

IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI
(SPECIAL ORIGINAL JURISDICTION)
TUESDAY, THE FIRST DAY OF AUGUST
TWO THOUSAND AND TWENTY THREE

:PRESENT:

THE HONOURABLE SRI JUSTICE RAVI NATH TILHARI
AND

THE HONOURABLE SRI JUSTICE B V L N CHAKRAVARTHI
WRIT PETITION NO: 19154 OF 2023



Between:

Smt.M. Nageswaramma, Dolomite and Calcite Mine Sy No. 27/1, Nagaruru (V),
Yadiki Mandal, Anantapuram, Andhra Pradesh

Petitioner

AND

1. The State of Andhra Pradesh, Rep. by its Secretary, Environment, Forest, Science and Technology (Sec.I) Dept, Velagapudi, Secretariat Buildings, Amaravati, Guntur District, A.P.
2. The Member Secretary, Andhra Pradesh Pollution Control Board. D.No- 33-26-14 D/2, Near Sunrise Hospital, Pushpa Hotel Centre, Chalamavari Street, Kasturibaipet, Vijayawada-520007
3. The Joint Chief Environmental Engineer, APPCB, Regional Office Kurnool, 1st floor, Shankar Shopping Complex, Krishna Nagar Main Road, Kurnool-518002, Andhra Pradesh
4. The Environmental Engineer, APPCB, Regional Office Ananthapuramu, D.No-6-3-145, 1st floor, Revenue Ward No.6, Ram Nagar, Ananthapuramu-515004, Andhra Pradesh

Respondents

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue a writ, order or direction more particularly one in the nature of mandamus, declaring the action of the 4th respondent in raising a demand of Rs.23,14,952/- on the petitioner vide Lr No. 836/APPCB/RO-ATP/CTO- 2023 Dated 17.06.2023, including an amount of Rs.17,54,320/- for the period 26.02.2021 to 13.02.2023 by relying on the rates levied under G.O.Ms No.13 dated 26.02.2021 which stands superseded as illegal, arbitrary, and violative of Articles 14, and 19(1)(g) of the Constitution of India and consequently set aside the demand of Rs. 23,14,952/- made on the petitioner vide Lr No. 836/APPCB/RO-ATP/CTO- 2023 Dated 17.06.2023.

IA NO: 1 OF 2023

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to suspend the operation of Lr No.836/APPCB/RO-ATP/CTO- 2023 Dated 17.06.2023, in the interest of justice and ~~peace~~, Pending disposal of WP 19154 of 2023, on the file of the High Court.

The petition coming on for hearing, upon perusing the Petition and the affidavit filed in support thereof and upon hearing the arguments of Sri Mortha Srinu Babu Advocate for the Petitioner, Sri V. Surendra Reddy, learned counsel for the respondent Nos.2, 3 and 4 and learned Government Pleader for Forests for the respondent No.1 and the Court made the following

ORDER

"Heard Sri Mortha Srinu Babu, learned counsel for the petitioner and Sri V. Surendra Reddy, learned counsel for the respondent Nos.2, 3 and 4 and learned Government Pleader for Forests for the respondent No.1.

2. The petitioner was granted the Consent Fee for Operation (CFO) under Sections 25 and 26 of Water (Prevention & Control of Pollution) Act 1974 and Section 21 of Air (Prevention & Control of Pollution) Act 1981 r/w rules vide Consent Order No. ATP – 822/APPCB/ZO-KNL/CFO/2018, dated 30.08.2018 by the respondent No.3. The validity period of the consent order was upto 30.06.2023. The petitioner applied for the renewal on 12.06.2023. The grievance raised is with respect to the demand notice whereby demanding and asking the petitioner to make the payment of the difference of the Consent for Operation fee, pursuant to G.O.Ms.No.13, dated 26.02.2021.

3. Learned counsel for the petitioner submits that the G.O.Ms.No.13, came into force on 26.02.2021 and it was superseded by G.O.Ms.No.10, dated 14.02.2023. He further submits that as per G.O.Ms.No.13, "the existing Oil & Gas Sector, mining projects/facilities/activities etc., who have already obtained CFO of the Board, have to pay the fee as per the revised rates after expiry of the remaining validity period of CFO from the date of issue of this notification". Consequently, the submission is that since the validity period has not expired the G.O.Ms.No.13, 26.02.2021, could not be applied to the petitioner's case. He further submits that on the date of expiry of the validity period, the G.O.Ms.No.13 had already been superseded by G.O.Ms.No.10, dated 14.02.2023. Consequently, there is no liability for the payment under the demand notice. He further submits that the petitioner is ready to make the payment, as per G.O.Ms.No.10, dated 14.02.2023, of renewal fee of Consent for Operation.

4. Sri V. Surendra Reddy, learned counsel for the respondent Nos.2, 3 and 4 does not dispute the said position, but submits that there is one circular pursuant to which the demand notice has been issued. He prays for time for filing counter affidavit.

5. Let the counter affidavit be filed within a period of four (04) weeks.

6. If counter affidavit is filed, the reply/rejoinder affidavit, if any, may be filed within a further period of two (02) weeks.

7. List on 12.09.2023.

8. In the meantime, the operation of the impugned demand notice shall remain stayed. The petitioner's application for renewal/grant of the Consent for Operation, shall be considered by the authorities as per the present G.O.Ms.No.10, dated 14.02.2023, as per law."

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Sd/- K. J. RAJA BABU
ASSISTANT REGISTRAR

SECTION OFFICER

To,

1. The Secretary, Environment, Forest, Science and Technology (Sec.I) Dept, State Of Andhra Pradesh ,Velagapudi, Secretariat Buildings, Amaravati, Guntur District, A.P.
2. The Member Secretary, Andhra Pradesh Pollution Control Board. D.No. 33-26-14 D/2, Near Sunrise Hospital, Pushpa Hotel Centre, Chalamavari Street, Kasturibaipet, Vijayawada-520007
3. The Joint Chief Environmental Engineer, APPCB, Regional Office Kurnool, 1st floor, Shankar Shopping Complex, Krishna Nagar Main Road, Kurnool-518002, Andhra Pradesh
5. The Environmental Engineer, APPCB, Regional Office Ananthapuramu, D.No-6-3-145, 1st floor, Revenue Ward No.6, Ram Nagar, Ananthapuramu-515004, Andhra Pradesh(1 to 4 by RPAD)
4. One CC to Sri Mortha Srinu Babu Advocate [OPUC] ✓
5. Two CCs to Government Pleader for Forests, High Court Of Andhra Pradesh. [OUT] ✓
6. One CC to Sri V. Surendra Reddy, counsel [OPUC] ✓
7. Two spare copies.

RVK

HIGH COURT

RNTJ & BVLNCJ

DATED:01/08/2023

LIST ON 12.09.2023

ORDER

WP.No.19154 of 2023

DIRECTION

