
(2011) 06 MAD CK 0098

In the Madras High Court

Case No : Writ Petition No's. 23218 and 23668 of 2008 and M.P. No's. 1, 1 and 2 of 2008

Khivraj Tech Park Pvt. Ltd.

APPELLANT

Vs

Chennai Metropolitan Water Supply and Sewerage Board

RESPONDENT

Date of Decision : 07-06-2011

Acts Referred:

Chennai Metropolitan Water Supply and Sewerage Board Act, 1978 — Section 6(2)
Constitution of India, 1950 — Article 162, 166

Citation : (2011) 06 MAD CK 0098

Hon'ble Judges : K. Chandru, J

Bench : Single Bench

Advocate : R. Muthukumarasami, SC for D.B.R. Prabhu, for the Appellant; P. Wilson, A.A.G. for B. Mani for CMDA, for the Respondent

Final Decision : Dismissed

Judgement

K. Chandru, J.—The Petitioner in both writ petitions is one and the same. The Petitioner is a private Limited Company represented by its

General Manager (Operations). In the first writ petition, i.e., W.P. No. 23218 of 2008, the prayer of the Petitioner is for a direction to the

Respondents to process the application of the Petitioner dated 30.8.2006 for which charges were already paid by the Petitioner and to complete

water supply and sewerage service connections in terms of the earlier order passed by this Court in W.P. No. 4088 of 2008, dated 6.3.2008.

When that writ petition came up for hearing, the learned Standing Counsel for the Respondents Chennai Metropolitan Water Supply and

Sewerage Board (for short Metro Water) took notice. Pending the writ petition, though an interim direction was sought for, no orders were passed

on the application.

2. Even at the time of filing of the writ petition, the Petitioner was aware of the order passed by the Respondent Metro Water, dated 31.07.2008,

wherein and by which the Petitioner was directed to pay water and sewerage connection charges as per the application form enclosed. They were

asked to apply along with the challan and other documents. They were also requested to furnish a proof of having paid the Infrastructure

Development charges to the Metro Water for further action. A copy of the said order is also found enclosed in pages 19 and 20 of the typed set.

However the Petitioner was not asked to enclose the completion certificate in view of the earlier order passed by this Court. Thereafter, the

Petitioner sent representations, dated 14.8.2008 and 1.9.2008. Even without any change of circumstances and as they did not get further orders

on the last representation, they filed the second writ petition being W.P. No. 23668 of 2008 challenging the order dated 31.7.2008 demanding the

water and sewerage connection charges as per the application form.

3. In the impugned order, they were clearly informed that the order came to be passed only after taking note of the earlier order passed by this

Court in W.P. No. 4088 of 2008, dated 6.3.2008. In the second writ petition, they had also taken out an application for an interim direction. The

writ petition was not admitted, but after hearing the arguments of Mr. R. Muthukumaraswamy, the learned Senior Counsel as well as the

Additional Advocate General, K. Suguna, J. by an order dated 13.10.2008 gave a direction to the Respondents Metro Water. In paragraph 4 of

the order, it was stated as follows:

4. Taking note of the arguments of both sides, I am of the opinion that ends of justice would be met by the directing the Petitioner to pay a sum of

Rs. 50,00,000/ (Rupees fifty lakhs only) within a period of eight weeks from the date of receipt of a copy of this order and on such payment, the

Respondents shall give water and sewerage connection to the building in question within a period of two weeks. Besides that, the Petitioner is also

directed to submit a proper application form seeking water and sewerage connection within a period of one week from the date of this order.

However, the said payment and the submission of application form by the Petitioner is subject to the result of the writ petition. Accordingly, this

miscellaneous petition is closed.

(Emphasis added)

By the order granting an interim direction, the court had virtually granted the main relief but without going into the merits of the case except that the

direction was given to the Petitioner to submit a proper application form seeking water and sewerage service connections though it was made

subject to the result of the main writ petition.

4. In the light of the subsequent writ petition, practically nothing survives in the first writ petition. It was agreed that the first writ petition, i.e., W.P.

