

**BEFORE THE NATIONAL GREEN TRIBUNAL,
SOUTHERN ZONE BENCH, CHENNAI.**

APPLICATION NO. 217 OF 2015 (SZ)

IN THE MATTER OF:

S. Vadivel
Puthukudi village
Udayarpalayam taluk
Ariyalur District

.... APPLICANT

AND

1. The Secretary to Government,
Municipal Administration and Water Supply Department,
Secretariat, Fort St.George,
Chennai-600 009
2. The District Collector,
Ariyalur District, Ariyalur
3. The Revenue Divisional Officer,
Udayarpalayam Taluk,
Ariyalur District
4. The Commissioner,
Jayankondam Municipality,
Ariyalur District
5. The Block Development Officer,
Andimadam Panchayat Union,
Udayarpalayam Taluk,
Ariyalur District
6. The President,
Pudhukudi Village Panchayat,
Udayarpalayam Taluk,
Ariyalur District
7. The Chairperson
Tamil Nadu Pollution Control Board
76, Anna salai, Guindy
Chennai 600032

.... RESPONDENTS

Counsel appearing for the Applicant: M/s. K.C.Karl marx, M. Kavikannan, P. Asai Thambi

Counsel appearing for the Respondents: M/s. Abdul Saleem, Mr. S.Saravan, Ms. Vidhyalakshmi Vipin for Respondent No.1, Mr.M.K.Subramanian, P.Velamani for Respondents No.2, 3 and 5; Mr. P. Srinivas for Respondent No.4; Mrs. H.Yasmeen Ali for Respondent No.7

ORDER

PRESENT:

1. Hon'ble Justice Dr.P. Jyothimani

Judicial Member

2. Hon'ble Shri P.S.Rao

Expert Member

Delivered by Hon'ble Shri. P. S. Rao (Expert Member), Dated 4th May 2016

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| 1. Whether the judgment is allowed to be published on the Internet. | Yes / No |
| 2. Whether the judgment is to be published in the All India NGT Reporter. | Yes / No |

1. This is an application filed under Section 18(1) read with Sections 14, 15 and 16 of the National Green Tribunal (NGT) Act, 2010 with a prayer to restrain the respondents from using the Kallukuttai lake in Survey No. 519/1, 519/2 to an extent of 8.39 ha (21 acres) in Elaiyur East Revenue village, Andimadam Panchayat, Ariyalur District for dumping garbage and for manure farming. It is the case of the applicant that the Kallukuttai lake to an extent of 21 acres, is a water body being used for bathing, washing clothes and also for the cattle and a well located adjacent to the lake, is used for fetching drinking water by the residents of the villages for the past 3 decades. The lake also helps in storing the rain water which in turn helps to maintain the ground water level. This being so, the villagers came to know on 01.11.2014 that the said lake is proposed to be used as a garbage dumping yard and also for manure farming. No resolution to such effect has been passed by the Panchayat and when the people started agitation, the 3rd respondent Revenue Divisional Officer (RDO) has called for a meeting between the villagers and the officials of the 4th respondent Municipality, but the meeting ended without addressing the grievances expressed by the villagers. The villagers learned that the garbage collected from the 4th respondent Jayankondam Municipality is going to be

dumped in the aforesaid water body thus damaging the environment leading to unhygienic and unhealthy atmosphere affecting the health of the people. As the respondent authorities paid no heed to the grievances of the villagers, the 6th respondent Panchayat has passed a resolution on 03.11.2014 against 4th respondent proposing to use the Kallukuttai lake as a garbage dumping yard and a Writ Petition in W.P No.29326/2014 was filed in the Hon'ble High Court of Madras wherein, while disposing the case, in its order dated 11.11.2014, the Hon'ble High Court directed to consider the objections raised by the villagers and dispose their representation by giving a speaking order. Accordingly the 2nd respondent District Collector conducted an enquiry and has stated that the proposed site for dumping of garbage and manure farming would be used only after obtaining required permission from the State Pollution Control Board (SPCB) and after taking all the pollution control measures. However respondents have started dumping garbage without following any pollution control measures thus spoiling the water body. In the above circumstances, the applicant has prayed to restrain the respondents from undertaking any such activities.

