

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

APPLICATION No. 27 of 2014 (SZ)

IN THE MATTER OF:

R. Thillai Vinayagam
Bangaru Illam
M-9, Tamil Nagar,
Ramapuram,
Chennai-600 089.



...

Applicant

Versus

1. The State of Tamil Nadu
Rep by its Secretary,
Municipal Administration,
Chennai- 600 009.
2. Chennai Metropolitan Water Supply and Sewerage Board
Area-XI
No.124, Arcot Road,
Valasaravakkam, Chennai- 600 087
Represented by its Chairman and at
No.1 Pumping Station Road, Chindatripet,
Chennai - 600 002.
- 3) Tamil Nadu Housing Board
Represented by its Chairman
K.K.Nagar Division
Ashok Nagar, Chennai - 600 083.
- 4) Tamil Nadu Pollution Control Board,
Represented by its Member Secretary
76, Mount Salai,
Guindy, Chennai - 600 032
- 5) Corporation of Chennai,
Represented by its Commissioner
Ripon Building,
Chennai – 600003

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Respondents

Counsel appearing for the Applicant ... M/s. S. Raghunathan, P. J. Sri Ganesh and P.S. Deepika

Counsel appearing for the Respondents ... M/s Abdul Saleem and Vidyalakshmi for Respondent No.1; M/s G. Janakiraman and P. Karthikeyan for Respondent No.2; Sri. V. Anandhamoorthy for Respondent No.3; Smt. H. Yasmeen Ali for Respondent No.4; Mr.R.Suriyaprakash for Respondent No.5.

ORDER

PRESENT:

(1) Hon'ble Shri Justice M. Chockalingam
Judicial Member

(2) Hon'ble Shri P.S. Rao
Expert Member

Delivered by Hon'ble Justice M.Chockalingam (Judicial Member) dated, 24th September, 2015.

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. The application has been filed under sections 14 and 15 read with sections 18(1) and (2) and 19(j) of the NGT Act, 2010 to restrain the 1st and 2nd respondents from establishing a Sewage Pumping Station at the Park at Tamil Nagar, Ramapuram, Chennai-600 089 and to direct the proposed Sewage Pumping Station to be relocated to an alternate site.

2. The brief facts as could be seen from the application are as follows:
The applicant is the owner of a residential house at Tamil Nagar, Ramapuram, Chennai-600 089 having purchased the same from the 3rd respondent, Tamil Nadu Housing Board (TNHB). The said premises is situated at Tamil Nagar Colony which comprises of 62 independent houses that face a common vacant area which has deliberately been left vacant and earmarked by the 3rd respondent as a park

and which has been used as a playground by children and for other recreational activities since 1989. Upon a communication from the 3rd respondent in 1991, the Tamil Nagar Welfare Association (TNWA), a registered society of the residents of the Tamil Nagar colony has been maintaining it at their own cost. The applicants came to know that the 1st and 2nd respondents' proposal to construct a Sewage Pumping Station in the middle of the park which is sought to be established by them despite the objections of the residents. The applicant alleges that establishing and operating of the Sewage Pumping station at the park is likely to be environmentally hazardous and any malfunction during the course of the operation of the said Sewage Pumping station would have adverse environmental impact. Each house in the colony is dependent on the well which is situated at their backyard and the quality of the ground water may get badly affected. There is also provision for septic tanks for collection of waste. On representations made by the TNWA, the Corporation of Chennai as well as the 3rd respondent had confirmed in writing that the proposal to set up the Sewage Pumping Station had been dropped. But the 1st and 2nd respondents are planning to set up the Sewage Pumping station soon and the Corporation of Chennai has deviated from their earlier stand and communicated that since no other alternate land is available it has been decided to develop a part of the area as a park and to establish the Sewage Pumping Station. Hence, the applicant has approached this Tribunal to restrain the respondents from establishing the Sewage Pumping Station and to direct it to be located to an alternate site.