No. 23218 of 2008 may be dismissed along with its miscellaneous petition as the issue had survived for consideration in the subsequent writ

petition. Accordingly, W.P. No. 23218 of 2008 will stand dismissed. Consequently connected miscellaneous petition stand closed.

5. Before going into the rival contentions, it must be noted that the Petitioner company had constructed an Information Technology building at the

Olimpia Technology Park in SIDCO Industrial Estate at Guindy. When they had applied for a completion certificate, an opinion was sought for

from the Metro Water and CMDA pending the service connections. The matter was placed before the Sub committee of Monitoring Committee in

its meeting held on 27.3.2007. The Committee on scrutiny of papers found that the construction did not satisfy the compliance certificate norms. It

was decided that the Petitioner must apply for a revised approval. These facts were intimated by the CMDA to the Secretary to the Government,

I.T. Department. The CMDA also wrote to the Petitioner intimating the decision of the Committee and also various deviations found in the

building. Out of 37 norms for completion certificate, it was found that 20 norms were not applicable to them. While they had observed 12 norms,

in respect of 5 norms, there was no satisfaction. Therefore, they were advised to file a fresh application for approval. Instead of complying with the

same, the Petitioner had moved this Court through a writ petition in W.P. No. 4088 of 2008. But, the Petitioner did not challenge the report of the

Committee pointing out the deficiencies. On the other hand, in the writ petition they had asked for a direction to provide water supply and

sewerage connections without insisting on a completion certificate. V. Dhanapalan, J. on perusal of the Sub Committee's report recorded a finding

that the deviations of the building constructed by the Petitioner company were

only minimal. After relying an unreported decision of this Court, the learned Judge had directed the Respondents to accept the application of the Petitioner to provide water and service connection. The CMDA was directed to complete water and sewerage connections in the said property. Liberty was given to CMDA to take action against deviation in accordance with law at the time of issuance of the completion certificate. Therefore, without a completion certificate and thanks to the interim order passed by this Court, the Petitioner got their water and sewerage connection. By the same interim order dated 13.10.2008 they also got the water and sewerage connection within two weeks and after making adhoc payment of Rs. 50 lakhs.

6. From the narration of the earlier proceedings, it will be clearly shown that the Petitioner building did not have a completion certificate. The Sub Committee of Monitoring Committee did not grant approval for the grant of completion certificate. 5 out of 17 norms were not satisfied though this Court recorded that there were only minimal deviations, but the direction was issued that these deviations can be taken note of at the time of issuance of clearance certificate. Though the production of completion certificate was made mandatory in terms of Development Control Rules, the Petitioner had the benefit of water and sewerage connections and also they were not asked to pay due charges. A perusal of the interim order, dated 13.10.2008 will show that the Petitioner was directed to submit a proper application form seeking water and sewerage connections within one week from the date of the order. If that is the position on 13.10.2008, in the earlier order dated 6.3.2008 in W.P. No. 4088 of 2008, this Court had observed that they should accept the application of the Petitioner to provide water and sewerage connections.

7. When the matter came up for final disposal, a detailed counter affidavit was filed by the first Respondent, dated 30.1.2009 together with supporting typed set of documents. In the counter affidavit sworn to by the Managing Director of the Metro Water, it was stated that the water and sewerage connection application form with challan at free of cost was available at the Metro Water Head office. The application form was a self contained one. It contained classifications, calculation of charges and computing advance tax. A consumer who intends to avail the services has

to remit the connection charges at the Metro Water account of the Canara Bank through a challan along with a self declaration which is issued

along with the application form. The consumer had to register the application form at the registration counter in the Head Office in person or send it

through post with necessary enclosures. It was thereafter, the Area Manager will verify the application and register in the Computer Registration

System. After the same, he should forward it to the Area Engineers. The Area Engineer should sanction the applications and after making entries in

the office through Computer, the Work Orders along with documents shall be sent to the respective Depot Engineers for effecting connections

within 7 days from the date of registration of the application with a copy of the work order sent to the Consumer. Before effecting water and

sewerage service connections, verification will be made by the office of the Metro Water about the correctness of details furnished by the

consumer for effecting connections. A division bench of this Court by an order dated 23.08.2006 had held as follows:

ix) To avoid future violations, building should be certified as having been constructed in compliance of Planning Permit and other applicable laws.

