

(2004) 08 MAD CK 0052
In the Madras High Court
Case No : W.A. No. 2857 of 2004

The Union of India (UOI)

APPELLANT

Vs

Chennai Metropolitan Development Authority

RESPONDENT

Date of Decision : 27-08-2004

Acts Referred:

Citation : (2004) 08 MAD CK 0052

Hon'ble Judges : Subashan Reddy, C.J.; M. Karpagavinayagam, J

Bench : Division Bench

Advocate : V.T. Gopalan, Addl. Solicitor General, for the Appellant; N.R. Chandran, General/Senior Counsel, for the Respondent

Judgement

Subashan Reddy, C.J.—This writ appeal is against the interlocutory order passed by the learned single Judge of this Court in a writ

miscellaneous petition. The matter pertains to the challenge to the Notification dated 7th July 2004 issued by the Ministry of Environment and

Forest, imposing certain restrictions in the matter of construction of buildings with an investment of Rs.50 crores or more without environmental

clearance from the Government of India. Learned single Judge, while admitting the writ petition, passed the following interim order:

Interim stay of the notification challenged in the writ petition subject to the following:

Evaluation and processing the tenders received upto the last date (i.e.) 6-8-04 shall go on; however, awarding the final work order on the basis of

such evaluation alone shall stand deferred until further orders.

In the present writ appeal, the Union of India seeks for setting aside the interim order passed by the learned single Judge.

2. Heard Shri V.T. Gopalan, learned Additional Solicitor General for the appellant and Shri N.R. Chandran, learned Advocate General for the

respondent. There are petitions before us for impleadment by some third parties, who are supporting the concerned notification, as also by some

private builders, whose estimated cost of proposed constructions go beyond Rs.50 crores and thus falling within the ambit of the said notification.

3. Several arguments were advanced before us in this appeal. It is to be noted that we are dealing an appeal which is against the interlocutory

order passed in the writ petition and therefore, at this stage, we will not delve deep into those arguments. Those arguments may be advanced at the

final hearing of the writ petition and considered for final verdict. But, at the present stage, after hearing learned counsel, we are of the view that the

following phraseology in the impugned order, viz.

Interim stay of the notification challenged in the writ petition subject to the following

is not necessary because ultimately what is permitted by the learned single Judge was the evaluation and processing of the tenders which were

received upto the last date, i.e. 6-8-2004. The order clearly says that awarding of the final work order on the basis of such evaluation shall be

deferred until furthers orders of this Court. If such being the fact, to avoid any confusion in understanding the import of the order, we only modify

the order passed by the learned single Judge to the following effect:

The notification cannot be stayed until it is set aside by this Court on a final hearing. However, the evaluation and processing of the tenders

received upto the last date, i.e. 6-8-2004 shall go on but there cannot be awarding of the final work order.

Since there are some private builders, who have filed petitions for impleadment in the writ petition and on whose behalf some arguments were

advanced before us, we add that the applications submitted by such builders, who fall within the ambit of the concerned notification, shall be

evaluated and processed and final orders may be passed on such applications. Such builders may take all steps up to the stage of finalising the

tenders if they are called or identify a contractor if it is going to be awarded to any one otherwise than by the tenderer but no final work with

regard to construction of the building shall commence until further orders of this

Court. If any application which has already been filed by the builders before the cut-off date, viz. 6-8-2004 is still pending, CMDA shall consider and dispose of the same within four weeks from the date of receipt of copy of this order.

4. The writ appeal is disposed of accordingly. All other interlocutory miscellaneous applications shall be tagged along with the final hearing of the writ petitions. We direct the posting of the writ petitions for final hearing before the learned Judge concerned, subject to part-heard cases, on 27-9-2004. Connected W.A.M.P. No. 5286 of 2004 is closed.