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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 2762/2024 and CM APPL. 11306/2024, CM APPL. 11307/2024**

CONFEDERATION OF DELHI INDUSTRIES AND CETP SOCIETIES AND ORS Petitioners

Through: Mr. Siddharth Iyer, Mr. Deevanshu Sharma, Ms. Simran Chawla and Mr. Nikhil Kumar, Advocates for Petitioners along with Mr. S. K. Tandon, General Secretary of Petitioner No. 1.

versus

THE SPECIAL COMMISSIONER OF INDUSTRY CUM APPROPRIATE AUTHORITY, CETP AND ORS Respondents

Through: Mr. Santosh Kumar Tripathy, Standing Counsel for GNCTD with Mr. Divyam Nandrajog, Advocate for R-1 and R-2.
Ms. Sangeeta Bharti, Standing Counsel DJB with Ms. Malvi Balyan, and Ms. Aarushi Behl, Advocates for R-3/DJB

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Date of Decision: 23rd 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)

CM APPL. 11306/2024 (for exemption)

1. Allowed, subject to all just exceptions.
2. Accordingly, this application is disposed of.



W.P.(C) 2762/2024 and CM APPL. 11307/2024

3. 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 ('CETP') managed by Petitioner No. 2 is enlisted as Serial No. 8, Petitioner No. 3 is enlisted as Serial No. 3, Petitioner No. 4 is enlisted as Serial No. 11, Petitioner No. 5 is enlisted as Serial No. 5 and Petitioner No. 6 is enlisted as Serial No. 9 in the impugned notification.

4. Learned counsel for the Petitioners states that the Petitioner Nos. 2 to 6 Societies are 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 Petitioner No. 1 is merely a confederation /body of all eleven CETP Societies in Delhi and no relief has been sought against Petitioner No. 1. 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 the Respondent No.3 i.e., Delhi Jal Board ('DJB') to take over the plants as is proposed to be done.



5. Learned standing counsel for Respondent No. 1 states that a separate show cause notice was issued to each of the Petitioner Nos. 2 to 6 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 Nos. 2 to 6 duly replied (separately) to the said notice. He states that after duly considering the reply of each of the Petitioner Nos. 2 to 6, 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. 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 Petitioners herein.

6. In response, learned counsel for the Petitioners 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 Nos. 2 to 6 have a valuable right of appeal under Section 13 of the CETP Act, which is to be exercised within thirty days. He states that the stand of the Respondent No. 1 is contradicted from the record as the Petitioner Nos. 3, 4 and 6 who were subsequently served with a separate fresh show cause notice dated 28th March, 2023 under Section 14 of the CETP Act, which was replied to and therefore, the Petitioners verily believed that the proceedings arising from the earlier show cause notice dated 29th September, 2022, stood closed.



7. This Court has considered the submissions of the learned counsel for the Petitioners and the learned standing counsel for the Respondent No.1.

8. 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 is dated 24th November, 2022. It is admitted that the order dated 24th November, 2022 has not been served upon the Petitioner Nos. 2 to 6, who have 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.

9. This Court also finds merit in the submission of the Petitioners that the issuance of the subsequent show cause notice dated 28th March, 2023 to Petitioner Nos. 3, 4 and 6 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 issuance of the subsequent show cause notice. Consequently, this Court is of the view that the order dated 24th November, 2022 has become stale.

10. 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 Nos. 2 to 6 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 Nos. 2 to 6 on the same cause of action in accordance with law, preferably within two weeks. The Petitioner Nos. 2 to 6 shall reply to the said show cause notice within two weeks from the date of receipt. This Court has not



2024: DHC: 1471-DB



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.

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

ACTING CHIEF JUSTICE

MANMEET PRITAM SINGH ARORA, J

FEBRUARY 23, 2024/msh/MG

Signature Not Verified

Digitally Signed
By: TAVNEET SINGH
Signing Date: 24.02.2024
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W.P.(C) 2762/2024

Page 5 of 5