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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 1754/2024 and CM APPL. 7336/2024, CM APPL. 7337/2024**

JHILMIL AND FRIENDS COLONY INDUSTRIAL AREA CETP SOCIETY AND ANR. Petitioners

Through: Ms. Anne Mathew, Advocate

versus

THE GOVERNMENT OF NCT OF DELHI AND ANR.

..... Respondents

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

Ms. Sangeeta Bharti standing counsel
DJB with Ms. Malvi Balyan & Ms.
Aarushi Behl, Advocates for DJB.

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Date of Decision: 7th 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. 1 ('Impugned Notification'). The Common Effluent Treatment Plant ('Plant') managed by Petitioner is enlisted at Serial No. 2 of the Impugned Notification.

2. The learned 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'). She 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'). She states that the statutory procedure as contemplated under Section 14 of the CETP Act read with Rule 9 of the CETP Rules has not been followed by Respondent No. 1. She states that therefore, the Impugned Notification is in violation of the principles of natural justice as stipulated under the applicable law. She states that the Petitioner has been caught unaware by the Impugned Notification, which is non-speaking, unreasoned and illegal. She states that Respondent No. 1 has no jurisdiction to issue directions to Respondent No. 2, Delhi Jal Board ('DJB') to take over the plant as is proposed to be done.

3. Learned Standing counsel for Respondent No. 1 states that a show cause notice dated 29th September, 2022 was duly 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 as well duly replied to the said notice on 10th October, 2022. He states that after considering the reply of the Petitioner, the Appropriate Authority found the same unsatisfactory and therefore, rejected the same by a speaking order dated 24th November, 2022. He relies upon the office noting dated 24th November, 2022 and contends that the said noting is the order of the Appropriate Authority. He further states that the Petitioner in its reply dated 10th October 2022 has agreed that operation and management of the Plant may be taken over from the Petitioner and has demanded refund of contributed amount with interest. He



states that in view of the said reply and order of the Appropriate Authority, 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 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 Petitioner herein. She 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. She states that since the Petitioner was not called for any hearing and had not been heard by the Respondent No. 1 after filing the reply dated 10th 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. She states that, Petitioner in the reply dated 10th October 2022 has not agreed to handover the operations and management of the Plant and the reply has been misconstrued.

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

6. It is the stand of Respondent No. 1 that the Impugned Notification has been issued in furtherance of the order of the Appropriate Authority dated 24th November, 2022. It is admitted by the said Respondent that the order dated 24th November, 2022 has not been served upon the Petitioner. The Petitioner has a statutory right of appeal under Section 13 of the CETP Act



to assail the said order and the said right has been infringed due to non-service. 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. Consequently, this Court is of the view that the order dated 24th November, 2022 has become stale and has lapsed.

7. 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. Accordingly, the present petition is allowed in the aforesaid terms.

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

ACTING CHIEF JUSTICE

MANMEET PRITAM SINGH ARORA, J

FEBRUARY 7, 2024/hp/MG