



W.P(MD)No.5729 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.01.2023

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.5729 of 2019

and

W.M.P.(MD)No.4520 of 2019

Solve Plastic Products Pvt. Ltd.,
Rep. by Managing Director,
Sudheer Kumar.

... Petitioner

Vs.

- 1.The Chairman,,
Tamil Nadu Pollution Control Board,
76, Mount Salai, Guindy,
Chennai 600 032.
- 2.District Environmental Engineer,
TNPCB, 30/2, Sidco Industrial Estate,
Pettai, Tirunelveli 627 010.
- 3.Member Secretary,
Tamil Nadu Hill Area Conservation Authority,
807, Anna Salai, Chennai 600 002.
- 4.Director of Town and Country Planning,
Directorate of Town and Country Planning,
Chengalvaraya Building,
807, Anna Salai,
Chennai 600 002.
- 5.Central Pollution Control Board,
Rep. by its Member Secretary,
1st and 2nd Floors, Nisargabhavan,



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A-Block, Timmaiah Main Road,
7th D Cross, Shivanagar,
Bengaluru 560 079.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, forbearing the 1st and 2nd respondents from insisting on clearance from 3rd Respondent for issuing Consent to Operate (expansion) the Petitioner under the Air Act 1981 and Water Act 1974 and the Rules made thereon and direct the 2nd respondent to reconsider the online application filed by the petitioner and issue Consent to Operate (expansion) certificate to Solve Plastic Products Pvt. Ltd., at Kesavapuram, Karkudy Village, Shencottai Taluk, Thirunelveli District.

For Petitioner : Mr.K.Govindarajan,
For Mr.M.Karthikeya Venkitachalapathy.

For Respondents : Mrs.S.Vijayakumari Natarajan,
Standing Counsel for R1 & R2.
Mr.M.Siddharthan,
Addl. Government Pleader for R3 & R4.
Mr.I.Irulappan for R5.

ORDER

Heard the learned counsel on either side.

2.The petitioner is a small scale unit engaged in manufacturing PVC pipes and fittings in the petition mentioned site. The petitioner wants to expand his manufacturing capacity. The petitioner applied to the second respondent



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seeking consent. The issue arose as to whether clearance from the third respondent/HACA is required. That led to the filing of this writ petition.

3.The learned counsel for the petitioner asserted that the petitioner is a green industry. The pollution control board is on the same page as far as this assertion is concerned.

4.The learned counsel for the petitioner drew my attention to the application enclosed at page no.83 of the typed set of papers. It is seen therefrom that the total extent of land is 76 ares and the built up area is to come over 126 sq. meters. The State authorities appear to have been under the impression that the proposed construction would come over 126 ares demanded clearance from the third respondent/HACA. The learned counsel for the petitioner drew my attention to G.O.(Ms) No.49, dated 24.03.2003 which catalogues the activities that require prior clearance of HACA. Clause 12(k) states that commercial and office buildings of more than 300 sq. m. area, industrial sheds and buildings would require clearance from HACA. It *prima facie* appears that the extent of 300 sq. m. is applicable to only to commercial buildings and office buildings and it has no application to industrial sheds and buildings. The learned counsel for the petitioner thereupon drew my attention



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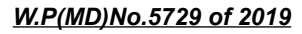
to the stand taken by the Tamilnadu Pollution Control Board. Paragraph Nos.11

and 12 read as follows:-

“11.It is respectfully submitted that earlier, the Consent to Operate was considered to the petitioner unit since the built up are in the application dated 20.01.2010 for CTE was stated as 295.86 Sq.m which was less than 300 Sq. m. and hence does not attract HACA Clearance.

*12.It is respectfully submitted that however in the CTO-Expansion application, it was stated that the built up are was 1260 sq. m and attracts HACA clearance and hence the unit's application was again returned and a letter dated 28.06.2017 was addressed to the unit stating that as per G.O. Ms. No.49, dated 24.03.2003, Annexure – I (Consolidated list of Taluks and Villages which actually lie in Hill Areas) of Housing and Urban Development (UD2.2) Department, Government of Tamilnadu, Chennai, the unit's location at Karkudy Village, Shenkottai Taluk, Tirunelveli District falls under the Hill Areas Conservation of Authority vide Sl.No.9 of **Annexure – I (page – 10 of G.O Ms No.49, dated 24.03.2033)***

*And Annexure – II, Sl.No.12 (k) of Other Projects states that, “Housing Estates buildings of more than ground and first floor, buildings housing more than two families, commercial and office building of more than 300 sq. m area, **Industrial sheds and buildings**”, require prior Clearance of the Authority and hence to resubmit the application only after obtaining HACA Clearance.”*



6. With this clarification, the writ petition is allowed. No costs.

09.01.2023

:Yes/No
: Yes / No
: Yes/ No



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G.R.SWAMINATHAN, J.

ias

To:

1.Member Secretary,
Tamil Nadu Hill Area Conservation Authority,
807, Anna Salai, Chennai 600 002.

2.Director of Town and Country Planning,
Directorate of Town and Country Planning,
Chengalvaraya Building,
807, Anna Salai,
Chennai 600 002.

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