

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

APPLICATION No. 174 of 2013 (SZ)

In the matter of:

A.T. Yuvaraj
S/o A.S. Thangamuthu
2, Attayampalayam, Gangapuram Post
Chittode Via, Erode District – 638 102

.. Applicant

VERSUS

- 1) M/s. Rani Chemicals
Rep. by its Sole Proprietor
K. Muthusamy
D. No. 5/753, Mettupalaniandavar Koil Street
Kalingarayanpalayam
Erode District.
- 2) M/s. Hero Rag Bulb Industries
Rep. by its Sole Proprietor
M. Yuvarani
D.N. 5/753, Mettupalaniandavar Koil Street
Kalingarayanpalayam, Erode District.
- 3) The District Environment Engineer
Tamil Nadu Pollution Control Board
Erode – 638 001.
- 4) The Chairman
Tamil Nadu Pollution Control Board
76, Mount Salai
Guindy, Chennai – 600 032.
- 5) The Joint Chief Controller of Explosives
South Circle,
No. 140, Rukmini Lakshmi pathi Road
Egmore, Chennai – 600 008.

- 6) The District Collector
Erode District
Erode Collectorate, Erode – 638 001.
- 7) The Executive Engineer
Tamil Nadu Generation and Distribution
Corporation (TANGEDCO), Erode – 638 001.
- 8) The Directorate of Industrial Safety and Health
New No. 69, Old No. 35, Indian Officers
Association Building
Thiru Vi Ka High Road, Royapettah High Road
Royapettah, Chennai – 600 014. .. Respondents

Counsel for the applicant:

M/s. Naveen Kumar Murthi and J. Pradeep, Advocates

Counsel for the respondents:

Shri M. Palani, Advocate for Respondent Nos. 1 and 2, Smt. H. Yasmeen Ali, Advocate for Respondent No. 3 and 4, M/s. Abdul Saleem and S. Saravanan, Advocates for Respondent Nos. 5 and 8, M/s. M.K. Subramanian and M.R. Gokul Krishnan, Advocates for Respondent No. 6 and Shri R. Gnanasekaran, Advocate for Respondent No. 7

ORDER/JUDGMENT

PRESENT:

Hon'ble Mr. Justice M. Chockalingam
Judicial Member

Hon'ble Prof. Dr. R. Nagendran
Expert Member

Date : September 4th, 2013

Justice M. Chockalingam , Judicial Member

1) The Tribunal heard the learned counsel for the applicant and also for the respondents. The case of the applicant, in short, is that the 1st respondent's

unit was involving in the manufacturing of bleaching liquid which has been a cause for rampant air and water pollution in and around the village and the unit has been operating without complying with the mandates prescribed under Air (Prevention and Control of Pollution) Act, 1981 and Water (Prevention and Control of Pollution) Act, 1974 (hereinafter called the Air and Water Acts). Though the 3rd respondent granted consent order in the month of September 2012, the 1st respondent in clear violation of the conditions prescribed that no trade effluent was generated at any stage of the manufacturing process was letting out the effluents that was generated during the process of manufacturing into the neighbouring lands which has resulted in water pollution and made it unsuitable for drinking purpose. The 2nd respondent who is carrying on the manufacturing of plastic and rag pulp also letting out the effluents which are even in semi-solid state into the neighbouring well and water bodies without any effluent treatment which has virtually affected the primary source of water for the villages and also caused serious water pollution. The 1st respondent was involving in the manufacture of bleaching liquid illegally and in contravention of the rules and regulations and has stored a large number of chlorine cylinders within the premises without any safety measures at all have been taken and without any approval under Gas Cylinders Rules, 2004. An information received by the applicant under Right to Information Act 2005 that at a time only 5 chlorine cylinders could be stored without licence. But the 1st respondent without approval or licence from the 5th respondent, is illegally storing 60 chlorine cylinders in scant disregard of the Gas Cylinders Rules, 2004.

