

(2014) 12 MAD CK 0054

In the Madras High Court

Case No : W.P. No. 39722 of 2005 and W.P.M.P. Nos. 204 to 206 of 2014

S. Jayalakshmi and Others

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 03-12-2014

Acts Referred:

Citation : (2015) 4 LW 261

Hon'ble Judges : Sanjay Kishan Kaul, C.J;R. Mahadevan, J

Bench : Division Bench

Advocate : V. Raghavachari for Era. Meyappan, Advocate for the Appellant; K. Ravindranath, Advocate for the Respondent;

Final Decision : Disposed off

Judgement

Sanjay Kishan Kaul, C.J.

1. The writ petition emanates from the petitioner, who is affected by ecological pollution caused to Noyyal river on account of trade effluents from large number of dyeing and bleaching units in and around Tiruppur. This is stated to have caused impairment of agricultural operations in respect of land seriously affected by such pollution over 8 years prior to the institution of the petition. The petitioner claims to have submitted his claim petitions before the Loss of the Ecology, Authority for the State of Tamil Nadu/the second respondent. An additional representation is also stated to have been submitted subsequently. Ultimately, the Report and Award dated 17.12.2004 came into being issued by the second respondent. The petitioner, aggrieved by this award, has filed the present petition seeking quashing of the same and directions to the respondents to pay compensation to him.

2. Much water has flown since the filing of the petition, as is apparent from the submissions of learned counsel for the parties.

3. Learned counsel for the petitioner seeks to base the claim on an order dated 31.12.2011, which is stated to be in the nature of a compromise, issued by the

respondents-State Government qua the issue of compensation. Learned counsel submits that this would be acceptable to the petitioner so that he can get some succor, as he has been drawn in endless litigations.

4. On the other hand, learned counsel for the respondents seek to dispute the position, inasmuch as they plead that this very letter/circular stands quashed and the matter has gone right till the Hon''ble Supreme Court. Thus, what is pleaded by the petitioners as the solution is not acceptable to the respondents.

5. Learned counsel for the petitioners seeks to refer to a Division Bench judgment of this Court in K.K. Subramaniam and others v. Loss of Ecology (Prevention and Payment of Compensation) Authority and others, (2010) 3 MLJ 1087, to submit that the direction in that case was that there cannot be one assessment made qua all payments and each claim would have to be decided on its own merits. He, thus, submits that the alternative is only to have each of the claims decided, but then, the appropriate forum for the same would be the second respondent. The problem is that the second respondent has been made practically dysfunctional, as it was a body of a Chairman cum two Members and the Chairman is not willing to continue any longer, as stated by the counsel for the respondents and was, thus, relieved from the post. No replacement has been appointed as yet. There are also interim orders in different proceedings against winding up of the second respondent.

6. We are informed that actually the claims may be numbering as large as 28,000. It is more than a full time job even for one body. The least we can expect is to make the second respondent functional for purposes of determining of compensation in respect of the claimants, who are affected by the pollution, as a consequence of the effluent discharge.

7. We, thus, call upon the Union of India/the first respondent to nominate the Chairman of the second respondent within a maximum period of one month of the receipt of the order and to provide necessary facilities to make it fully functional, so that it can forthwith proceed with the task of determining the compensation. The second respondent so constituted will make every endeavour to proceed as expeditiously as possible and endeavour to hold day-to-day sittings. This would facilitate in disposal of all the claim petitions and providing succor to those who have been affected and have been waiting to receive the compensation over the last almost 18 years. As to what would be the value of money received, least said the better. We dispose of the writ petition with the aforesaid directions. No costs.

W.P.M.P. Nos. 204 to 206 of 2014

In view of the orders passed in the main writ petition, learned counsel for the petitioner concedes that nothing survives in these petitions and the petitions are, thus, closed.