

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 27/08/2004

Coram

The Honourable Mr. SUBASHAN REDDY, Chief Justice
and
The Honourable Mr. Justice M. KARPAGAVINAYAGAM

W.A. No.2857 of 2004

The Union of India
rep. by its Secretary to Government
Ministry of Environment and Forests
Paryavaran Bhavan
New Delhi. :: Appellant

-Vs-

Chennai Metropolitan Development Authority
rep. by its Member Secretary G. Santhanam
Chennai 600 008 :: Respondent

Appeal against the order dated 26-7-2004 in W.P.M.P. No. 26060 of
2004 in W.P. No.21547 of 2004

!For Appellant : Mr. V.T. Gopalan
Addl. Solicitor General/
Senior Counsel

^For Respondent : Mr. N.R. Chandran
Advocate General/
Senior Counsel

:JUDGMENT

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 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 phareseology in the impugend 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 20 04 is closed.

After passing the above interim order, Mr. Ezilmani, learned counsel

for the third respondent appeared before us and submitted that prints of the film including the new song have already been despatched to the theatres and the song in question has already been screened and exhibited for the first show of the day. In such circumstances, the further screening and exhibition of the new song in the film "New" is restrained until further orders of this Court.

Registry is directed to host this order on the internet forthwith and also circulate copy of this order to the electronic media for publication.

Index: Yes

Internet: Yes

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