The certifying officer is personally responsible if any illegal building is certified. Electricity, water connection and occupation should be contingent

on such certificate.

8. The Petitioner Company have paid a sum of Rs. 1,30,54,800/- towards water connection charges, sewer connection charges and advance tax.

Along with challan for payment, the Petitioner should have enclosed a Plan sanction by the CMDA with completion certificate, copies of letters

seeking assessment of property tax, water and sewerage tax, drawing showing internal plumbing works and connection to public water/sewer main

with length, nature of Road portion signed by the consumer. They must also enclose a self declaration letter for Rain Water Harvesting, proof of

having paid Infrastructure Development charges to the Metro Water, an Indemnity Bond and a copy of challan. The Petitioner did not furnish any

formal application for water and sewerage connections along with mandatory attachments at the registration counter at Head office to process their

application form. Even after the order made in W.P. No. 4088 of 2008, dated 6.3.2008 by V. Dhanapalan, J., the Petitioner did not submit any

application for water and sewerage connection. Therefore, the Petitioner was informed by the impugned order, dated 31.7.2008 that they must

submit a proper application and enclose documents as per the guidelines.

9. When the Petitioner's representatives had visited the Metro Water office, details were shown to the representatives to the effect that their

building comes under the list of Special/Multistoried buildings and amounts paid but not registered for water and sewerage connection for

requirement of Completion certificate. The Petitioner instead of complying with the same, had sent an another letter, dated 1.9.2008, but did not

furnish prescribed water and sewerage connection application with required documents. Thereafter, the Metro Water had sent a reply, dated

23.9.2008 by stating that they had never agreed to the application of the Petitioner as it was not in due form. They have also not furnished the

required documents. It is only after an interim order was passed, the Petitioner Company had submitted a proper application on 24.10.2008 as

per the interim order given by this Court on 13.10.2008 and appropriate number was assigned to their application and sent to the Area Engineer

IX. While the Petitioner company had declared the number of units as 1286 and the connection charges payable was Rs. 1,92,92,000/-, but an

inspection by the Metro Water officials found that the total number of units were identified as 1721 and the connection charges payable at Rs.

2,58,17,000/-. The Petitioner company had only paid Rs. 32,00,450/- towards water connection charges and Rs. 60,59,350/- towards sewerage

connection charges on 13.09.2006 even before filing of the writ petition. Subsequent to the interim order, as per the direction of this Court, an

another Rs. 50,00,000/- was paid on 15.12.2008. Even though there were deficiencies, in order to obey the interim order, water and sewerage

connection was effected in the building and the advance tax paid was to be adjusted towards water and sewerage charges payable. The Petitioner

Company was legally liable to pay a sum of Rs. 2,58,17,000/-, but whereas they had paid actually Rs. 1,42,59,800/- and there is still balance of

Rs. 1,15,57,200/-. The Petitioner Company has to produce the proof of having paid Infrastructure Development charges to the Metro Water

collected by the CMDA at the time of issuance of planning permission.

10. Thereafter, in the counter affidavit, similar contentions were found repeated.

Finally, in paragraph 37 while resisting the claim of the Petitioner

Company, it was averred as follows:

A) Demanding of current tariff or water supply and sewer connection charges from the Petitioner is legal. In spite of request made by CMWSSB

to submit application during 2007 the Petitioner has not submitted the application. It is a fact that the Petitioner was not having mandatory

attachments to enclose along with the prescribed application at the time of making payment of connection charges under self declaration during

2006, that is the reason the Petitioner has not submitted his application at the time of making payment of connection charges.

B) The communication is justifiable and reasonable as charges for water and sewer connection applicable at the time of submitting the water and

sewer application only have to be paid by the Petitioner firm.

