
(2011) 12 MAD CK 0043

In the Madras High Court

Case No : Writ Appeal (MD) No. 1466 of 2011 and M.P. (MD) No. 1 of 2011 in
W.A. (MD) No. 1466 of 2011

A. Ammathu Rahima

APPELLANT

Vs

The Assistant Electricity Engineer (Distribution), Tamil Nadu
Electricity Board, Thondi, Ramanathapuram District

RESPONDENT

Date of Decision : 15-12-2011

Acts Referred:

Citation : (2011) 12 MAD CK 0043

Hon'ble Judges : M. Venugopal, J;K.N. Basha, J

Bench : Division Bench

Advocate : Eddy and Embross, for the Appellant;

Final Decision : Dismissed

Judgement

M. Venugopal, J

1. The Appellants/Petitioners have filed these Writ Appeals as against the common order, dated 09.11.2011, passed in a batch of Writ Petitions, including W.P.(MD)Nos.2955, 1379 and 4248 of 2010 filed by the Appellants/Petitioners, passed by a Learned Single Judge of this Court, dismissing those Writ Petitions.

2. The Appellants/Petitioners have challenged the impugned orders, ordering disconnection of Electricity Supply to the Saw Mills owned by them on the ground that no Saw Mill can be allowed to function without a proper licence issued by the Central Empowered Committee, in terms of the decision of the Hon'ble Supreme Court in T.N. Godavarman Thirumalpad vs. Union of India, dated 29.10.2002, which is to the following effect.

No State or Union Territory shall permit any unlicensed sawmills, veneer, plywood industry to operate and they are directed to close all such unlicensed unit forthwith. No State Government or Union Territory will permit the opening of any saw-mills, veneer or plywood industry without prior permission of the Central Empowered Committee. The Chief Secretary of each State will ensure strict

compliance of this direction. There shall also be no relaxation of rules with regard to the grant of license without previous concurrence of the Central Empowered Committee.

3. We have heard the learned counsel for the Appellants/Petitioners and also gone through the common order of the Learned Single Judge.

4. While dismissing the Writ Petitions filed by the Appellants/Petitioners, the Learned Single Judge, in a detailed order, has clearly pointed out that the admitted case of the Appellants/Petitioners is that they started their Saw Mills only after the aforesaid order of the Supreme Court, without a proper licence from the Central Empowered Committee, and their grievance is that the Government has not framed Rules from 2002 till 2010, enabling them to apply for licences and as such they have not been in a position to apply for licences. If the Appellants/Petitioners are aggrieved by the failure of the State Government to frame Rules as per the directions of the Hon''ble Supreme Court, issued in the above cited case, they, in fact, should have impleaded themselves as parties before the Hon''ble Supreme Court and sought for necessary directions or atleast should have taken positive steps to approach the Central Empowered Committee. In the order of the Supreme Court, dated 29.10.2022, a scope has been given for the Appellants/Petitioners to approach the Supreme Court. In this connection, the Learned Single Judge has extracted the relevant portion of the order of the Supreme Court, dated 29.10.2002, which is to the following effect:

It shall be open to apply to this Court for relaxation and/or appropriate modification or orders qua plantations or grant of licences.

5. Learned Counsel for the Appellants/Petitioners brought to the notice of this Court in one of the communication, dated 21.04.2010, the Electricity Board Authorities have informed that framing of Rules is under the consideration of the Government. Therefore, according to him, nothing prevented the Writ Court in passing necessary orders in favour of the Appellant/Petitioners. The learned counsel for the Appellants/petitioners relied on the decision of this Court in W.P.Nos.517 to 520 of 2010 -K. Venugopal vs. The Assistant Electrical Engineer, Guidyattam, Vellore District and others, decided on 21.01.2010.

6. We have given our anxious consideration to the argument advanced on behalf of the Appellants/Petitioners and we are of the considered view that the Writ Petitioners are devoid of merits for the simple reason that the Appellants/Petitioners, by any stretch of imagination, cannot take advantage of the State Government not framing necessary Rules, as licence is necessary to carry on their trade, and that too in utter violation of prohibitory orders of the Hon''ble Supreme Court. As a matter of fact, the learned Single Judge. in paragraph No.10 of his Common Order, dated 09.11.2011, has stated as follows:

10.The details furnished in the above tabular column would show (i)that the petitioners started their Saw Mills, in utter violation of the orders of the Supreme Court dated 29.10.2002 and (ii)that they continued to operate the Saw Mills with

impunity for a period of 3 to 8 years. What is worse is the fact--

(i) that some of them have obtained Certificates from the Department of Industries and Commerce (petitioners in W.P.Nos.1379/10, 2985/10, 8521/11 and 8538/11);

(ii) that some of them have obtained licenses from the Directorate of Town and Country Planning (almost all writ petitions);

(iii) that some of them have also obtained consent orders from the Tamil Nadu Pollution Control Board (W.P.Nos.2985/10 and 8521/11): and

(iv) that some of them have even obtained interim orders from this Court, either directing the restoration of electricity supply or injuncting the Electricity Board from disconnecting the supply (W.P.Nos.1379/10, 2985/10 and 4248/10).

7. From the above, it is quite evident that the Appellants/petitioners cannot take advantage of the Tamil Nadu Government's failure to frame Rules and, therefore, we are of the view that the Writ Petitions are liable to be dismissed and accordingly, rightly dismissed by the Learned Single Judge. The Learned Single Judge, while dismissing the Writ Petitions, in his common order, has given liberty to the Appellants/Petitioners to apply for and obtain licences, under the New Set of Rules, from the Central Empowered Committee and to act accordingly. Therefore, the Electricity Board, as a matter of routine, cannot be directed to restore Electricity Supply until necessary licences are obtained by the concerned persons and any restoration of Electricity Supply, without a licence, and that too under the New Set of Rules, will clearly amount to violating the Orders passed by the Hon"ble Supreme Court. Therefore, the learned counsel for the Appellants/Petitioners placing reliance on the decision of a Learned Single Judge of this Court, cited supra, is of no avail to the Appellants/Petitioners. Viewed in that perspective, the Writ Appeals fail and they are liable to be dismissed.

8. Accordingly, all the Writ Appeal fails and the same are dismissed. No costs. Connected M.P. (MD) No. 1 of 2011 in all the W.As. are also dismissed.