

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

Application No. 121 of 2016 (SZ)

IN THE MATTER OF:

Venugopalapuram & Nateson Nagar
Plot Owner's Welfare Sangam,
Rep. by its President
Thiru. N. Dhakshinamoorthy,
No. 34, Venugopalapuram Main Road,
Venugopalapuram,
Iyyappanthangal,
Chennai 600 056

..... Applicant

AND

1. Government of Tamil Nadu,
Rep. by its Principal Secretary,
Department of Ministry of Environment & Forest,
Secretariat,
Chennai – 600 009
2. The District Collector,
Kanchipuram
3. The District Environmental Engineer,
Tamil Nadu Pollution Control Board,
539/3, Bazar Street,
Balaji Complex, Padappai,
Sriperumbudur – 601 301
4. The Commissioner,
Kundrathur Panchayat Union,
Padappai,
Kanchipuram District – 601 301
5. B.Rajesh,
Plot No.4, Venugopalapuram Main Road,
Venugopalapuram,
Iyyappanthangal,
Chennai – 600 056

..... Respondent(s)

Counsel appearing for the Applicant:

M/s. R.Arumugam and J.Kalvi

Counsel appearing for the Respondents:

**M/s. M.K.Subramanian and
P.Velmani for R1 and R2
Mrs.H.Yasmeen Ali for R3
Mr. Abdul Saleem for R4
Mrs. Anusya for R5**

ORDER

PRESENT:

HON'BLE SHRI JUSTICE M.S. NAMBIAR, JUDICIAL MEMBER

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

Dated 20th September, 2016

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

This application is filed under Section 14 of the National Green Tribunal (NGT) Act, 2010 for a direction to respondents 1 to 4 to take action against the 5th respondent to prevent further contamination of ground water and to also direct them to take appropriate action against the 5th respondent as the industry is operating within the residential area without getting prior Consent or Environment Clearance (EC) from the 3rd respondent, Tamil Nadu State Pollution Control Board. (Board).

2. The case of the applicant is that the 5th respondent is running the business of water servicing of vehicles (both 4 wheelers and 2 wheelers) in plot No.4, Venugopalapuram Main Road and contaminating the ground water due to the discharge of waste water. It is contended that the ground water is so contaminated that it is unfit for human consumption. It is also contended that on the

applicant's request to the 5th respondent to stop contamination of the water of the area, was of no use and as the business is continuing without obtaining prior Consent or Environmental Clearance the business of the 5th respondent is to be stopped and further contamination is to be prevented.

3. When the application came up for admission on 26.05.2016, considering the contentions raised by the applicant with regard to the contamination of ground water, temporary injunction was granted against the 5th respondent from carrying on the business of water wash of vehicles in the Plot in question.

4. Respondents 1, 2 and 4 did not file any reply. The 3rd respondent filed a reply that the 5th respondent is a Unit of M/s.Sri Venu Water Service Station located in Plot No.4 and the Unit was carrying out 2 wheelers and 4 wheelers water wash service with 3 HP Car washer motor, 5 HP Air compressor machine and 1 HP water pump with single labourer. The washing waste water generated was disposed into the Unit's own land without any treatment previously.

5. Based on a complaint dated 23.07.2015, received from the applicant, the 3rd respondent inspected the Unit on 09.04.2016 and during inspection, it was noticed that the Unit was under operation without obtaining the Consent of the 3rd respondent Board and the waste water was discharged into the open land owned by the owner of the Unit. Hence, a show cause notice was issued under the Water (Prevention and Control of Pollution) Act 1974 and Air (Prevention and Control of Pollution) Act, 1981. The Unit submitted a reply on 30.05.2015 informing that the

unit is a small unit employing only one labourer and water let out from service station is minimum and assured to adhere to the Pollution Control Board Rules and Regulations. The 5th respondent thereafter submitted an application for Consent to Operate through on-line on 16.07.2016 and the Unit was inspected again on 01.08.2016. During inspection, it was observed that the Unit has stopped the washing activities and is not under operation. The Unit has provided a collection tank, settling tank and clear water storage tank for treatment of wash water . The land in which the service station is located was classified as Mixed Residential Zone as per the Chennai Metro Development Authority (CMDA) classification letter dated 29.06.2016. As per CMDA norms, vehicle service stations are permitted in Mixed Residential Zone. The 3rd respondent further submitted that the Unit has been granted Consent to Operate on 05.08.2016 under Water Act and Air Act for 2 Wheelers and 4 Wheelers, water washing at five numbers per day and to discharge the trade effluent at 0.15 KLD subject to the condition that the treated trade effluent shall be utilized for gardening after treatment. It is also stated that the Unit was again inspected on 12.09.2016 and during the inspection it was also noticed that the Unit was not under operation.

6. The 5th respondent filed the reply contending that he is running the water washing of vehicles to keep himself occupied and there was a dispute in constructing a compound wall with Mr. C. Chandrasekar, who is a member of the applicant Association and due to this enmity, the application has been filed. It is contented that the 5th respondent has not caused any contamination of water and the water from the Borewell located at the premises was lifted for analysis by the Chennai Metropolitan Water Supply and Sewerage Board (CMWSSB) on 20.06.2016

and the report shows that “The tested parameters of the water samples are within the permissible limit of drinking water standards and hence it is suitable for drinking purposes.” It is also contended that the water samples sent by the applicant could be from a different location due to the presence of Ammoniacal Nitrogen . The 5th respondent has also contended that he will not operate the same without obtaining the Consent from the Board.

7. Learned counsel appearing for the applicant and the respondents were heard.

8. The contentions raised by the applicant is that (1) the 5th respondent is running the business without obtaining EC and prior Consent from the Board and (2) by running the industry and discharging the waste water, the ground water has been contaminated. Though the 5th respondent was not having a valid prior Consent under the Air and Water Act when the application was filed, the 3rd respondent granted Consent under Water Act 1974 and Air Act 1981 to the 5th respondent on 05.08.2016. If the applicant is aggrieved by the Consent order granted by the Board, to respondent no.5, the applicant is at liberty to challenge the same in accordance with law. No Environmental Clearance is necessary to run the business of water washing of 2 Wheelers and 4 Wheelers. The 5th respondent is employing only one labourer. Therefore, on these grounds, the 5th respondent cannot now be prohibited from running the business.

9. The argument of the learned counsel appearing for the applicant is that the report of analysis of underground water collected on 28.11.2014 shows the presence of Ammoniacal Nitrogen as 5600, which is far in excess and therefore, the 5th respondent is to be restrained from running the business. It is not shown how the presence of Ammoniacal Nitrogen in the underground water could be related to the washing of vehicles (2 Wheelers and 4 Wheelers) Evidently, if the report is with respect to the ground water in the surrounding area of the Unit of the 5th respondent, the source of contamination could be somewhere else and not due to the running of the industry by the 5th respondent.

10. In such circumstances, we find no reason, whatsoever, to restrain the 5th respondent from running the business at this stage, when he has got valid Consent as stated earlier. If the applicant is aggrieved by the order of Consent granted, the applicant is at liberty to challenge the same. If the 5th respondent is violating any of the conditions of the order of Consent, the 3rd respondent is to take appropriate action against 5th respondent in accordance with law and the applicant is also entitled to point out the violation before the Board.

11. The application is dismissed with no order as to costs.

Justice M.S. Nambiar
Judicial Member

P.S. Rao
Expert Member