2) Pursuant to the complaint by the public, an inspection was made by the flying squad of the District Environmental Engineer on 27.2.2013 when it was found that a large number of chlorine cylinders within the premises have been stored without any safety measures. The counsel for the applicant would

further add that by the operation of the unit of the 1st respondent in a cavalier and negligent manner, chlorine gas was released in air and atmosphere and the neighbouring villages are seriously affected due to eye irritation and respiratory problems and thus it has created a health hazard.

3) Under these circumstances, in reply to a representation made by the applicant to the 4th respondent on 26.6.2013, the 8th respondent by a communication dated 8.7.2013 has made it clear that any chemical factory where chlorine is stored or used, then it has to be classified as hazardous industry. In view of the blatant violation of the provisions of Air Act and Water Act, there arose a necessity for filing this application for the relief that the 1st and 2nd respondents should be barred from operating the industrial units until they obtain appropriate licences and approvals from the competent authorities under Air and Water Act with a direction to the 7th respondent to seal the electrical service connection and also with other directions to the 1st and 2nd respondents not to store any chlorine cylinders and not to release any untreated effluents from the units.

4) In reply to the above, it is contended by the learned counsel appearing for the 1st and 2nd respondents that the 1st respondent industry which is a proprietary concern was established in the year 1995 while the 2nd respondent's industry was established in 2010 and both the industries were operating after getting the consent from the 3rd respondent. In so far as the manufacturing of bleaching liquid, the 1st respondent has taken all precautionary and safety measures so as not to let out any trade effluent from the company and cause pollution and hence the allegations made by the applicant are baseless and unfounded. It is submitted that the 3rd respondent has issued a consent order to the 2nd respondent and the statement of the applicant that the 2nd respondent's unit was functioning without any consent order was factually incorrect and the

consent order issued by the 3rd respondent is valid upto 30.6.2013 and the renewal application has been filed and pending for consideration with the authorities.

5) It is, however, submitted by the learned counsel appearing for the 1st and 2nd respondents that both the industries were not functioning from 8.8.2013 and remain closed. Under such circumstances, the grievance of the applicant alleging that both the industries are functioning without consent or proper permission and causing air and water pollution has got to be rejected.

6) While the matter was pending, a direction was issued to the authorities of the Tamil Nadu Pollution Control Board to ascertain the actual factual position to make an inspection and file a report as to whether the units are functioning or not. The respondent Nos. 3 and 4 has filed a status report and reply. A perusal of the same would make it clear that pursuant to the orders of the Tribunal dated 25.7.2013, the District Collector, Erode made orders on 21.8.2013 to Revenue Divisional Officer, Erode to lock and seal the two units immediately and the units were sealed by the Revenue Divisional Officer in the presence of the Pollution Control Board officials on 24.8.2013. At this juncture, the learned counsel appearing for the 1st and 2nd respondents would submit that though at the directions of the Pollution Control Board in respect of the preventive measures were carried out, the authorities should not have closed the units of the 1st and 2nd respondents. It is pertinent to point out that pursuant to the orders of this Tribunal, the units of the 1st and 2nd respondents were locked and sealed on 24.8.2013. But even from the statement of the applicant, the units were not functioning from 8.8.2013 onwards. If aggrieved by the said closure, the remedies are always open to the 1st and 2nd respondents, if available and advised therefor.

7) The District Environmental Engineer, Tamil Nadu Pollution Control Board, Erode has filed a reply submitting that the Revenue Divisional Officer, Erode has sealed the units on 24.8.2013 and again the units were inspected on 30.08.2013 and found to be in sealed condition and not in operation. Hence it is evident that both the units are in locked and sealed condition and not in operation. Hence the grievance put forth by the applicant in respect of the alleged pollution of air and water, even if true, has come to an end and hence the reply of the Tamil Nadu Pollution Control Board as made above, is recorded and the application filed by the applicant can be disposed of. It is made clear that without obtaining consent from the Tamil Nadu Pollution Control Board, the 1st and 2nd respondents should not operate the units. Accordingly the Application is disposed of and the contempt application filed by the applicant is also disposed of.

No costs.

Justice M. Chockalingam
(Judicial Member)

Prof. Dr. R. Nagendran
(Expert Member)

Chennai
4th September 2013