3. The respondents have filed their respective replies disputing the averments made by the applicant. A common reply was filed by the 1st and 2nd respondent wherein they put forth that the pumping station has to be set up for the proper maintenance of the sewerage system which would prevent environment pollution and also that the proposed Sewage Pumping Station is an environment

friendly and fool proof mechanism. The area is under the jurisdiction of the 2nd respondent, Chennai Metropolitan Water Supply and Sewerage Board (CMWSSB), who is entrusted with extending water supply and sewerage facilities within the Corporation of Chennai City. They state that only a part of the area of the park would be converted into the pumping station and the park would remain unaffected and neither the Government nor the TNWA have any opposition in this regard. Hence, they have pleaded to dismiss this application. According to the 3rd respondent, it had requested the 2nd respondent to shift the proposal of construction of the Sewage Pumping Station to another area. As per the norms of the Chennai Metropolitan Development Authority (CMDA), the said area is a non-saleable land meant for roads and playgrounds and hence the residents have a right to maintain it as a playground. The 4th respondent has put forth that the construction of the Sewage Pumping Station does not come under its purview as per the relevant Statutes. The 5th respondent has stated that it was the Ward Committee in Zonal Office-XI who has passed a resolution 12/2012 on 30.08.2012 to hand over the land belonging to the Corporation of Chennai to CMWSSB for the purpose of establishment of Sewage Pumping Station at the playground which was also resolved by the erstwhile Villivakkam Panchayat President through a resolution *vide* 617/2007.

4. By M.A.No.78 of 2014 (SZ) Tamil Nadu State Pollution Control Board (TNPCB) was added as the 4th respondent to the application for a proper adjudication of the issue raised in the application. By an order of this Tribunal dated 10.07.2015, Corporation of Chennai was added as the 5th respondent. The Tribunal directed the 1st and 3rd respondents to maintain *status quo* as on the date of passing the order on 07.02.2014.

DISCUSSION AND CONCLUSION:

5. On the pleadings, the following questions were formulated for consideration:

i) Whether the applicant is entitled for an order of direction to 1st and 2nd respondents from establishing a Sewage Pumping Station at the place earmarked for that purpose.

ii) Whether it is necessary to issue a direction to relocate the proposed Sewage Pumping Station to an alternative site.

iii) To what relief the applicant is entitled to.

6. Advancing the arguments on behalf of the applicant, the Learned Counsel Sri. S. Raghunathan would submit that the applicant is an owner of a residential house situated at M-8, Tamil Nagar, Ramapuram, Chennai which he purchased from the 3rd respondent, TNHB and the same was conveyed by a registered sale deed dated 14.11.2008. From the time of being put in possession in 1989 the applicant has been living in the said premises. There are 62 independent houses in Tamil Nagar Colony which were conveyed to the respondent owners by the 3rd respondent. A common vacant area was deliberately left and earmarked by the 3rd respondent as a park. From the very inception the members of the colony have been continuously using it not only as a park but also as a playground and also for other residential activities. The sale consideration of the residential houses has also included the proportionate cost of the park in the said common area. All the members of the colony formed TNWA, a body registered in 1990 under the Societies Registration Act, 1860. When the same was intimated to the 3rd respondent, by a letter dated 15.10.1990, a letter was addressed to the Assistant Engineer, KK Nagar Division by the 3rd respondent on 28.10.1991 to hand over

the maintenance of the colony including the park to the association. A letter has been addressed by the Chairman, TNHB, KK Nagar Division on 30.10.1991 to the association that the future maintenance of the colony including the park and play space has to be done by the association and hence the association is maintaining it at their cost. It is pertinent to point out that the said park is situated in the middle of the colony surrounded by a public road at the edge and all houses were built facing the said park. Each house has a well on their backyard and most of the water requirement of the members of the colony is sourced only from those wells. Thus, it can be stated that the residents are solely dependent on the well water and hence the quality of ground water should be given prime importance. Provisions have also been made for establishment of Septic tanks for collection of waste. In the month of December, 2012 members of the colony came to know that the 1st and 2nd respondents had a proposal to put up a Sewage Pumping Station by taking over a part of the said park. If located, the same would be in the middle of the said colony from across the street where the applicant lives. Certainly it would have an effect on the surrounding environment since it would emanate foul odour, contaminate ground water, cause various health hazards and also would cause noise pollution by installation of high power motors required to run the said plant. Opposing the erection of the said Sewage Pumping Station, the matter was taken up with the authorities concerned whereupon the name board notifying the establishment of the Sewage Pumping Station was removed. A letter was addressed to the Hon'ble Mayor, Corporation of Chennai on 13.12.2012 requesting for appropriate action to ensure the retention of the park area. A communication was also addressed to the Hon'ble Chief Minister's Cell. A reply received from the Hon'ble Mayor's Office called upon the association to submit certain documents which were duly submitted by the association in the month of April, 2013. In response to the complaint made to the Hon'ble Chief