C) Section 6(2)(xii) in chapter II of the Chennai Metropolitan Water Supply and Sewerage Board Act, 1978 enjoin that without prejudice to the

generality of the foregoing provision, the Board shall have power to determine, levy and collect taxes, rates, fees, charges, surcharges, rents and

costs and expenses authorized under this Act. The Board in its 287th Meeting of Board of Directors of CMWSS Board held on 14.01.2008, after

detailed discussion accorded approval vide Resolution No. 29/2008 to adopt the revised rates for new water/sewer connection charges with effect

from 01.02.2008. Hence, the claim of the Respondent Board is within the jurisdiction and with the authority of law. Therefore, the communication

of the Board is legal.

D) As discussed in Para (C), the communication sent was justifiable and legal.

E) At the time of communication, the Petitioner has not submitted the application prescribed with attachments for water and sewer connection. The

amount can be calculated by the applicant under self calculation. The details are vividly explained in the application. Only after submission of

application, CMWSSB engineers will inspect and verify the correctness of the details furnished by the applicant and amount paid under self

calculation by the applicant. Hence, the communication is not vague and the request of the Petitioner is not genuine. As discussed in reply to Para-

13 of Petitioner's affidavit, the Petitioner has to pay Rs. 1,15,57,200/- towards difference in connection charges.

F) It is a fact that the Petitioner was not having mandatory attachments as discussed in reply to Para-6 of Petitioner's affidavit to enclose along

with the prescribed application at the time of making payment of connection charges under self declaration during 2006, that is the reason the

Petitioner has not submitted his application at the time of making payment of connection charges.

G) As discussed in Para-F, the Petitioner has not submitted the application to CMWSS Board with required attachments to provide water, sewer

connection to the Petitioner's building during 2006.

H) Even after the Hon'ble High Court order dated 06.03.2008 in W.P. No. 4088 of 2008 for non-insistence of Completion Certificate from

CMDA, the firm has not submitted water, sewer application to obtain water, sewer connection to the firm's building. As discussed in reply to

Para-13 of Petitioner's affidavit, the firm has sent a letter dated 25.07.2008 to the Respondent Board for which a reply dated 31.07.2008 as

discussed in reply to Para-13 of Petitioner's affidavit was sent to the firm.

I) The Petitioner has paid the connection charges under self calculation during 13.09.2006 by way of CMWSSB challan which is an enclosure with

a prescribed application. It is a fact that the Petitioner was not having mandatory attachments to enclose with the prescribed application at the time

of making payment of connection charges under self calculation during 2006, that is the reason the Petitioner has not submitted his application at

the time of making payment of connection charges. As discussed in reply to Para-8 of Petitioner's affidavit, CMWSSB has sent a letter dated

25.05.2007 to the Petitioner and requested the Petitioner to apply with required attachments to avail service connections. The Petitioner ignored

the CMWSSB letter dated 25.05.2007 for his convenience. The connection charges were revised by CMWSSB with effect from 01.02.2008.

The Petitioner has produced an order dated 06.03.2008 in W.P. No. 4088 of 2008 of the Hon'ble High Court of Madras for not insisting

Completion certificate from CMDA for effecting water and sewer connection. CMWSSB not insisted Completion certificate from the Petitioner

for this building based on the Hon'ble High Court order dated 06.03.2008. Even after the Hon'ble order of the High Court, the Petitioner has not

submitted application for service connection for this building. Based on the

interim order of the Hon''ble High Court in W.P. No. 23668 of 2008, the Petitioner has submitted the prescribed application only on 24.10.2008. The Petitioner to pay the connection charges prevailing at the time of submitting the application with required attachments. The difference in connection charges of Rs. 1,15,57,200/- as discussed in reply to Para-13 of Petitioner''s affidavit has to be paid by the Petitioner''s firm.

J) The statement of the Petitioner is denied. The amount paid by the Petitioner was under self-declaration through a challan issued along with the prescribed application as discussed earlier, the Petitioner has not submitted his application for want of required attachments. This is the fault of the Petitioner. CMWSS Board has communicated to the Petitioner''s firm as early during 25.05.2007 to apply in the prescribed application with required documents. Whereas the connection charges were revised during 01.02.2008. Therefore, it is submitted that the Petitioner''s request cannot be accepted.

