

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

Application No. 73 of 2014 (SZ)

IN THE MATTER OF:

S. Muthu
Chinnaillayam
Pothiyapalayam Post
Kadaiyur, Kangayam Taluk
Tirupur District

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Applicant

AND

1. The District Collector
Tirupur District
Tirupur
2. The Member Secretary
The Tamil Nadu Pollution Control Board
76, Anna Salai
Guindy, Chennai – 600 032
3. The District Environmental Engineer
Tamil Nadu Pollution Control Board
Kumaran Complex, Kumaran Road
Tirupur – 641 601
4. The Chief Water Analyst (Dept. Of Public Health and Preventive Medicine)
219, Raced Course Road
Coimbatore – 641 018
5. K. Ponnusamy, S/o. Kumarasamy Gounder
Kadoiyur Village
Kangayam Taluk
Tirupur District

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Respondents

Counsel appearing for the Applicant:

M/s. G. Thilakavathy
P. Balamurugan

Counsel appearing for the Respondents:

Mr. M.K. Subramanian for R-1
Mrs. H. Yaseem Ali for R-2 and R-3
M/s. Abdul Saleem, S. Saravanan and
Vidyalakshmi Vipin for R-4
Mr. S. Patrick for R-5

ORDER

PRESENT:

HON'BLE SHRI JUSTICE M. CHOCKALINGAM, JUDICIAL MEMBER

HON'BLE SHRI P.S. RAO, EXPERT MEMBER

Dated: 14th October, 2015

Whether the Judgement is allowed to be published on the Internet – Yes/No
Whether the Judgement is to be published in the All India NGT Reporter –
Yes/No

The counsel for the parties are present. Heard the counsel for the respective sides. Aggrieved over the inaction of the respondents 2 and 3 who are the officials of the Tamil Nadu State Pollution Control Board (Board), against the 5th respondent, who has been carrying on its coir fibre industry causing pollution of ground water by soaking coconut shell with the fibre in the water, the applicant has filed this application. On admission, notice was ordered and on appearance, all the respondents have put forth their respective replies. The defence put forth by the 5th

respondent against whom the allegations were made, has flatly denied all the averments as found in the application.

As the application was pending for quite some time, the matter is posted this day for placing the submissions since it was ripe for hearing on completion of pleadings. As it would be seen from the averments made in the pleadings and also from the submissions made by the respective sides, the following factual position would emerge:

The 5th respondent has been carrying on its coir fibre industry in the property mentioned in the application as put forth by the applicant. The instant application was filed by the applicant on 24.03.2014 before the Tribunal seeking a direction to the respondents 1 to 3 to take necessary action against the 5th respondent unit and also to stop the same for causing pollution alleging that despite the complaints made to the officials of the Board, no action was taken. According to the Board, initially an inspection of the unit was made on 03.06.2014 and since deficiencies were found a show cause notice dated 09.06.2014, was served on 5th respondent who has given a reply dated 06.08.2014 to the show cause notice and subsequently, in the instant application, reply was filed by the Board on 03.05.2015 stating that 5th respondent has not obtained consent from the Board. At this juncture, it was brought to the notice of the Tribunal by the 5th respondent that application for consent was made on 02.04.2015 and the same was pending before the Board. When it was brought to the notice of the Tribunal that the unit has complied with all the directions of the Board and made improvement works and made an application for consent, directions

were issued to the Board on the request of the 5th respondent on 11.09.2015, to consider the application for consent and pass suitable orders in accordance with law.

According to the counsel for the Board, application for consent was resubmitted by the 5th respondent on 19.09.2015 and the concerned District Environmental Engineer (DEE) made inspection of the unit on 23.09.2015 and consent was issued by the Board in favour of the 5th respondent on 30.09.2015. Thus, it would be quite clear that as on today, Consent to Operate was granted by the Board in favour of the 5th respondent.

The learned counsel for the applicant would submit that during the pendency of the application before this Tribunal, the 5th respondent has applied for consent and only on the direction given by the Tribunal, the application was taken up for consideration by the Board and consent was given following the inspection carried on 23.09.2015. Pointing to the date of grant of consent namely 30.09.2015, the counsel for the applicant would argue that when the application was resubmitted by the 5th respondent on 19.09.2015 the alleged inspection was done on 23.09.2015 and consent was issued shortly thereafter on 30.09.2015 in quick succession and all this would go to show that inspection could not be taken up in a fair manner and even now, a copy of the inspection report has not been filed either before the Tribunal or served upon the applicant. In all fairness, the Board should have furnished copies of inspection report but not done so and hence suitable directions have got to be issued.

In answer to the above, the counsel for the Board would submit that after the original inspection was made on 03.06.2014, a show cause notice was served on the 5th respondent who has given the reply to the show cause notice. While the matter stood thus during that time, the application was pending before the Tribunal. Hence the application for consent was not considered. Pursuant to the directions issued by the Tribunal on 11.09.2015, the application was considered followed by inspection made on 23.09.2015 and the consent was given on 30.09.2015 along with the general and specific conditions to be strictly complied with by the 5th respondent. Hence it would not be correct to state that the inspection was not properly done and the consent was not given in a fair manner.

The learned counsel appearing for the 5th respondent industry would submit that the application filed before this Tribunal by the applicant deserves an order of dismissal firstly on the ground of limitation and that even as per the averments made, the first cause of action has arisen as early as in 2011. Thus, the application should have been filed within 6 months there from. But the application was filed in March 2014. Thus it is beyond the prescribed period of limitation and hence the application has got to be dismissed. Secondly, the applicant is the brother's son of the 5th respondent and between them, a number of litigations are pending before the Courts of Civil and Criminal law and the application itself is filed with personal vendetta. Thirdly, the applicant is operating a Rice Mill nearby without providing any Effluent Treatment Plant and without obtaining any consent from the authorities and there is high level of water pollution being caused because of the activities of the applicant. But the Board has not taken any action in that regard. While the matter stood so, the

applicant has brought forth this application before this Tribunal as if there was a pollution caused by the 5th respondent unit.

After hearing the counsel for both parties, the Tribunal is of the considered view that without going into the merits or otherwise of the rival contentions put forth as recorded above, the application has got to be disposed of on the simple ground that the application filed by the 5th respondent before the Tamil Nadu State Pollution Control Board seeking consent was taken up for consideration followed by inspection made on 23.09.2015 and consent was granted on 30.09.2015. The validity whether all the procedures required were followed by the Board before issuing consent can be canvassed before that forum where the consent has got to be challenged and it cannot be done either before the Tribunal as per the provisions of the Act or in these proceedings. Hence necessary liberty has to be granted to the applicant to approach the appropriate forum for necessary reliefs if aggrieved over the grant of consent and if so advised. In so far as the non placing of the copy of the inspection report is concerned, there is no impediment to the applicant to canvas the same before the authority before whom the provision lies for challenging the consent.

With the above observations, the application is disposed of. No cost.

Chennai
14th October 2015

Justice M. Chockalingam
Judicial Member

P.S. Rao
Expert Member