

Madras High Court

V. Sandal Muthuraj vs The District Environmental ... on 20 March, 2007

Author: F I Kalifulla

Bench: F I Kalifulla, R Banumathi

V. Sandal Muthuraj vs The District Environmental Protection Engineer, Tamil Nadu Pollution Control Board, The Chairman, Tamil Nadu Pollution Control Board, Nuclear Power Corporation Of India Ltd., Koodankulam Atomic Power Project And The District Collector on 20/3/2007

ORDER

F.M. Ibrahim Kalifulla, J.

1. Mr.Raman Laal, learned Counsel takes notice for respondents 1 and 2. Mr.R.Janakiramalu, learned Special Government Pleader takes notice for the fourth respondent.

2. The petitioner is a Pro Bono Publico. The petitioner has come forward with a prayer for the issuance of a writ of mandamus to forbear the first respondent from conducting the public hearing in respect of the location of four High Tension Soft Water plants to be installed by the 3rd respondent in any other place other than Koodankulam village, Radhapuram Taluk, Tirunelveli District which is scheduled to be held on 31.3.2007.

3. Earlier, the 1st respondent had issued a notification as per the Environment (Protection) Rules on 22.12.2006 in Dinathanthi and Dinakaran Newspapers in which the public hearing was scheduled to be held on 31.1.2007 at 10.30 a.m. at Koodankulam Panchayat Meeting Hall. The very same petitioner preferred a writ petition in W.P.(MD) No. 719/2007 with a prayer that the 1st respondent should be prevented from holding public hearing in any other place other than Koodankulam village, Radhapuram Taluk, Tirunelveli District, which was proposed to be held on 31.1.2007. Since the petitioner objected to the holding of the public hearing on that date at the very same village, namely Koodankulam Village, the 1st respondent was forced to postpone the public hearing indefinitely on that occasion. Recording the stand of the 1st respondent, that writ petition was closed stating that if any public hearing is to be held, it must be accessible to the petitioner and other persons who are interested in the matter.

4. The learned Standing counsel representing the 1st respondent stated before us that earlier the petitioner objected to the holding of the public hearing at Koodankulam village itself on the pretext that the venue was not a registered place.

5. When we consider the present prayer of the petitioner in the above said background, we are of the view that the petitioner does not seem to have real public interest. But, he has got some other motive to somehow or other prevent the respondents from holding the public hearing. Therefore, we do not find any bona fide in the stand of the petitioner as claimed in this writ petition. As per the present notification, the 1st respondent has fixed the meeting to be held on 31.3.2007 at 11.00 a.m. at District Development Hall, District Collector's Campus, Tirunelveli District.

6. We find from the Environment Impact Assessment Notification that the composition of the public hearing Panel consist of very many persons including three Senior Citizens of the area to be nominated by the District Collector, three representatives of the local bodies such as Municipalities or Panchayats, representatives of the Department of State Government dealing with environment and other high officials from the Office of the District Collector as well as the State Pollution Control Board. The purport of holding of the public hearing is to enable all persons including bona fide residents, environmental groups and others located at the project site and such persons who are likely to be affected to participate and make their say to the State Pollution Control Board.

7. In the light of the above prescriptions in the notifications and the constitution of the public hearing panel and also taking note of the attitude of the petitioner in having aborted the holding of the earlier meeting at the very village itself, we are convinced that the present decision of the 1st respondent in having fixed the venue at the premises of the District Collector, Tirunelveli District would be more conducive and it will enable the panel members to conveniently hear the grievances of the public as well as any representatives of the public living in and around Koodankulam village where the project is likely to be located. It will also enable the panel to peacefully hear the objections and consider such objections in the proper perspective and thereby the purport of holding the public hearing will be fully satisfied.

8. Having regard to our conclusion that the attempt of the petitioner is not bona fide, we do not find any scope to grant the relief as claimed in the writ petition. As far as the decision relied upon by the learned Counsel for the petitioner reported in AIR 2001 Gujarat 71 (Centre For Social Justice v. Union of India and Ors.), the Division Bench has only stated that it will not be unreasonable to expect the Pollution Control Board and its authorities concerned to hold the public hearings in places near the project site or at the affected village. In fact, in that case, the Division Bench has noted that in some cases, the distance between the site and the venue of public hearing range between 13 to 150 kilometers. Moreover, the Division Bench has not ruled that in every case, the public hearing should be held only at the village where the site is located. The said decision is not the authority for such a proposition. Therefore, the said decision cannot be applied as a ruling to hold that in every case where public hearing is to be held, it should always be held in the village where the project is to be located.

9. Having regard to our reasoning mentioned above and the attitude of the petitioner, we are of the firm view that the present venue as fixed by the 1st respondent to hold the public hearing will be for the benefit of everyone including the villagers of Koodankulam village who can be validly represented before the panel of public hearing either by themselves or by their representatives effectively, in a better conducive atmosphere.

10. Therefore, we do not find any scope to entertain this writ petition and having regard to our conclusion that the petitioner's attempt is not bona fide, we feel it appropriate to award exemplary costs while dismissing this writ petition.

11. The writ petition is dismissed with a cost of Rs. 5,000/- to be payable by the petitioner to the District Legal Services Authority. Such costs of Rs. 5,000/- should be paid within a period of one month from the date of receipt of a copy of this order. If the petitioner fails to pay the cost, the District Legal Services Authority will be at liberty to recover the same by executing the decree to be drafted pursuant to this order. Consequently, connected M.P. is also dismissed.