



Crl.O.P.No.28129 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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RESERVED ON : 23.01.2025

PRONOUNCED ON : 03.02.2025

CORAM :

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.O.P.No.28129 of 2024 and
Crl.M.P.Nos.15623 and 15624 of 2024

R.Prem Prakash Sikka

... Petitioner

Vs.

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

..Respondents

Prayer: Criminal Original Petition filed under Section 528 BNSS, to call for the records pertaining to the proceedings in C.C.No.128 of 2024 pending on the file of the District Munsif cum Judicial Magistrate, Uthukuli, Tiruppur District and quash the same.

For Petitioner : Mr.V.Raghavachari, Senior Advocate
For Respondent : Mr.V.Gunasekar, Standing Counsel
for Pollution Control Board



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ORDER

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This 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 respondent filed a complaint under Section 200 Cr.P.C. for the offence punishable under Sections 15 r/w 16 and 19(a) of the Environment (Protection) Act, 1986, against the petitioner. The said complaint was taken on file in C.C.No.128 of 2024, by the learned District Munsif cum Judicial Magistrate, Uthukuli, Tiruppur District. Pending the above said case, the petitioner approached this Court seeking to quash the same.

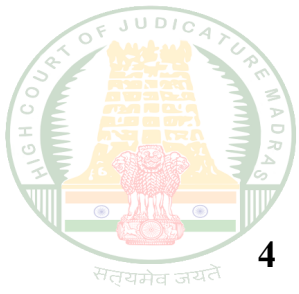
3 Learned Senior Counsel for the petitioner would submit that the petitioner company falls within the White Category of industries and hence Environment Clearance is not applicable for its operation as per the Central Pollution Control Board letter No.B-29012/ESS/CPA/2015-2016 dated 07.03.2016 and press release of Press Information Bureau dated 05.03.2016, since it is non-polluting industry. Further an application for grant of Environment Clearance filed on 28.11.2013 and the same is pending with State



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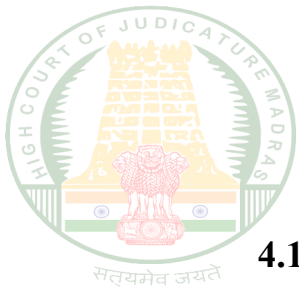
Environment Impact Assessment Authority (SEIAA) without any order being passed for about 11 years. The respondent sent show cause notice 16.05.2014 to the petitioner, for which the petitioner suitably sent a reply on 20.06.2014. There is no finding or material produced by the complainant to show that the petitioner's reply was duly considered to arrive at a decision that the petitioner needs to take prior Environment Clearance before filing of the criminal complaint against the petitioner.

3.1 The learned Senior Counsel for the petitioner would further contend that cause of action arose in the year 2013, but the complaint was filed in the year 2024 almost after the lapse of 11 years, the respondent filed complaint against the petitioner, which is barred by limitation and on that ground itself the complaint has to be quashed. In support of this contention, the learned Senior Counsel placed reliance on the decision of the *Hon'ble Supreme Court reported in 2022 LiveLaw (SC) 1033* and the decisions of this Court in the case of *M/s.True Value Homes India Pvt. Ltd., and another vs. The Tamil Nadu Pollution Control Board, in Crl.O.P.No.7750 of 2021*. The complaint is devoid of merits and if the same is allowed to proceed, there will be no fruitful result would come out and it would amount to futile exercise.



4 Learned standing counsel for the respondent Board would submit

that the petitioner is the Managing Director of M/s.Dixcy Textiles Pvt. Ltd., which involved in manufacturing of hosiery garments and constructed building measuring to an extent of more than 20,000 square meter without obtaining Environmental Clearance from SEIAA-TN as per EIA notification 2006. The petitioner submitted its application to SEIAA on 28.11.2013 for Environmental Clearance, but it was found that prior to the application, the petitioner has commenced its construction and the same is evident from the petitioner's reply letter dated 20.06.2014. Therefore based on the recommendation made by SEIAA-TN, the respondent, on 16.05.2014 issued notice to the petitioner, for which the petitioner has not properly replied. Thereafter there were several communications between the petitioner and SEIAA and the respondent. Pending the approval proceedings, the petitioner completed its construction and commenced the production activity without getting Environmental Clearance from the SEIAA, which is in violation of provisions EIA Notification 2006. Therefore the building still in existence and hence there was no delay since it is continuing cause of action and there is no question of delay in filing the complaint.