K) It is submitted that the Petitioner has paid the connection charges on 13.09.2006 under self declaration. The details of CMDA letters have been discussed in reply to Para-8 of Petitioner''s affidavit. As discussed in reply to Para-8 of Petitioner''s affidavit, the communication to the Petitioner was sent by CMWSSB on 25.05.2007. The connection charges were revised with effect from 01.02.2008. It is the fault of the Petitioner for not having submitted the application with required documents before the revision of the connection charges. It is a fact that the Petitioner was not having the required documents to enclose along with the application, without which the application cannot be sanctioned. Hence, the Petitioner has not submitted the application. The Petitioner has to pay the revised prevailing connection charges. The difference in connection charges of Rs. 1,15,57,200/- as discussed in reply to Para-13 of Petitioner''s affidavit has to be paid by the Petitioner''s firm.

L) It is submitted that as discussed in earlier paras, the Petitioner has not fulfilled the requirements to avail the water, sewer connections before the revision of connection charges. Therefore, the Petitioner has to pay the difference in connection charges as discussed in reply to Para-13 of the Petitioner''s affidavit.

M) The Petitioner''s statement is denied. As discussed in reply to Para-8 of

Petitioner's affidavit, the Petitioner's firm has been numbered as 74th

item in the list of Special/Multi-storeyed buildings amount paid but not registered for water and sewer connections for requirement of Completion

Certificate from CMDA. Therefore, the Petitioner's statement cannot be accepted.

N) As discussed in earlier paras, it is submitted that the statements of the Petitioner cannot be accepted.

O) The Petitioner firm has submitted the prescribed application only on 24.10.2008 as per the interim order dated 13.10.2008 in W.P. No.

23668/2008 by the Hon'ble High Court of Madras. Also it is submitted, the applicant has never submitted the application before the revision of

connection charges by CMWSSB. Hence, the Petitioner has to pay the revised water and sewer connection charges. The difference in connection

charges of Rs. 1,15,57,200/- as discussed in reply to Para 13 of the Petitioner's affidavit has to be paid by the Petitioner firm and this Writ

Petition may kindly be dismissed.

11. There was no reply affidavit filed challenging the stand of the Respondent Metro Water. The Respondents have also filed a detailed typed set

of documents enclosing all the documents relating to the Petitioner's case. They have also produced the original files at the time of hearing.

12. Heard the arguments of Mr. R. Muthukumaraswami, learned Senior Counsel leading Mr. D.B.R. Prabhu, learned Counsel appearing for the

Petitioner Company and Mr. P. Wilson, learned Additional Advocate General appearing for Mr. B. Mani, learned Standing Counsel for the Metro

Water.

13. Mr. R. Muthukumaraswami, learned Senior Counsel submitted that water and sewerage connection charges cannot be levied on fanciful basis.

It should be the rate as found at the time of submission of the original application and not the amount which was demanded at present.

14. Refuting the stand of the Petitioner, Mr. P. Wilson, learned Additional Advocate General took this Court to various documents to show that

the so-called application filed by them was never in terms of the legal requirement. He also referred to the earlier judgment of a division bench of

this Court in Consumer Action Group v. State of Tamil Nadu and Ors. reported in 2007 (1) MLJ 897. In that case, the division bench while

entertaining a Public Interest Litigation with reference to mushrooming growth of

multistoried building in Tamil Nadu without proper regard to

Building Control Rules, gave several directions. In order to oversee its compliance, in paragraph 32 it also provided for a Monitoring Committee.

Further, in order to avoid the Real Estate Operators making the issue fait accompli, this Court in paragraph 32(ix) had clearly held that Certifying

Officers will be personally responsible if any illegal building is certified and electricity, water connection and occupation should be contingent upon

such certificate. That judgment was also confirmed by the Supreme Court subsequently. When there was a clear direction from the division bench,

it was not open to this Court to give any contra direction.

