



*Crl.O.P.No.11679 of 2025*

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.04.2025

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.O.P.No.11679 of 2025

and

Crl.M.P.Nos.7785 and 7786 of 2025

M/s.Modenik Lifestyle Private Limited,  
Rep. by its Chief Financial Officer  
Mr.Manish Daga,  
S.F.No.505/1 part 3, part 4 part,  
506/1 part, 2 part, 3 part and 507/1 part, 2 part,  
Chengapalli Village, Uthukuli Taluk,  
Tirupur District. ... Petitioner

Vs.

The Tamil Nadu Pollution Control Board,  
Rep. by its District Environmental Engineer,  
Dr.M.Senthil Kumar M.E., Ph.D.,  
Tirupur North, II Floor,  
Kumaran Commercial Complex,  
Kumaran Road,  
Tirupur District 641 601. ... Respondent



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**PRAYER:** Criminal Original Petition is filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 to call for the records in C.C.No.128 of 2024 on the file of the learned District Munsif cum Judicial Magistrate, Uthukuli, Tiruppur District and quash the same.

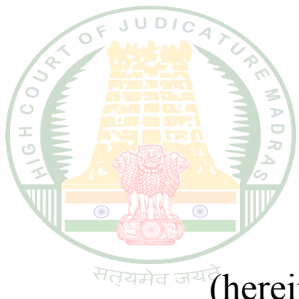
For Petitioner : Mr.M.Mohamed Riyaz  
for Mr.D.Raghu

For Respondent : Mr.V.Gunasekar,  
Standing Counsel for TNPCB.

### **ORDER**

This Criminal Original Petition has been filed seeking to quash the proceedings in C.C.No.128 of 2024, pending on the file of the learned District Munsif-cum-Judicial Magistrate, Uthukuli, Tiruppur District.

2. The case of the prosecution is that the accused have constructed and are operating premises situated at S.F.No.505/1 part, 3 part, 4 part, 506/1 part, 2 part, 3 part and 507/1 part, 2 part of Chengapalli Village, Uthukuli Taluk, Tiruppur District, without obtaining prior Environmental Clearance from the State Environment Impact Assessment Authority



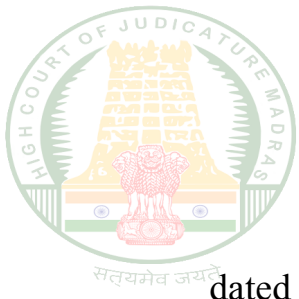
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(hereinafter referred to as “SEIAA”) which is punishable under Sections 15 r/w 16 and 19(a) of the Environment (Protection) Act, 1986.

3. The learned counsel for the petitioner submitted that the petitioner has been arrayed as the third accused (A3). The building in question was constructed by A1 and measures 20,000 sq. metres. The premises were subsequently sold to A3, namely, the petitioner herein. The project falls under Entry 8(a) of the Environmental Impact Assessment (EIA) Notification. As per the said notification, building and construction projects exceeding 20,000 sq.m. but below 1,50,000 sq.m. shall not include industrial sheds, schools, colleges, or hostels for educational institutions. It is contended that the premises acquired by the petitioner qualifies as an “industrial shed”, as defined under Notification No.S.O.3252(E), dated 22.12.2014, which exempts such structures from the requirement of obtaining Environmental Clearance, provided they fall within the “White Category” of industries as notified by the Central Pollution Control Board (hereinafter referred to as “CPCB”). The petitioner’s industry is non-polluting and classified under the White Category, as per CPCB’s Letter No. B-29012/ESS/CPA/2015-2016,

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dated 07.03.2016.

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4. The learned counsel for the petitioner further relies on the circular issued by the respondent dated 19.08.2022, which categorically states that Environmental Clearance shall not be insisted upon for industrial sheds. This position has also been reaffirmed in the Office Memorandum dated 04.10.2022, issued by the Ministry of Environment, Forest and Climate Change, in F.No.19-131/2019-IA-III. Therefore, the petitioner is entitled to benefit conferred by legislation without inflicting a corresponding determinant on some other person by giving retrospective effect. The learned counsel states that after completion of the project, an application for Environmental Clearance was submitted on 28.11.2023. However, the same is still pending before the SEIAA. It was noted that the application was placed in the 565<sup>th</sup> Authority Meeting held on 31.10.2022, but no final decision has been rendered.

5. It is further submitted that the alleged violation was detected only after a lapse of 11 years, and prosecution has now been initiated based on such stale cause of action, which is arbitrary and amounts to

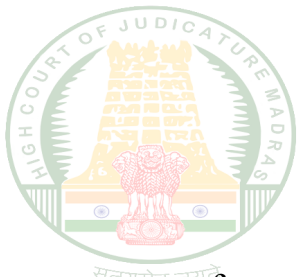


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abuse of process of law. In support of this contention, reliance was placed on a batch of quash petitions decided by this Court in Crl.O.P.No.6241 of 2014, etc., dated 22.12.2023, wherein similar allegations were considered and the proceedings were quashed. The learned counsel also submitted that though the second accused had filed a petition in Crl.O.P.No.28129 of 2024 seeking to quash the very same proceedings, which was dismissed by this Court on 03.02.2025, the grounds raised in the present petition were not raised in that petition, and therefore, were not considered by this Court.

