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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 1456/2024 & CM APPL. 6010/2024**

OKHLA INDUSTRIAL AREA CETP SOCIETY REGD

..... Petitioner

Through: Mr. Rakesh Tiku, Sr. Advocate with
Mr. Bharat Sareen, Advocate.

versus

COMMISSIONER OF INDUSTRIES & ORS.

..... Respondents

Through: Mr. Santosh Kumar, Standing
Counsel, GNCTD with Mr. Divyam
Nandrajog, Advocate for R-1 and 2
Mr. Rakesh Kumar, CGSC with Mr.
Sunil, Advocate for R-4/UOI

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Date of Decision: 05th February, 2024

CORAM:

HON'BLE THE ACTING CHIEF JUSTICE

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

JUDGMENT

MANMOHAN, ACJ : (ORAL)

1. The 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. 2 ('Impugned Notification'). The Common Effluent Treatment Plant managed by Petitioner is enlisted at Serial No. 1 of the impugned notification.

2. Learned senior counsel for the Petitioner states that the Petitioner



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 Petitioner is 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 Nos. 1 and 2. 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 Petitioner has been caught unaware by the Impugned Notification, which is non-speaking, unreasoned and illegal. He states that Respondent No. 2 has no jurisdiction to issue directions to Respondent No. 3, Delhi Jal Board ('DJB') to take over the plant as is proposed to be done.

3. Learned Standing counsel for Respondent Nos. 1 and 2 states that a show cause notice dated 29th September, 2022 was issued to the Petitioner in accordance with Section 14 of the CETP Act read with Rule 9(1) of the CETP Rules. He states that the Petitioner duly replied to the said notice on 15th October, 2022. He states that after duly considering the reply of the Petitioner, the Appropriate Authority found the same unsatisfactory and therefore, rejected the same by a speaking order. He relies upon the office noting dated 24th November, 2022 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. 2 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 24th November, 2022 to the Petitioner herein.

4. In response, learned counsel for the Petitioner states that no purported order dated 24th November, 2022 of the Appropriate Authority has been communicated to the Petitioners herein. He states that the Petitioner has a valuable right of appeal under Section 13 of the CETP Act against the order of the Appropriate Authority, which is to be exercised within 30 days. He states that since the Petitioner was not called for any hearing and had not heard from the Respondent No. 2 after issuing the reply dated 15th October 2022; and with the passage of time the Petitioner believed that the proceedings arising from the show cause notice dated 29th September, 2022 stood closed. He states that in fact, the Petitioner herein was served with a fresh show cause notice on 28th March, 2023 and a detailed reply was filed on 22nd May, 2023. He states that the Petitioner has not heard from Respondent No. 2 in furtherance of the fresh show cause notice dated 28th March, 2023. He states that in fact, the Petitioner has been issued a certificate of "Consent to Operate" by DPCC to operate the plant on 26th December, 2023.

5. This Court has considered the submissions of the learned senior counsel for the Petitioner and the learned Standing counsel for the Respondents and perused the record.

6. It is an admitted fact that the Impugned Notification has been issued in furtherance of the order of the Appropriate Authority dated 24th November, 2022. It is admitted that the order dated 24th November, 2022 has not been served upon the Petitioner, 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 Petitioner that the issuance of the subsequent show cause notice dated 28th March, 2023 is inconsistent with passing of the order dated 24th November, 2022. In fact, learned Standing counsel for Respondent No. 1 has no instructions as regards proceedings taken after issuance of the subsequent show cause notice. Consequently, this Court is of the view that the order dated 24th November, 2022 has become stale and has lapsed.

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 insofar as it pertains to Petitioner 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 on the same cause of action in accordance with law, preferably within two (2) weeks. The Petitioner shall file its reply to the said show cause notice within two (2) weeks from the date of receipt. This Court has not examined the allegations on merits contained in the show cause notice(s) and therefore, the rights and contentions of all parties are left open. All further proceedings will be governed by the applicable provisions of the CETP Act and CETP Rules. The prayer (a) in the petition therefore stands allowed in the aforesaid terms.

9. The Petitioner has also prayed for a certain direction at prayer (b), which has not been considered by this Court. The Petitioner is at liberty to file a fresh petition for the said relief in accordance with law. This Court has not examined the merits of the said relief.



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10. With the aforesaid directions and liberty, the present petition and applications stand disposed of.

ACTING CHIEF JUSTICE

MANMEET PRITAM SINGH ARORA, J

FEBRUARY 5, 2024/hp/MG

Click here to check corrigendum, if any