2. In its reply, Commissioner, Jayakondam Municipality, 4th Respondent herein, has stated that the Municipality is not having any Solid Waste Management (SWM) facility and therefore at present the garbage is being dumped at a location called Kommedu villages and a few other places which are all waste lands located within the Municipal limits but the aforesaid location at Kommedu is not adequate to provide the basic infrastructure as per the Municipal Solid Wastes (Management and Handling) Rules, 2000 (MSW Rules, 2000). There was a huge public opposition for using the above said site as a Municipal Solid Waste (MSW) disposal site and thereafter the site in Survey No. 519/5 and 519/6 in Elaiyur East Revenue village in Udayarpalayam Taluk to an extent of 4.20 ha was sought to be

alienated in favour of the Municipality for establishing the SWM facility. Accordingly the District Collector, 2nd respondent herein, issued orders dated 27.02.2015 in favor of the 4th respondent Municipality and this order was passed after considering the objections raised by the applicant as per the directions of Hon'ble High Court of Madras in W.P No.29326/2014 dated 11.11.2014. Moreover, the 2nd respondent District Collector has also passed speaking order rejecting the representation of the villagers in his order dated 05.02.2015. The applicant has not filed any objections to the proceedings issued by the District Collector.

3. It is further stated by the 4th respondent Municipality that after alienation of land, an application was submitted to SPCB for granting authorization to establish SWM facility. Accordingly SPCB has granted authorization for establishing SWM facility *vide* its proceedings dated 25.11.2015. Consequently the work has been commenced. The 4th respondent further stated that the site in question is not located in a water body and infact it is a government *poromboke* land where quarrying was done earlier resulting in formation of low lying areas leading to accumulation of rain water at some places and the total extent of such area is 8.39 ha out of which 4.20 ha was alienated to the respondent Municipality. In the aforesaid speaking order of the District Collector dated 05.02.2015, it was clearly stated that the site is not located in a water body and is not being used as a source of drinking water. The land was classified as *poromboke* land and also a usage entry was made in the records as *vettukuzhi* which means that it is a quarrying site. Further, it is submitted that neither there is any feeder channel nor any outlet at the site and there are only depressions formed at some places due to quarrying operations over a period of time.

4. The 4th respondent further stated in its reply that the facility will be utilized for segregating solid waste to bio-degradable and non-biodegradable components and further processing will be taken up as per the prescribed procedure. Well before 2nd respondent District Collector alienated the land in favor of the Municipality, public hearing was conducted on 21.01.2015 and public were given opportunity to submit their objections and only after considering their objections, the matter was concluded and thereafter District Collector alienated the land. In support of his averments, the respondent Municipality has also produced copies of certain Revenue Records indicating that the disputed site falls in the *poromboke* land and it is not a water body.

5. The 7th respondent SPCB stated in its reply that the applicant herein, has already filed a W.P No 29326/2014 before Hon'ble High Court of Madras against the proposed MSW yard and manure farming at Elaiyur village and as per the directions of the Hon'ble High Court, the District Collector conducted enquiry with the village people including the applicant and passed the order dated 05.02.2015 based on the fact that the site is classified as a Government *poromboke* and *vettukuzhi* as per Government records and it is an abandoned gravel quarry site. Taking into account of all environmental issues and considering the pollution control measures, authorization was granted for establishing SMW facility as no other suitable Government land was available. After satisfying with the proposal of the 4th respondent Municipality that the site will be levelled and raised atleast 60 cm above the adjacent road level to prevent stagnation of rain water and also by taking adequate measures to monitor the ground water quality in the village and prevention of percolation of leachate into soil and other suitable measures, the site was inspected and found that there were no residential units in the vicinity and therefore, a No Objection Certificate (NOC) was also issued and subsequently

authorisation under MSW Rules, 2000 was granted on 25.11.2015 to set up and operate solid waste processing and disposal facility for a quantity of 12 MT per day duly imposing all the required conditions. However, on an inspection made by the District Environmental Engineer, Ariyalur on 16.03.2016, it is found that the site is yet to be levelled and height is yet to be raised and no garbage was dumped and the garbage is continued to be dumped at Kommedu. However Commissioner of Jayakondam Municipality informed that the site will be leveled and raised upto road level.

DISCUSSION AND CONCLUSION:

6. Here the issue raised by the applicant is with regard to allotment of land in Sy.No.519/1, 519/2 to an extent of 4.20 ha in Elaiyur East Revenue village which according to him, forms part of the water body Kallukuttai lake, for dumping garbage and manure farming, expressing concern that if such act is permitted it will not only damage the environment but also cause great hardship to the people living in Elaiyur village Panchayat and infact it may lead to several health hazards as well. But the records placed before us clearly dispute the contention raised by the applicant as the land in the said survey number is not a water body but a Government *poromboke* locally known as *vettukuzhi* and this fact is also confirmed by verifying Revenue Records. However the quarrying operations permitted in the past in the said survey numbers over a period of time, lead to formation of depressions in which rain water gets accumulated during rainy season which is used by the villagers for different purposes. It is not a source of drinking water for the villagers. Since it is not a water body, there is no inlet or outlet channels but only depressions are existing storing the rain water. However it appears that over a period of time people got accustomed to use the stagnated rain water for various purposes.

