



W.P.(MD)No.759 of 2021

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :10.10.2023

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.(MD)No.759 of 2021

Kannan.K,

... Petitioner

Vs

1. The District Environmental Engineer
Tamilnadu Pollution Control
Board, No.23, Master Plan Area, Sattur
Road, District Collectorate,
Virudhunagar-626 002..

2. The District Collector,
Virudhunagar Collector Office,
Virudhunagar District, Virudhunagar..

3. Malaikumar,
Door No.198, Murugan Colony, P.K.N.Road,
Sivakasi East, Sivakasi Taluk,
Virudhunagar District.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus, directing the 1st and 2nd respondents to take appropriate action against the 3rd respondent for creating noise pollution by using heavy electrical machineries in the



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residential area by considering the petitioners representation dt 27.10.2020 within the period stipulated by this Court.

For Petitioner :Mr.Selvakumar.S,
For Respondents :Mrs.D.Farjana Ghoushia for R2
Special Government Pleader
Ms.Vijayakumari Natarajan for R1

ORDER

This writ petition has been filed for the issue of a writ of mandamus directing the first and second respondents to take appropriate action against the third respondent for creating noise pollution by considering the representation made by the petitioner on 27.10.2020.

2. The first respondent has filed a counter affidavit and the relevant portion in the counter affidavit are extracted hereunder:

“5. It is respectfully submitted that the unit was again surprisingly inspected on 22.01.2021. During inspection the unit was under operation and was producing banned plastic as per G.O. (Ms)No.37, dt:05.06.2020 without the consent of the Board. Hence, showcause notice was issued to the unit vide proceeding dt:22.01.2021.

6. It is respectfully submitted that the unit has



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replied for the showcause notice issued and in its reply dt. 27.01.2021 (received in this office on 01.02.2021) and stated that they not producing any banned plastics. However, the unit has not applied for Consent of the Board.

7. It is respectfully submitted that the unit was again inspected on 29.01.2021. During inspection, it was noticed that the unit is manufacturing polythene bags used for primary packaging of material which is banned as per G.O.(Ms)No.37, dt:05.06.2020 without the consent of the Board. Hence, it was recommended to the Chairman, TNPC Board, Chennai for issue of direction for closure and disconnection of power supply under Water (P&CP) Act 1974 as amended and Air (P&CP) Act 1981 as amended. Accordingly, the Chairman, TNPCB, Chennai has issued direction for closure of the unit and disconnection of power supply vide Proc.dt:22.03.2021. Based on that TANGEDCO, Virudhunagar has disconnected the power supply on 23.03.2021.”

3.The steps taken by the pollution control board became a subject matter of challenge in W.P.(MD) No.7209/2021 and this writ petition was disposed of by an order dated 21.04.2021 and the relevant portion is extracted hereunder:



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“6.In any event, an order of consent is required to be obtained, be it a small scale industry or a medium scale industry. Therefore, the petitioner should obtain a grant of consent. Regarding electricity supply, we direct the respondents to restore the electricity connection within a period of 15 days from the date of receipt of a copy of this order, to enable the petitioner to keep the unit operational and after applying for grant of consent, the authorities of the Pollution Control Board can inspect the unit and examine as to what are the conditions to be imposed for grant of consent or otherwise. We make it clear that the restoration of the electricity is ordered to facilitate the inspection to be done by the Pollution Control Board. The petitioner is directed to submit the application for grant of consent within a period of three [3] days from the date of receipt of a copy of this order and then inspection to be conducted within a period of one [1] week, thereafter.”

4. The learned counsel for the first respondent submitted that the petitioner did not submit any application for grant of consent as directed by the Division Bench and that the electricity supply was also not restored. In



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view of the same, the third respondent is not running the unit.

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5. In the light of the above development, no further orders can be required to be passed in this writ petition. This writ petition is disposed of in the above terms. No costs.

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NCC :Yes/No

Index :Yes/No

RR

To

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2. The District Collector,
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N.ANAND VENKATESH, J.

RR

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