



WEB COPY



W.P.No.147 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.03.2024

CORAM :

THE HON'BLE MR. JUSTICE S.S.SUNDAR
AND
THE HON'BLE MR.JUSTICE N.SENTHILKUMAR

W.P.No.147 of 2024

P.Rayin .. Petitioner

v.

1. The Tamil Nadu Pollution Control Board
rep by its Chairman
No.76, Mount Salai, Guindy
Chennai 600 032

2. The District Environmental Engineer
Tamil Nadu Pollution Control Board
Additional Collectorate New Building
Block II, Ground Floor, Finger Post
Udhagamandalam 643 005

3. G.Ramanujam
(R3 impleaded as per order dated 08.02.2024
in WMP.563/2024 in WP.147/2024) .. Respondents

Writ Petition is filed under Article 226 of the Constitution of India,
praying for issuance of a Writ of Certiorari, calling for the records of the 1st



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respondent pertaining to the impugned order bearing Proceeding No.T1/
TNPCB/F.000039/Directions/Air/2019 dated 21.12.2023 and quash the
same.

For Petitioner :: Mr.G.Adithyaraj

For Respondents :: Mrs.Shanmugavalli Sekar
Standing Counsel for R1 & R2
Mr.G.Karthikeyan
Senior Counsel for
Mrs.A.Jagadeeswari for R3

ORDER

(Order of the Court was made by S.S.SUNDAR,J.)

This writ petition is filed challenging the impugned order passed by the Tamil Nadu Pollution Control Board dated 21.12.2023, directing that the petitioner shall not operate the hot mix plant during December, 2023, January, 2024 & February, 2024. The consequence of not following the direction is also indicated in the impugned order and the same is issued under Section 31A of the Air (Prevention and Control of Pollution) Act, 1981. The reasons for issuing the direction to the petitioner would show that there are law and order problems and public protest.



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2. The petitioner is the owner of hot mix plant in Devala Village, Gudalur Taluk, The Nilgiris District. The petitioner is the manufacturer of bitumen mixed blue metal aggregate jelly. The petitioner has obtained consent, which would be valid upto 2025, for manufacture of 6600 metric tonnes per year. When the petitioner claims that the plant established by the petitioner is operating in strict compliance of the directions issued by the first respondent from time to time, the respondents have passed the impugned order.

3. From the reading of the impugned order, it is seen that stringent directions were issued against the petitioner's unit with a further direction that the petitioner should shift the plant to some other location. However, no opportunity was given to the petitioner before the order was passed. Therefore, the impugned order is liable to be quashed on the short ground that it is in violation of the principles of natural justice.

4. The learned counsel appearing for petitioner relied upon the order passed by this Court dated 22.12.2023 in Criminal Revision Case No.2158



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of 2023 and contended that the order passed by the Sub Divisional Magistrate invoking Section 133 of the Criminal Procedure Code was quashed by this Court.

5. Having regard to the nature of jurisdiction exercised by the respondents, this Court cannot quash the impugned order on merits, merely because the order passed by the Sub Divisional Magistrate, Gudalur dated 12.12.2023 invoking Section 133 of the Criminal Procedure Code was quashed earlier. However, it will be relevant to decide certain issues. For example, the petitioner's plant cannot be shut down for few months, as it is not a seasonal industry and the respondents are expected to pass orders for reasons. In such circumstances, this Court is unable to find any jurisdictional error to warrant any observation or finding as to the incompetency of the Tamil Nadu Pollution Control Board to take action against the petitioner for causing pollution by violating the pollution laws. Therefore, while allowing the writ petition and quashing the impugned order on the short ground of violation of the principles of natural justice, it is open to the Tamil Nadu Pollution Control Board to take appropriate action against



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the petitioner in accordance with law, if necessary, after giving an opportunity to the third respondent. It is needless to say that the petitioner should be put on notice before any proposed action. The petitioner is also entitled to personal hearing having regard to the facts and circumstances. Consequently, W.M.P.No.162 of 2024 is closed. No costs.

Index : yes/no

(S.S.S.R.,J.)

(N.S.,J.)

Neutral citation : yes/no

07.03.2024

ss

To

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Tamil Nadu Pollution Control Board
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