



WEB COPY



W.P.No.29883 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.03.2024

CORAM :

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

W.P.No.29883 of 2018

The Government of Tamil Nadu
Rep by its Principal Secretary to Government
PWD, Secretariat, Fort St. George
Chennai 600 009

.. Petitioner

v.

1. National Green Tribunal
Principal Bench, New Delhi
2. Jawaharlal Shanmugam
3. The Tamil Nadu Pollution Control
Board Rep.by its Chairman
No.76, Anna Salai
Guindy, Chennai 600 032
4. The Managing Director
Chennai Metropolitan Water Supply and
Sewerage Board
No.1, Pumping Station Road
Chintadripet
Chennai 600 002



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5. The Chairman
Inland Waterways Authority of India
(Ministry of Shipping)
A-13, Sector-1, Noida
Uttar Pradesh

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, calling for the records of the 1st respondent Tribunal in order dated 31.10.2018 in O.A.No.164 of 2015(SZ) and quash the same in so far it relates to imposition of cost in para No.10 of the said order and consequently direct the 1st respondent to permit the petitioner department to furnish necessary information regarding the works done in the Buckingham Canal.

For Petitioner :: Mrs.V.Yamuna Devi
Special Government Pleader

For Respondents :: No appearance for R2 & R5
Mr.M.R.Gokul Krishnan
Standing Counsel for R3
Mr.Gautam S.Raman
Standing Counsel for R4

ORDER

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

This writ petition is filed for issuance of a writ of certiorarified mandamus to call for the records of the 1st respondent Tribunal in order dated 31.10.2018 in O.A.No.164 of 2015(SZ) and quash the same in so far it relates to imposition of cost in para No.10 of the said order and



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consequently direct the 1st respondent to permit the petitioner department to furnish necessary information regarding the works done in the Buckingham Canal.

2. Though notice was served on the second respondent, at whose instance the impugned order was passed, and his name is printed in the cause list, he has not entered appearance through a counsel for a long time. Even when the matter was listed on the previous occasions, this Court found that no one appeared for the second respondent. Since the writ petition is of the year 2018, this Court is not inclined to adjourn the matter any further.

3. The learned Special Government Pleader appearing for the petitioner, on instructions, submitted that the petitioner State is challenging only that portion of the order passed by the National Green Tribunal, Principal Bench, by which the Public Works Department, Government of Tamil Nadu was directed to deposit a sum of Rs.2 Crore as penalty with the Central Pollution Control Board.



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4. Except the second respondent, the other respondents, who are the instrumentalities of State, have no objection for setting aside that portion of the impugned order imposing penalty on the petitioner.

5. On perusal of the impugned order passed by the first respondent, this Court finds that the National Green Tribunal has imposed penalty of rupees two crore on the petitioner on the ground that the huge delay has not been properly explained by the petitioner Department. This Court also finds that the sum directed to be deposited by the petitioner by way of penalty is not arrived at on a rational basis. Since the only person interested is the second respondent and he is not represented by a counsel, this Court is of the view that the order passed by the first respondent directing the petitioner to deposit a sum of Rs.2 crore as penalty with the Central Pollution Control Board is not only arbitrary and capricious for want of reasons, but also suffers from total non-application of mind or logic. Therefore, that portion of the direction of the first respondent Tribunal imposing penalty on the petitioner is set aside for want of reasons and the writ petition stands allowed. However, the petitioner Department is at liberty to furnish the



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required information regarding the works done in the Buckingham Canal before the first respondent. Consequently, W.M.P.Nos.34890 & 34891 of 2018 are closed. No order as to costs.

Index : yes/no
Neutral citation : yes/no
SS

(S.S.S.R.,J.) (N.S.,J.)
21.03.2024

To

1. The Registrar
National Green Tribunal
Principal Bench, New Delhi
2. The Chairman
Tamil Nadu Pollution Control Board
No.76, Anna Salai
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3. The Managing Director
Chennai Metropolitan Water Supply and
Sewerage Board
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S.S.SUNDAR,J.

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