



W.P(MD)No.7224 of 2015

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.09.2023

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.7224 of 2015

and

M.P(MD)No.1 of 2015

M/s.Regina Package Industries,
Represented by its Proprietor,
S.G.H.Hidayathulla,
S/o.Late Syed Ahamed,
6D/5, Sowarnapuram Street,
Tenkasi Taluk,
Tirunelveli District.

... Petitioner

Vs

1.The Chairman,
Tamil Nadu Electricity Board,
NPKRR Maligai,
Annasalai,
Chennai – 600 002.

2.The Superintending Engineer,
TANGEDCO,
Tamil Nadu Electricity Board,
Maharaja Nagar,
Tirunelveli.



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3.The Assistant Engineer,
Tamil Nadu Electricity Board,
(Town Distribution),
Tirunelveli Electricity Distribution Circle,
Tirunelveli District.

4.The Executive Engineer,
Tamil Nadu Electricity Board,
Distribution, Shenkottai Road,
Tirunelveli District.

5.The Tamil Nadu Pollution Control Board,
Represented by its Member Secretary,
No.76, Mount Salai,
Guindy,
Chennai – 600 032.

6.The District Environment Engineer,
Tamil Nadu Pollution Control Board,
Tirunelveli.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records on the file of the third respondent to quash the impugned order vide No.K.No.UMIPO/Nagar1/ Ten/ KATTU/ A.No.407 dated 30.01.2015 passed against the petitioner and further more direct the third respondent to restore the service connection at once in accordance with law.

For Petitioner : Mr.A.Nister Hakeem

For Respondents : Mr.S.Dheenadhayalan
Standing Counsel for R.1 to R.4

Ms.Vijayakumari Natrajan
for R.5 & R.6



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ORDER

Heard the learned counsel on either side.

2. The petitioner challenges the disconnection made by the TANGEDCO. TANGEDCO did not act *suo motu* or on their own. They had acted pursuant to the communication from the District Environmental Engineer, Tamil Nadu Pollution Control Board, Tirunelveli issued vide letter No.F - TNV 0726/2015 dated 14.01.2015. The petitioner has not questioned the primary communication based on which the impugned communication came to be issued. I will not blame on the petitioner. The petitioner was never served with the copy of the said communication. The said communication reads as follows:



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TAMILNADU POLLUTION CONTROL BOARD

From

P. Kirupanantha Rajan M.E.,
District Environmental Engineer,
Tamilnadu Pollution Control Board,
30/2, SIDCO industrial Estate, Pettai,
Tirunelveli - 627 010.

To

The Superintending Engineer,
Tamil Nadu Electricity Board,
Electricity Distribution Circle, High Ground,
Tirunelveli - 627 011.

Letter No. F - TNV 9726/2015. Date: 14.01.2015.

Sir,

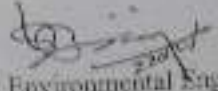
Sub: TNPCB - O/o DEL, Tirunelveli - M/s. Regina Package Industries,
S.F.No.1385/A, Tenkasi Village, Tenkasi Taluk, Tirunelveli District. - temporary
revocation of closure order and restoration of TNEB's power supply expired by
30.11.2012 - information - reg.

Ref: 1. TNPCB's Proc. No. T16/ TNPCB/ F.24261 /TNV/ORANGE/2009/EB-1
dated 28.04.2010.
2. TNPCB's Proc. No. Law/LA/913399/TNPCB/O/2012/EB-5 dated
31.08.2012.

I submit that M/s. Regina Package Industries, S.F.No.1385/A, Tenkasi Village, Tenkasi Taluk, Tirunelveli District has been issued with closure directions by the Board under Air (Prevention and Control of Pollution) Act '81, for operating the unit without valid consent of the Board. Accordingly the TNEB was directed for disconnection of power supply in the premises of the unit vide reference 1st cited.

Subsequently, the TNEB's power supply was temporarily restored to the unit vide reference 2nd cited. I inform that the period of suspension of closure is over by 30.11.2012. Though, the unit was issued with renewal consent order under Water (P&CP) Act 1971 and Air (P&CP) Act 1981 with validity upto 30.06.2015, I inform that further extension for suspension of closure order is not issued by the Board, so far.

This is submitted for kind information and necessary action, please.


District Environmental Engineer,
Tamilnadu Pollution Control Board,
Tirunelveli.



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A careful reading of the said communication shows that closure order was originally issued only because the unit was operating without valid consent.

This was issued as early as on 28.04.2010. But subsequently, the closure order was suspended. By the impugned communication, the Tamil Nadu Pollution Control Board informed TANGEDCO that suspension of closure order was not further extended. It was this ambiguous statement that triggered the impugned action. In the very same communication Tamil Nadu Pollution Control Board had also stated that the petitioner had obtained consent order both under Water (Prevention and Control of Pollution) Act, 1971 as well as the Air (Prevention and Control of Pollution) Act, 1981 and that it was valid up to 30.06.2015. The closure order was originally passed only for the reason that the unit was operating without any consent order. The moment the consent order was issued obviously the closure order ceased to have any meaning.

3. The impugned communication is set aside. The TANGEDCO is directed to resume the supply electricity to the petitioner.

4. It is stated by the respondents that the unit is presently not functioning. The writ petition was filed in the year 2015. We are now in September 2023. If the petitioner has to restart the unit, the petitioner will have to comply with all



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the relevant norms. Without getting consent from the Tamil Nadu Pollution Control Board and other statutory authorities, the unit cannot be restarted. The relief that I am granting in this writ petition is to set aside the impugned communication and direct TANGEDCO to resume the supply of electricity. The petitioner of course has to fulfil other relevant formalities.

5. This writ petition is allowed accordingly. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

14.09.2023

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

To

1.The Chairman,
Tamil Nadu Electricity Board,
NPKRR Maligai,
Annasalai,
Chennai – 600 002.

2.The Superintending Engineer,
TANGEDCO,
Tamil Nadu Electricity Board,
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G.R.SWAMINATHAN, J.

MGA

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and
M.P(MD)No.1 of 2015

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