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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 1385/2024, CM APPL. 5736/2024 & CM APPL. 5737/2024**

DSIDC AND UDYOG NAGAR CETP SOCIETY & ANR.

..... Petitioners

Through: Mr. Ravi Gupta, Senior Advocate
with Mr. Rakesh Mukhija & Mr.
Ananya Singhal, Advocates

versus

GOVERNMENT OF NCT OF DELHI & ANR. Respondents

Through: Mr. Santosh Kumar Tripathi,
Standing Counsel with Mr. Divyam
Nandrajog, Advocate for R-1

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Date of Decision: 1st February, 2024

CORAM:
HON'BLE THE ACTING CHIEF JUSTICE
HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

J U D G M E N T

MANMOHAN, ACJ: (ORAL)

1. Present petition has been filed seeking quashing of the notification No. F1/CI/OSD/Transfer of CETPs/2021-22/4570-83 dated 1st January, 2024 issued by Respondent No. 1 ('Impugned Notification'). The Common Effluent Treatment Plant managed by Petitioner No. 1 is enlisted at Serial No. 7 of the impugned notification.
2. Learned Senior Counsel for the Petitioners states that the Petitioner



No. 1 Society has been constituted under the order dated 9th May, 1996 passed by the Supreme Court of India and under the provisions of the Delhi Common Effluent Treatment Plants Act, 2000 ('CETP Act'). He states that the Petitioners are aggrieved by the Impugned Notification, which has been issued in violation of the CETP Act as well as the Delhi Common Effluent Treatment Plants Rules, 2001 ('CETP Rules'). He states that no procedure as contemplated under Section 14 of the CETP Act read with Rule 9 of the CETP Rules was followed by Respondent No. 1. He states that therefore, the impugned notification is in violation of the principles of natural justice stipulated in the aforesaid provisions. He states that the Petitioners have been caught unaware by the Impugned Notification, which is non-speaking, unreasoned and illegal. He states that Respondent No. 1 has no jurisdiction to issue directions to Delhi Jal Board ('DJB') to take over the plants as is proposed to be done.

3. Learned Standing Counsel for Respondent No. 1 states that a show cause notice was issued to the Petitioner No. 1 on 29th September, 2022 in accordance with Section 14 of the CETP Act read with Rule 9(1) of the CETP Rules. He states that the Petitioner No. 1 duly replied to the said notice on 11th November, 2022. He states that after duly considering the reply of the Petitioner No. 1, the Appropriate Authority found the same unsatisfactory and therefore, rejected the same by a speaking order. He relies upon the office noting dated 4th January, 2023 and contends that the same is the order signed by the Appropriate Authority. He states that in view of the said order, recorded in the file, the Respondent No. 1 proceeded to issue the impugned notification as per the CETP Act and CETP Rules. He fairly concedes that there is no record available with Respondent No. 1 with



respect to communication of the order dated 4th January, 2023 to the Petitioners herein.

4. In response, learned Senior Counsel for the Petitioners states that no purported order dated 4th January, 2023 of the Appropriate Authority has been communicated to the Petitioners herein. He states that the Petitioner No. 1 has a valuable right of appeal under Section 13 of the CETP Act, which is to be exercised within 30 days. He states that the stand of the Respondent No. 1 is contradicted from the record as the Petitioner No. 1 was subsequently served with a fresh show cause notice dated 28th March, 2023 under Section 14 of the CETP Act and therefore, the Petitioners verily believed that the proceedings arising from the earlier show cause notice dated 29th September, 2022 stood closed.

5. This Court has considered the submissions of the learned senior counsel for the petitioners and learned counsel for the respondent and perused the record.

6. It is an admitted fact that the Impugned Notification has been issued in furtherance of the show cause notice dated 29th September, 2022 and the order of the Appropriate Authority dated 4th January, 2023. It is admitted that the order dated 4th January, 2023 has not been served upon the Petitioner No. 1, who has a statutory right of appeal under Section 13 of the CETP Act to assail the said order. In these admitted facts, it is therefore apparent that the Impugned Notification has been passed in violation of the provisions of the applicable Act and Rules, which has led to violation of principles of natural justice.

7. This Court also finds merit in the submission of the Petitioners that the issuance of the subsequent show cause notice dated 28th March, 2023 is



inconsistent with passing of the order dated 4th January, 2023. In fact, learned Standing Counsel for Respondent No. 1 has no instructions as regards issuance of the subsequent show cause notice. Consequently, this Court is of the view that the order dated 4th January, 2023 has become stale.

8. In view of the aforesaid facts, the Impugned Notification No. F1/CI/OSD/Transfer of CETPs/2021-22/4570-83 dated 1st January, 2024 is quashed in so far as it pertains to Petitioner No. 1 herein. It is further directed that Appropriate Authority under the CETP Act will be at liberty to issue a fresh and comprehensive show cause notice to the Petitioner No. 1 on the same cause of action in accordance with law, preferably within two weeks. The Petitioner No. 1 shall reply to the said show cause notice within two weeks from the date of receipt. This Court has not examined the allegations on merits of the allegations contained in the show cause notice(s) and therefore, the rights and contention of all parties are left open. All further proceedings will be governed by the applicable provisions of the CETP Act and CETP Rules.

9. With the aforesaid directions, the present petition stands allowed and applications stand disposed of.

ACTING CHIEF JUSTICE

MANMEET PRITAM SINGH ARORA, J

FEBRUARY 1, 2024/rhc/MG

Click here to check corrigendum, if any