6. The learned Standing Counsel for the Tamil Nadu Pollution Control Board would submit that the accused constructed and operated premises without obtaining prior Environmental Clearance from SEIAA, which is punishable under the Environment (Protection) Act, 1986. It is emphasized that the building exceeds 20,000 sq.m. and falls under the purview of the Environmental Impact Assessment Notification, requiring clearance. He further asserts that the delay in initiating the case does not render the proceedings arbitrary, and the fact that the petitioner's industry is classified under the White Category does not exempt them



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from compliance with environmental regulations.

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7. Heard both sides and perused the materials available on record.

8. On a perusal of the records, it is evident that the grounds now raised by the petitioner (A3) were not canvassed by the second accused in Crl.O.P.No.28129 of 2024, and hence, this Court did not have the occasion to adjudicate upon the same. The issue of exemption under Entry 8(a) of the EIA Notification, 2006, as amended by S.O.3252(E), dated 22.12.2014, is directly relevant. The relevant portion is extracted hereunder:

| <b>8</b>    | <b><i>Building / Construction Projects / Area Development Projects and Townships</i></b> |                                                                           |                                                                                                                                                                                                                                       |
|-------------|------------------------------------------------------------------------------------------|---------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>8(a)</b> | <b><i>Buildings and Construction Projects</i></b>                                        | <b><i>&gt;20000 sq.mtrs and &lt;1,50,000 sq.mtrs of Built-up area</i></b> | <b><i>The term “built up area” for the purpose of this notification the build up or covered area on all floors put together including it basement and other service areas, which are proposed in the building or construction</i></b> |



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| 8 | <b><i>Building / Construction Projects / Area Development Projects and Townships</i></b> |  |                                                                                                                                                                                                                                                                                                                                                                                                                 |
|---|------------------------------------------------------------------------------------------|--|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|   |                                                                                          |  | <p><i>projects.</i></p> <p><i>Note 1: The projects or activities shall not include industrial shed, school, college, hostel for educational institution, but such buildings shall ensure sustainable environment management, solid and liquid waste management, rain water harvesting and may use recycled materials such as fly ash bricks.</i></p> <p><i>Note 2: “General Conditions” shall not apply</i></p> |

9. That apart, as per the circular issued by the respondent dated 19.08.2022, the industrial shed shall not be insisted to obtain Environment Clearance. It is also relevant to extract the circular which reads as under:

*“The industrial shed for industries which are not*



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*covered under EIA notification, 2006 has been exempt from the requirement of prior environemtn clearance under item 8 of Schedule. The principle here is of dominant purpose. If an industry is not covered under EIA, 2006 for obtaining prior EC, it shall not be required to obtain prior EC under item 8 if the size of industrial shed under which that industry is proposed to be housed is >20,000 sq.mt.”*

10. This issue was categorically considered by this Court in Crl.O.P.No.6241 of 2014 etc., dated 22.12.2023, wherein similar proceedings were quashed based on the exemption provided under law. Further, it is not in dispute that A1 has submitted an application for Environmental Clearance on 28.11.2023, which remains pending before SEIAA. Despite this, and notwithstanding the 11-year delay in initiating inspection and prosecution, charges have been laid under Sections 15 r/w 16 and 19(a) of the Environment (Protection) Act, 1986. The petitioner herein, who has been arrayed as A3, is a purchaser of the constructed premises from A1 and was neither in charge of, nor responsible for, the commission of the alleged offence at the material time. The prosecution initiated against the petitioner is thus unsustainable in law.



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11. In view of the above, the entire proceedings in C.C.No.128 of 2024, pending on the file of the learned District Munsif-cum-Judicial Magistrate, Uthukuli, Tiruppur District, is hereby quashed. Accordingly, this Criminal Original Petition is allowed. Consequently, connected miscellaneous petitions are closed.

**17.04.2025**

Neutral citation : Yes/No  
Speaking/non-speaking order  
shk

**G.K.ILANTHIRAIYAN, J.**  
shk

To

1.District Munsif cum Judicial Magistrate, Uthukuli, Tiruppur District

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2. The Tamil Nadu Pollution Control Board,  
Rep. by its District Environmental Engineer,  
Dr.M.Senthil Kumar M.E., Ph.D.,  
Tirupur North, II Floor,  
Kumaran Commercial Complex,  
Kumaran Road,  
Tirupur District 641 601.

3. The Public Prosecutor,  
High Court, Madras.

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