



W.P.No.808 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

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M/s Re Sustainability Healthcare
Solutions Limited
formerly known as M/s Ramky
Energy and Environment Ltd.,
S.F.No.10/1A(P), Thathangaiyur Village
Edappadi Taluk, Salem District .. Petitioner

v.

1. The Member Secretary
Tamil Nadu Pollution Control Board
76, Mount Salai, Guindy
Chennai 600 032
2. The District Environmental Engineer
Tamil Nadu Pollution Control Board
Salem .. Respondents

Writ Petition is filed under Article 226 of the Constitution of India,
praying for issuance of a Writ of Certiorari, to call for the records of the
order dated 03.02.2023 passed by the first respondent in



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Proc.No.T1/TNPCB/F.31010/SLM/BMW/2023 and quash the same.

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For Petitioner :: Mr.K.S.Viswanathan
Senior Counsel for Ms.T.Hemalatha

For Respondents :: Mrs.Shanmugavalli Sekar
Standing Counsel for R1 & R2

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 03.02.2023.

2. The petitioner, being a company, claims to have established several facilities for biomedical waste management across the country. It is not in issue that the management of biomedical waste is governed by the Biomedical Waste (Management and Handling) Rules of 2016 framed under the Environment (Protection) Act. The petitioner is operating its Common Biomedical Waste Treatment Facility (CBMWTF) in S.F.No.10/1A, Thathangaiyur Village, Edappadi Taluk, Salem District. It is the case of petitioner that the facility is in operation for more than 18 years and the



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facility is governed by the rules and guidelines issued by the Central Pollution Control Board and the Tamil Nadu Pollution Control Board from time to time. The petitioner admits that there was an inspection conducted by the Joint Chief Environmental Engineer, Salem at the petitioner premises on 01.11.2022. Based on the report, which was forwarded to the Pollution Control Board, about certain non-compliances, the petitioner received the communication dated 03.02.2023, which is impugned in the writ petition. By the impugned communication, the first respondent imposed environmental compensation to the tune of Rs.91,29,750/- as against the petitioner, apart from issuing several general directions relating to the maintenance of the facility.

3. The impugned communication is challenged mainly on the ground that a huge environmental compensation of Rs.91,29,750/- is imposed without even an opportunity to the petitioner before assessment. Hence, the learned Senior Counsel appearing for the petitioner argued that the impugned order is liable to be quashed on the short ground of violation of the principles of natural justice.



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4. Pursuant to the impugned order, which is without any show cause notice, the petitioner has submitted a report pointing out the compliance of almost all the directions. The learned Senior Counsel appearing for the petitioner does not question the power or competency of the respondents to assess the environmental compensation if there are violations. However, in the absence of any broad guidelines, the learned Senior Counsel states that the respondents ought to have given sufficient opportunity giving the details of violations or non-observance of any pollution control measures already directed by the Tamil Nadu Pollution Control Board, to the petitioner.

5. Even though this Court is not inclined to go into the details of violations against the petitioner, the assessment of environmental compensation without issuing a show cause notice informing the petitioner about the specific violations/deviations or non-observance, is in violation of the principles of natural justice. It is the specific case of respondents that the petitioner is not following the further directions as found in the impugned order. In such circumstances, this Court is inclined to set aside the impugned order dated 03.02.2023, for the reason that no opportunity



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was given to the petitioner before levying/imposing the penalty or compensation for non-compliance of certain directions. Even though the impugned order states that the assessment of compensation was based on the Central Pollution Control Board methodology, the impugned order does not indicate the method or formula adopted by the respondents while arriving at the environmental compensation. Unless the violations and the non-compliance are tabulated and petitioner is put on notice as to the consequences of non-compliance, it will be against the well settled principles of law, if the petitioner is burdened with a huge compensation. Therefore, while quashing the impugned order dated 03.02.2023, the respondents are directed to proceed further in accordance with law after putting the petitioner on notice about the violations or non-compliance with reference to any omission or commission with specific particulars with reference to the statutory provisions or regulations. After issuing a show cause notice with the required particulars, the respondents may also give sufficient opportunity to the petitioner to respond. After giving personal hearing to the petitioner, the respondents shall pass appropriate orders within a period of twelve weeks from the date on which the petitioner



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submitted their explanation to the show cause notice. Since the petitioner is not aggrieved by any of the other conditions imposed in the impugned order, it is open to the respondents to enforce the conditions in accordance with law. Consequently, W.M.P.No.834 of 2024 is closed. There shall be no order as to 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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2. The District Environmental Engineer
Tamil Nadu Pollution Control Board
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