

## **WP-9096-2015**

*(CENTURY TEXTILES AND INDUSTRIES LIMITED Vs THE STATE OF MADHYA PRADESH)*

### **30-06-2015**

Shri Aditya Adhikari, learned Sr. Counsel with Shri Ritwik Parashar, learned counsel for the petitioner.

Shri Swapnil Ganguly, learned Govt. Adv. for the respondents/State on advance notice.

Challenging the orders Annexures P-7, P-8, P-9 and P-21 dated 8/05/04, 1/06/04, 7/06/04 and 15/05/15 in the matter of imposing water charges and penalty on the petitioner for use of water provided by the respondents department, this writ petition has been filed.

Initially, when the water charges and penalty were being imposed, petitioner approached this Court by filing a writ petition being W. P. No. 2245/04 on the ground that water charges are imposed without due consideration. Taking note of the facts and circumstances of the case on 18/11/13, the petition was disposed of directing the petitioner to submit a representation within a period of four weeks and respondents were directed to take note of the representation by passing a speaking and reasoned order after giving due opportunity of hearing to the petitioner.

Now, it is pointed out that after the aforesaid order was passed, on 2/12/13, a representation was submitted to the Executive Engineer, Water Resources Department, Satna and, thereafter, another representation was

submitted to the Collector also on 2<sup>nd</sup> December, 2013. Shri Aditya Adhikari, learned Sr. Counsel invites our attention to the endorsement of the acknowledgement Annexures P-17 and P-18 and pointed out that even though, the representation was submitted within four weeks but nothing was done. Thereafter, second show-cause notice and demand notice vide Annexure P-18 was issued. To this also, objections were raised and now without considering the objections and representation on the pretext that in pursuance to the order passed on 18/11/13 in W. P. No. 2245/04, no representation has been submitted, the claim of the petitioner and objections of the petitioner have been rejected without consideration.

Having heard learned counsel for the parties, we are of the considered view that in the order passed vide Annexure P-21 on 15/05/15, respondent no. 2 has only stated that as the petitioner did not submit the representation within four weeks, his objection is rejected. This contention of the respondents seems to be incorrect as is evident from the endorsements made vide Annexures P-17 and P-18.

Initially, when the representation was submitted to the Executive Engineer and on the same day as is evident from the endorsement given, we are of the considered view that without taking note of the representation submitted, the impugned action taken is unsustainable. Accordingly, we quash the order Annexure P-21 dated

15/05/15 and remand the matter back to the respondent no. 2. Petitioner shall appear before the respondent no. 2 along with a certified copy of this order and relevant documents on 20<sup>th</sup> July, 2015 and on the same being done, respondent no. 2 shall consider the representation of the petitioner and decide it in accordance to law by a speaking order within a period of six weeks thereof. Till the respondent no. 2 does not pass the order as directed hereinabove, all coercive steps taken vide Annexures P-7, P-8 and P-9 shall be kept in abeyance. With the aforesaid, the petition stands disposed of.

**(RAJENDRA MENON)**  
**JUDGE**

**(SUSHIL KUMAR GUPTA)**  
**JUDGE**