7. It is the statutory responsibility on the part of 4th respondent Jayakondam Municipality to scientifically dispose the solid waste generated in its Municipal limits and at present the garbage is dumped unscientifically partly at Kommedu and partly in different localities which are reported to be wastelands, which is not only causing damage to environment but has also invited protests from people residing nearby. Therefore the Municipality has got a responsibility to find an alternate suitable site to establish a scientifically designed and operated MSW disposal facility meeting all the parameters and accordingly the respondent District Collector has alienated 4.20 ha of land out of the total extent of 8.39 ha in the above said survey numbers after detailed enquiry and by giving a speaking order as per the orders of the Hon'ble High Court and it is the same applicant who approached the High Court, has again agitated the same issue before this Tribunal. The record placed before us also reveals that there are no other suitable lands available for the purpose and the aforesaid site meets the requirements.

8. It is the bounden duty on the part of local civic authorities to collect, transport, segregate and process the solid waste and accordingly the respondent Commissioner of Jayakondam Municipality has sought NOC from the respondent SPCB under MSW Rules, 2000 and having satisfied, the respondent SPCB has granted NOC on 28.04.2015 followed by authorization on 25.11.2015 under Rule 6(3) of MSW Rules, 2000 for setting and operating the waste processing and disposal facility by the Municipality at the aforesaid site for a quantity of 12 MT per day on the terms and conditions (including standards to comply) with a validity period of one year and with a warning that violation of any provisions of MSW Rules, 2000 will attract penal provisions under the Environment (Protection) Act, 1986. A perusal of the prescribed standards to be followed and conditions to be implemented as mentioned in the authorization letter, clearly reveals that the

respondent SPCB has taken into account of the aspect of the environmental norms which the Municipality has to follow for establishing and operating the solid waste disposal facility. It is pertinent to reproduce certain relevant and most important conditions imposed in the authorization letter which are as follows:

“Standards for composting and treated leachate:

1. *The waste processing or disposal facility shall include composting, or any other facility based on state-of-art technology duly approved by the Central Pollution Control Board*
2. *XXXXX*
3. *In order to prevent pollution problems from compost plant and other processing facilities, the following shall be complied with namely:*
 - a. *The incoming wastes at site shall be maintained prior to further processing. To the extent possible, the waste storage area should be covered. If, such storage is done in an open area, it shall be provided with impermeable base with facility for collection of leachate and surface water-run-off into lined drains leading to a leachate treatment and disposal facility.*
 - b. *Necessary precautions shall be taken to minimise nuisance of odour, flies, rodents, bird menace and fire hazard.*
 - c. *In case of breakdown or maintenance of plant, waste intake shall be stopped and arrangements be worked out for diversion of wastes to the landfill site.*
 - d. *Pre-process and post-process rejects shall be removed from the processing facility on regular basis and shall not be allowed to pile at the site. Recyclables shall be routed through appropriate vendors. The non-recyclables shall be sent for well designated landfill site(s)*
 - e. *XXXXX*
 - f. *Ambient Air Quality monitoring shall be regularly carried out particularly for checking odour nuisance at down wind direction on the boundary of processing plant*

Special Conditions:

1. *All the provisions of the MSW Rules, 2000 shall be compiled and proper documentation shall be made. The Municipal Solid Waste generated in Jayakondam Municipality, Jayakondam*

must be managed and handled in accordance with the compliance criteria and procedure laid down in Schedule-II of the MSW Rules, 2000.

2. *The MSW composting plant shall receive only the segregated municipal solid waste from Jayakondam Municipality, Jayakondam, and operate the plant. All the provisions of the MSW Rules, 2000 must be complied with.*
3. (i) *The segregation of wastes should be done at the source itself. The segregated metal, plastics, glass, paper etc., shall be recycled. Only the wet organics should be brought into site for composting. All recyclable wastes should be disposed off from the transit facility and should not be brought to the plant site. Transit facilities needs to be inspected and approved by SPCB.*
4. *The waste processing and disposal facility must satisfy the specifications and standards as specified in Schedule-III and IV of the MSW Rules, 2000.*
5. *Wastes brought to the facility shall not be burnt in open or in any incineration facility.*

XXXXX

9. *The facility shall operate the composting unit without any odour and shall not cause any nuisance to the neighbours.*

XXXXX

13. *Garbage in the windrows during heavy rains shall be covered with proper material to avoid excess wetting, which will hamper the composting process.*

