



W.P.No.26786 of 2019

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.01.2024

CORAM :

THE HON'BLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.26786 of 2019

E.V.Sampath

.. Petitioner

Vs.

1. Tamil Nadu Pollution Control Board
Rep. by its Member Secretary
76, Mount Salai, Guindy
Chennai 600 032.

2. A.V.M.Hemnaath

3. M.N.Ravi Khumarr

4. R.Daya Krishna

5. B.Ajith

6. B.Satheeshkumar

[R2 to R6 impleaded vide order dated
16.03.2020 in WMP Nos.34392 of 2019
& 7275 of 2020]



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7. Navamani Mines Pvt Ltd
Rep. by its Managing Director P.Mani
Door No.8/898, Azhagu Nagar
Trichy Road
Namakkal 637 001.

.. Respondents

[R7 impleaded vide order dated
18.08.2020 made in WMP No.13559/20]

Prayer: Petition filed under Article 226 of the Constitution of India seeking a writ of Certiorari calling for the records of the respondent relating to the proceeding passed in the B.P.No.21 dated 31.07.2019 in so far as it relates to the condition No.1, i.e. "The minimum distance of 1 km between new/proposed crushers as prescribed in the B.P.Ms.No.4 dated 2.7.2004 is dispenses off. This relaxation is also applicable to the existing stone crushers and M.Sand units" and quash the same as illegal and arbitrary.

For the Petitioner : Mr.T.Mohan
Senior Counsel
For Mr.B.Ramesh Babu

For the Respondents : Mr.R.Shunmugasundaram
Advocate General
Assisted by
Mrs.Shanmugavalli Sekar
for Respondent-1

Mr.K.S.Viswanathan
Senior Counsel
For Mr.G.M.Ananthakumar
for Respondents 2 & 3

Mr.L.Chandrakumar
for Respondents 4 to 6



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Mrs.Rita Chandrasekar
For Mr.P.Velumani
for Respondent-7

Mr.V.P.Aravind
For M/s. Ojas Law Firm
for Respondent-8

For Petitioner in WMP No. : Mr.Viswanathan
18000 of 2023 Senior Counsel
For Mr.S.Saravanan

For Petitioner in WMP No. : Mr.Kamaleshkannan
2266 of 2022

For Petitioners in WMP Nos. : Mr.K.S.Viswanathan
7616, 1022, 1024, 1092, Senior Counsel
9923 & 4477, 7624, 9919 For Ms.T.Hemalatha
of 2023 & 86 of 2021

For Petitioner in WMP No. : Mrs.Rita Chandrasekar
3988 of 2021 For M/s. Aiyar & Dolia

For Petitioner in WMP No. : Mr.Calvin Jones
5778 of 2021

For Petitioner in WMP No. : Mr.S.Kolandasamy
18955 of 2023

ORDER

(Made by the Hon'ble Chief Justice)

We have heard Mr.T.Mohan, learned Senior Counsel for



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Mr.B.Ramesh Babu, learned counsel for the petitioner, Mr.R.Shunmugasundaram, learned Advocate General, assisted by Mrs.Shanmugavalli Sekar, learned counsel for the respondent-1, Mr.K.S.Viswanathan, learned Senior Counsel for Mr.G.M.Ananthakumar, learned counsel for the respondents 2 & 3, Mr.L.Chandrakumar, learned counsel for the respondents 4 to 6, Mrs.Rita Chandrasekar, learned counsel for Mr.P.Velumani, learned counsel for the seventh respondent, Mr.V.P.Aravind, learned counsel for the eighth respondent, Mr.Viswanathan, learned Senior Counsel, for Mr.S.Saravanan, learned counsel for the petitioner in WMP Nos.18000 & 18955 of 2023, Mr.Kamaleshkannan, learned counsel for the petitioner in WMP No.2266 of 2022, Mr.K.S.Viswanathan, learned Senior Counsel for Ms.T.Hemalatha, learned counsel for the petitioners in WMP Nos.7616, 1022, 1024, 1092, 9923 & 4477, 7624, 9919 of 2023, 86 of 2021, Mrs.Rita Chandrasekar, learned counsel for the petitioner in WMP No.3988 of 2021, Mr.Calvin Jones, learned counsel for the petitioner in WMP No.5778 of 2021 and Mr.S.Kolandasamy, learned counsel for the petitioner in WMP No.18955 of 2023.



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2. The petitioner has filed this writ petition assailing the action of the respondent authorities reducing minimum distance of 1 km between the new/proposed crushers as prescribed in B.P.Ms.No.4 dated 02.07.2004. The new criteria of reducing the distance of 1 km is pursuant to B.P.No.21 dated 31.07.2019.

3. It appears that this writ petition is filed in the year 2019. The National Environmental Engineering Research Institute, Nagpur has given its recommendations to the stone crushing industries in the State of Tamil Nadu and it has also given its conclusion. According to learned Senior Counsel for the petitioner, the same is based on the policy and not on the basis of any empirical study.

4. The same is the report of the Experts.

5. On 10.10.2023, the Tamil Nadu Pollution Control Board, in its meeting held on 10.10.2013, has resolved to accept the proposal of dispensing of 1 km distance between one stone crushing unit to another stone crushing unit as recommended by the NEERI in its final



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report dated 09.06.2022 along with other recommendations of the NEERI with respect to stone crushing units and also to adopt the 'Environmental Guidelines for Stone Crushing Units' issued by CPCB in July 2023.

6. According to learned Advocate General, the said resolution is adopted by the Board and is enforced.

7. The petitioner is assailing the reduction of the minimum distance of 1 km as per the B.P.No.21 dated 31.07.2019. However, the recommendations of NEERI are accepted wherein even the distance of 1 km is dispensed with. There are certain other recommendations made by NEERI. The same is not the subject matter of pleadings in the writ petition.

8. Moreover, the National Green Tribunal would be more appropriate authority to consider about the apprehensions raised by the petitioner even in the new guidelines.



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9. In the light of that, we permit the petitioner to approach the National Green Tribunal. In that event, all contentions are kept open. The interim order passed earlier shall continue for a period of ten days from today. It is needless to state that on lapse of ten days, the interim protection shall come to an end.

10. The writ petition is disposed of. There shall be no order as to costs. W.M.P.Nos.5778, 3988, 86, 18955 of 2021, 7616, 4477, 7624, 9919, 1022, 1024, 1092, 9923, 18000 of 2023 and 2266 of 2022 are disposed of. Consequently, W.M.P.Nos.26175, 29648 of 2019, 1828, 1829, 1831 of 2021 and 18006 of 2023 are closed.

(S.V.G., CJ.)

(D.B.C., J.)

09.01.2024

Index : Yes/No
Neutral Citation : Yes/No

kpl

To

The Member Secretary
Tamil Nadu Pollution Control Board



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76, Mount Salai, Guindy
Chennai 600 032.



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THE HON'BLE CHIEF JUSTICE
AND
D.BHARATHA CHAKRAVARTHY, J

(kpl)

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