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4.1 Further show cause notice was issued to the petitioner for the

reason that without obtaining prior Environmental Clearance from SEIAA as per the Ministry of Environment and Forest (MoEF) vide Notification No.S.O.1533 (E) dated 14.09.2006, started construction and completed the same and also started its production. As per the Schedule 8(a) of the said notification, building and construction project with built-up area more than or equal to 20,000/- square meter and less than 1,50,000/- square meter has been kept under the category 'B ' project which requires prior Environmental Clearance from SEIAA. But the petitioner without getting the said prior Environmental Clearance started the construction and pending proceedings for the said Clearance, completed the construction and started production and hence the petitioner committed an offence under Section 15 r/w 16 & 19(a) of the Environment (Protection) Act.

5 Heard the learned Senior Counsel for the petitioner and the learned Standing Counsel for the respondent and perused the materials available on record.

6 It is seen that the petitioner made request vide letter dated



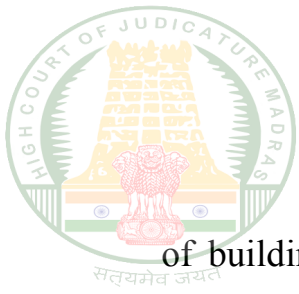
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27.11.2013 to SEIAA-TN to grant Environmental Clearance for their project.

The SEIAA-TN vide its letter dated 10.12.2013 called for certain documents and informations, but the requirements of the respondent was not complied with by the petitioner. Even prior to sending of letter by the petitioner to SEIAA-TN seeking approval the petitioner started construction and pending consideration of the request of the petitioner, the construction was completed and the petitioner started production also.

7 The main contention of the learned Senior Counsel for the petitioner is that the petitioner company falls under category of White Industry, which need not obtain any Clearance as alleged by the respondent and the respondent did not consider the petitioner's application and there was almost 10 years delay in filing the complaint against the petitioner.

8 As could be seen from the submissions and the counter filed by the learned Standing Counsel for the respondent, the allegation of the respondent is not related to running of white category industry and the respondent filed complaint against the petitioner for violating the notification No.S.O.1533(E) dated 14.09.2006, issued by the Ministry of Environment and Forest (MoEF), according to which the petitioner has to obtain prior approval for construction



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of building having built up area more than or equal to 20,000 square meter, which the petitioner failed to do.

9 Even though the petitioner applied for Environmental Clearance on 28.11.2013, for which SEIAA sent letter dated 10.12.2013 calling for certain documents. Thereafter there were many communications between the petitioner and SEIAA. Therefore there is no delay as contended by the learned Senior Counsel for the petitioner and the citations relied on by the learned Senior Counsel are not applicable to the facts of the present case on hand. Further it is evident from the letter of the petitioner dated 20.06.2014 that prior to the Environmental Clearance they started construction and pending proceedings, they also completed construction.

10 On reading of the complaint filed by the respondent, it reveal that SEIAA of Tamil Nadu had recommended to the Government of Tamil Nadu to initiate legal action against the petitioner under Section 15 of the Environment (Protection) Act, 1986, vide its letter dated 24.02.2014 and thereafter the Government vide its letter dated 10.03.2014 requested the respondent Board to submit its remarks to initiate appropriate legal action. Based on the said letter, the respondent Board forwarded its remarks, which were made at the time of



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inspection in the unit premises to the Government for necessary legal action.

Thereafter based on the letter dated 25.05.2023 of SEIAA, the complainant Board issued Memo dated 25.08.2023 to the respective District Environmental Engineer to initiate appropriate legal action against the petitioner. In the meantime, when the respondent made inspection on the accused project, it came to know that without getting Environmental Clearance the petitioner had completed its construction and commenced the production activity.

11 Therefore the compliant filed by the respondent reveals *prima facie* allegations against the petitioner and all the defence taken by the petitioner are matter for trial. The grounds made by the petitioner in the present petition are not sufficient to quash the case against the petitioner.

12 In view of the above, this criminal original petition stands dismissed. Consequently connected miscellaneous petitions are closed.

03.02.2025

Speaking Order/Non Speaking Order
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To
The District Munsif cum Judicial Magistrate, Uthukuli, Tiruppur District



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