XXXXX

18. *Health check up of workers at waste processing site to be made periodically. Safety gloves, safety glass and clothing to protect the workers at the facility and landfill site must be provided.*

XXXXX

20. *Leachate collection system shall be provided at the composting facility. Leachate generated must be collected in impervious lagoon, shall be sprinkled on windrows, and shall not be disposed inside/outside the facility.*

XXXXX

24. No leachate shall gain access to the nearby water bodies leading the eutrophication.

25. Ambient Air Quality at the waste processing site and at the vicinity shall be monitored to meet the following standards:

Sl. No.	Parameter	Acceptable levels
1	SO ₂	120 µg/m ³ (24 hours)
2	SPM	500 µg/m ³ (24 hours)
3	Methane	Not to exceed 25% of the lower explosive limit (equivalent to 650 mg/m ³)
4	Ammonia daily average	0.4 mg/m ³ (400 µg/m)
5	CO	1 hour average: 2 mg/m ³ 8 hour average: 1mg/m ³

XXXXXX

35. Baseline data of ground water quality within a radius of 0.5 km from the facility to be collected before commissioning the facility and kept as record for future references. The ROA must be sent for SPCB.

36. Regular well water sampling to a radius of 100 meters around the facility must be done atleast once in three months to monitor the quality of ground water. The ROA must be sent to SPCB regularly.

37. Green belt with adequate width must be developed in the periphery of the facility to provide a buffer zone all around.

XXXXXX

40. It shall be ensured that the garbage is received in closed vehicles so as to avoid spills during transit.

XXXXXX

43. Operation of plant shall not give rise to any complaints. Waste from neighbouring local bodies shall also be accepted and composted as a social obligation.

XXXXXX

45. The facility shall plant trees covering a minimum of 25% of the project area and once this is completed, the facility shall plant 500 trees every year inside or outside the premises.

XXXXXX

47. The Municipality shall practice the source segregation of waste in all the wards.

XXXXX

50. No leachate shall reach the nearby residential area at any circumstances”

9. Here, one more aspect which cannot be lost sight of is that, before permitting to establish such facility, certain basic issues such as location of residential complexes in the vicinity and objections raised by certain sections of people were addressed and infact as stated above, as per the orders of the Hon'ble High Court of Madras, the issue was settled by issuing a speaking order by the District Collector. It is being observed that the people are objecting to establishment of solid waste disposal facility in their village limits and there are lot of instances of conflicts arising between urban local bodies and adjacent villages. It is not disputed that villagers have got every right to raise objections if such facility is established in their village limits contrary to the Rules and Regulations and if such disposal facility is causing environmental and health hazards. But in this case, after satisfying the location, District Collector has alienated the land in favour of the Municipality and the statutory authority i.e., SPCB has granted NOC as well as authorisation to establish the disposal facility. Since the site falls in the government *poromboke* land which is undulating and having depressions due to quarrying done over a period of time, it needs levelling and raising the height to ensure that there is no chance of rain water getting stagnated and this fact has also been agreed by the respondent Municipality stating that they are taking action to raise the height to atleast 60 cm above the adjacent road level. The conditions prescribed in the authorisation letter of SPCB will take care of the apprehensions of the applicant and he is always free to raise the issues before the appropriate authority/forum if such conditions are not fulfilled by the respondent Municipality but he has got no

case to stop the project and this Tribunal cannot deny the establishment of a scientifically designed disposal facility at the said site in the larger public interest. The photographs filed before us clearly reveal how unscientifically the waste is being dumped at present in the location at Kommedu which infact is a cause of severe damage to environment and public health. Such unregulated and unscientific disposal of solid waste has to be stopped and the respondent Municipality shall strictly follow the conditions prescribed by the SPCB under MSW Rules, 2000 which in turn have been replaced with more comprehensive Solid Waste Management Rules, 2016 notified by the Central Government on 08-04-2016 under the Environment (Protection) Act, 1986 to serve public interest at large, to protect public health and to preserve and maintain clean environment.

10. The obstructive attitude of certain sections of people objecting to establishment of such environment friendly scientific disposal of solid waste facilities which of late, has become very common, shall not be allowed to stall the projects unless a substantial question relating to environment and instance of gross violation of conditions/norms is raised. Infact such projects taken up purely in public interest shall not be allowed to be stopped. Once such facility becomes fully operational duly following the conditions and the waste is scientifically processed and disposed in accordance with the prescribed procedure, there cannot be any chance of causing inconvenience to villagers and damage to the environment. In this case still the villagers are left with 4.19 ha of government *poromboke* land out of the total extent of 8.39 ha. Therefore we do not find any substance in the averments made by the applicant. However we make it clear that the respondent Municipality shall take care of the issue of leveling and raising the height of the site so as to not to allow rain water to enter the unit and get stagnated and complete the construction of compound wall and establish green belt before the waste is

transported to the site and processed. Till the Municipality fulfills the above conditions, the SPCB shall not extend the period of authorization.

