order dated 24.07.2020, which was preceded by an earlier order dated 12.06.2020, the petitioner was asked to show cause within 7 days as to why the unit should not be closed permanently. It is also seen that the consent of the Pollution Control Board has not been extended after 31.03.2020 and without such a consent, the petitioner was running the unit. Therefore, the unit has been shut down. The very basis on which, the impugned order has been passed is fallacious as already seen the consent of the Pollution Control Board has been extended upto the period of 31.03.2022. Therefore, the basis for passing the impugned order is not in correct. Be that as it may, the impugned order has been passed even without issuing a proper show cause notice to the petitioner and also an opportunity of personal hearing has been



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afforded to the petitioner. Therefore, in the interest of justice, the said order has to be necessarily set aside.

8. Accordingly, the present writ petition is allowed. The impugned order dated 24.07.2020 passed by the third respondent is set aside. The matter is remitted back to the third respondent for fresh consideration. The third respondent shall issue notice to the petitioner, enabling him to make his submission and thereafter, the third respondent shall pass a speaking order. The entire exercise shall be concluded within a period of twelve weeks from the date of receipt of a copy of this order. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

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NCC :Yes/No
Internet :Yes/No
Index :Yes/No
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