15. In the present case, the Monitoring Committee had found that there were deviations though this Court held that there was only minimal

deviations. It is not clear as to how such a finding can be rendered in the teeth of the division bench's order. In the present case, admittedly, the

Petitioner had not complied with the guidelines prescribed in the application form.

16. In this context, Mr. P. Wilson, learned Additional Advocate General referred to certain decisions of the Supreme Court which may have a

bearing on this issue.

17. In *N.D.M.C. and Others Vs. Tanvi Trading and Credit Pvt. Ltd. and Others*, , the Supreme Court held that the High Court must consider the

public policy, guidelines, directions, statutory mandates while directing sanction of building plan. In following passage found in paragraph 39 of the

said judgment, the Supreme Court held that approval for a building plan is only the date on which the approval was granted:

39. It is well settled that the law for approval of the building plan would be the date on which the approval is granted and not the date on which the

plans are submitted. This is so in view of para 24 of the decision of this Court in *Usman Gani J. Khatri v. Cantonment Board*. It would not be out

of place to mention that on 7-2-2007, the Master Plan, 2021 has been approved in which the LBZ guidelines have been incorporated and since

the plan submitted by the Respondents was not approved up to the date of coming into force of Master Plan of 2021, the LBZ guidelines will

apply with full force to the plan submitted by the Respondents and the plan which is contrary to the LBZ guidelines could not have been directed to

be sanctioned.

18. The learned Additional Advocate General referred to a judgment of the Supreme Court in Howrah Municipal Corpn. and Others Vs. Ganges

Rope Co. Ltd. and Others, for emphasising that sanction to building plans have to be governed by statutory provisions, which are intended to

ensure proper administration and to provide civic amenities. He also placed reliance upon the following passages found in paragraphs 17, 29 to 31

of the said judgment, which reads as follows:

17. The subject of sanction of construction is governed by the provisions of the Act, Rules and Regulations as also the resolution of the

Corporation which was taken with the approval of the Mayor-in-Council. The statutory provisions regulating sanction for construction within the

municipal area are intended to ensure proper administration of the area and provide proper civic amenities to it. The paramount considerations of

regulatory provisions for construction activities are public interest and convenience. On the subject of seeking sanction for construction, no vested

right can be claimed by any citizen divorced from public interest or public convenience.

29. It has been urged very forcefully that the sanction has to be granted on the basis of the Building Rules prevailing at the time of submission of the

application for sanction. In the case of Usman Gani¹ the High Court negated a similar contention and this Court affirmed the same by observing

thus: (SCC p.469, para 24)

In any case, the High Court is right in taking the view that the building plans can only be sanctioned according to the building regulations prevailing

at the time of sanctioning of such building plans. At present the statutory bye-laws published on 30-4-1988 are in force and the fresh building plans

to be submitted by the Petitioners, if any, shall now be governed by these bye-laws and not by any other bye-laws or schemes which are no longer

in force now. If we consider a reverse case where building regulations are amended more favourably to the builders before sanctioning of building

plans already submitted, the builders would certainly claim and get the advantage of the regulations amended to their benefit.

(Underlining" to add emphasis)

30. This Court, thus, has taken a view that the Building Rules or Regulations prevailing at the time of sanction would govern the subject of sanction

and not the Rules and Regulations existing on the date of application for sanction. This Court has envisaged a reverse situation that if subsequent to the making of the application for sanction, the Building Rules, on the date of sanction, have been amended more favourably in favour of the person or party seeking sanction, would it then be possible for the Corporation to say that because the more favourable Rules containing conditions came into force subsequent to the submission of application for sanction, it would not be available to the person or party applying.