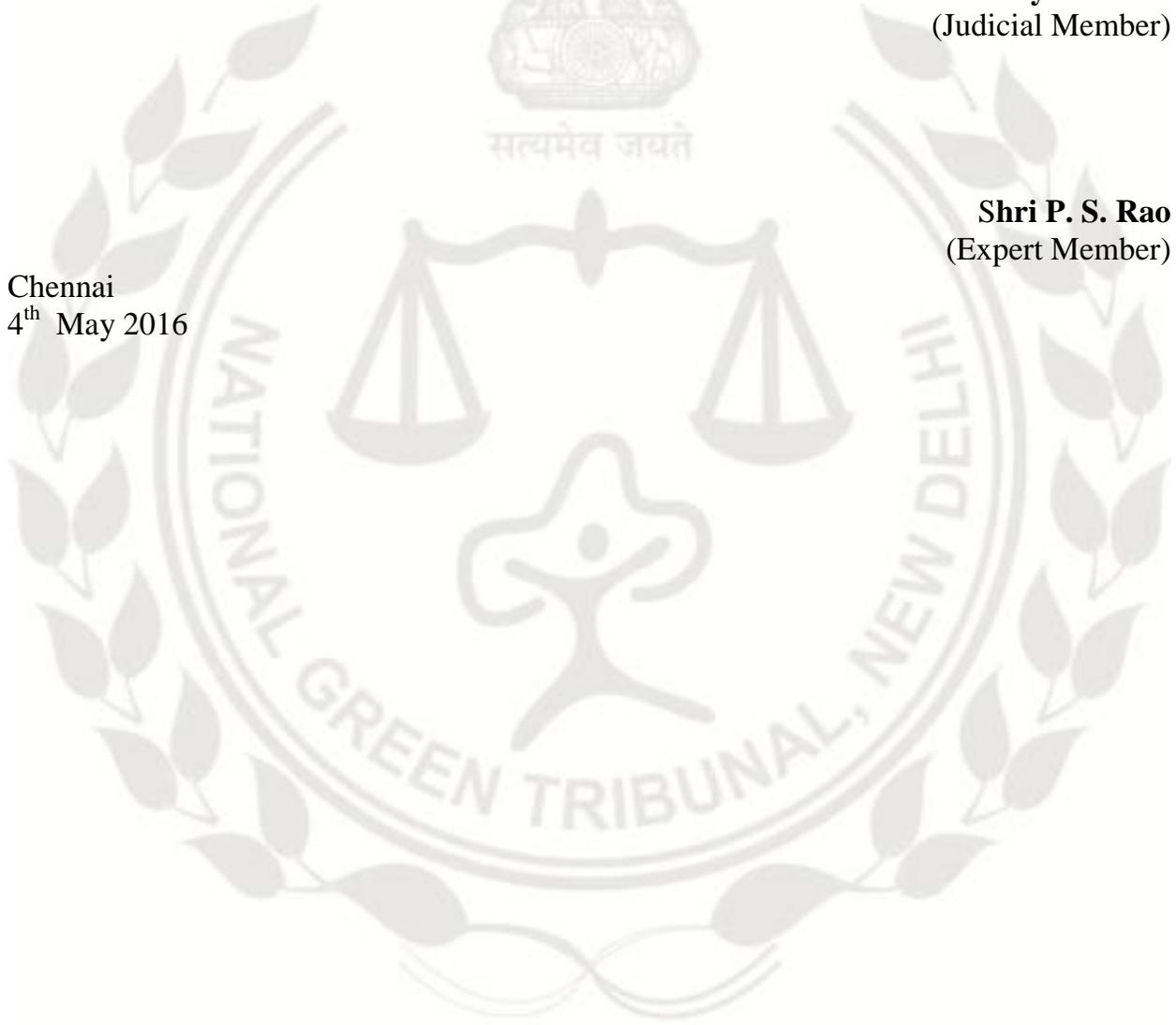
11. With the above directions, the application stands disposed of. Order dated 01.03.2016 granting *status quo* is vacated. There shall be no order as to cost.



Justice Dr.P. Jyothimani
(Judicial Member)

Shri P. S. Rao
(Expert Member)

Chennai
4th May 2016



NGT