31. The decision in *Gani J. Khatri*¹ was followed by this Court in the case of *State of W.B. v. Terra Firma Investment and Trading (P) Ltd.* That

case arose as a result of amendment introduced in the Act in the year 1990 restricting building heights within the limits of Calcutta Municipal

Corporation to 13.5 metres. Applications for sanction pending for construction with height above 13.5 metres were rejected because of the above

restriction. In that case also the applicants claimed a vested right to get their plans passed and sanctioned as they were submitted prior to the

amendment made to the Calcutta Municipal Corporation Act in 1990. This Court on examining the object in restricting height of buildings in the

city of Calcutta due to limited resources for civic amenities upheld the Amendment Act and negated the claim of vested right set up by the

applicants on the basis of unamended provisions and building regulations. Relying on the decision of *Usman Gani J. Khatri*¹, this Court observed:

(SCC pp.131-32, para 14)

How can the Respondent claim an absolute or vested right to get his plan passed by writ of a court, merely on the ground that such plan had been

submitted by him prior to 18-12-1989? By mere submission of a plan for construction of a building which has not been passed by the competent

authority, no right accrues. The learned Single Judge of the High Court should have examined this aspect of the matter as to what right the

Respondent had acquired by submission of the plan for construction of the high-rise building before its application was rejected by a statutory provision.

This Court further observed: (SCC p.132, para 15)

15. It is well settled that no malice can be imputed to the legislature. Any legislative provision can be held to be invalid only on grounds like

legislative incompetence or being violative of any of the constitutional provisions.

(Emphasis added)

19. Thereafter, reference was made to a judgment of the Supreme Court in Pancham Chand and Others Vs. State of Himachal Pradesh and

Others, to contend that statutory authorities are bound to act strictly in terms of the provisions and no one is expected to act in derogation of the

powers conferred on him. The statutory authorities while exercising powers must have regard to the procedures laid down under the Act and they

cannot bypass the same. Reference was also made to the following passage found in paragraph 18 of the said judgment, which reads as follows:

18. The Act is a self-contained code. All the authorities mentioned therein are statutory authorities. They are bound by the provisions of the Act.

They must act within the four corners thereof. The State, although, has a general control but such control must be exercised strictly in terms of

Article 162 of the Constitution of India. Having regard to the nature and the manner of the control specified therein, it may lay down a policy.

Statutory authorities are bound to act in terms thereof, but per se the same does not authorise any Minister including the Chief Minister to act in

derogation of the statutory provisions. The Constitution of India does not envisage functioning of the Government through the Chief Minister alone.

It speaks of a Council of Ministers. The duties or functions of the Council of Ministers are ordinarily governed by the provisions contained in the

Rules of Business framed under Article 166 of the Constitution of India. All governmental orders must comply with the requirements of a statute as

also the constitutional provisions. Our Constitution envisages a rule of law and not rule of men. It recognises that, howsoever high one may be, he

is under law and the Constitution. All the constitutional functionaries must, therefore, function within the constitutional limits.

20. From the above factual matrix, it can be clearly seen that the Petitioner Company did not submit any proper application form as required under

law together with supporting documents. Therefore, it is not open to them to contend that the amount already paid by them including the amounts

paid due to the interim order was sufficient for the purpose of satisfying the water and sewerage connections. On the other hand, in the interim

order, dated 13.10.2008, this Court had directed that they must submit proper

application form seeking water and sewerage connection on adhoc payment and that the submission of the application form will be subject to the result of the writ petition. The Petitioner cannot interdict the action of statutory authorities by moving this Court successfully and getting different interim orders to achieve collateral benefits which they would not have otherwise achieved in a final order. So long as the earlier division bench judgment of this Court in the Consumer Action Group case (cited supra) and upheld by the Supreme Court is still binding, there can be no deviation from the directions issued by the division bench. This Court was not impressed with the desperate arguments advanced by the learned Senior Counsel appearing for the Petitioner. It is for the Petitioner Company to satisfy the authorities about the compliance of statutory provisions. The attempt made by the Petitioner company is clearly an abuse of the process of the Court.

21. In the light of the above, W.P. No. 23668 of 2008 will stand dismissed with costs of Rs. 25,000/- (Rupees twenty five thousand only).

Accordingly, both the writ petitions will stand dismissed. Consequently, connected miscellaneous petitions stand closed.