Minister's Cell, Corporation Commissioner - Municipal Administration and Water Supply sent a communication indicating that the park and playground land were handed over to Ramapuram village and the same was vested with the Corporation of Chennai since it was taken over from 25.10.2011. It was also stated that the 2nd respondent, CMWSSB has proposed to construct a pumping station on the land. But, since the Corporation had a proposal to develop a park and playground the 2nd respondent had dropped the proposal of the Sewage Pumping Station. A reply was received from the Hon'ble Chief Minister's Cell to that effect. It is also pertinent to note that the 3rd respondent has informed the Area Engineer of the 2nd respondent that the non-saleable land meant for the road and playground were handed over to the local body namely Villivakkam Panchayat on the month of March,1992. It is also made clear therein that the said piece of land earmarked as playground was reserved for the benefit of the colony residents and the cost was also collected from them. The local body has got a duty to maintain the playground and shall not deviate from the purpose for which it was reserved. Hence, the 3rd respondent made a suggestion that the proposal to establish Sewage Pumping Station can be shifted to some other area. While the matter stood so, the authorities of the 1st and the 2nd respondents who visited the colony on 05.10.2013, asked the residents to give consent for setting up of the Sewage Pumping Station. It is pertinent to point out that all the colony members have not consented to the same. In December, 2013 after finding a public notice made by the 1st and the 2nd respondents informing that the Sewage Pumping Station was to be set up within the park area, a complaint was made to the Hon'ble Chief Minister's Cell. In response, the Corporation of Chennai has replied that there is no alternative land for the construction of Sewage Pumping Station and a decision has been taken to convert a part of the area as park during a meeting that has taken place during the financial year 2013-2014.

7. Assailing the proposal for establishment of Sewage Pumping Station in that land the learned counsel would submit it is very strange to note that a statutory authority such as the Corporation of Chennai who undertook earlier that the land would be used as a park has deviated from its stand. While the 2nd respondent dropped the proposal to set up a Sewage Pumping Station to deviate from their earlier stand and taking a new contradictory stand that was to propose to develop a part of the area as park and as per the proposal a Sewage Pumping Station has got to be erected since there is no alternative land. The proposal of the 1st and the 2nd respondents to construct a Sewage Pumping Station in a residential colony is in violation of all environmental legislation and the proposal is itself a result of the non application of mind. Since the piece of land had been earmarked for a park which was continuously used so for a decade should not be deviated for any other purpose. The erection of Sewage Pumping Station in the said site cannot be in general public interest. But, on the contrary it would destroy the present environment. Hence, the Sewage Pumping Station should be located at some other place. The establishment of Sewage Pumping Station would certainly cause environmental degradation and health hazards. The establishment of Sewage Pumping Station in that site would be in direct contravention of the Environment Impact Assessment (EIA) Notification, 2006 which requires to obtain prior Environmental Clearance (EC) before the commencement of the work. Various legislations have been enacted to ensure that every citizen enjoys a pollution free environment. The objective of the legislation is to protect, sustain and improve the environment. Duty is cast upon the State to maintain a hygienic environment and it is a right of the citizen to enjoy the same. Hence, the authorities must take adequate measures to protect, promote and improve both manmade and natural environment and should not do any act which would deteriorate or cause harm to the

environment. The consequent and adverse impact of the so called development on the environment should have been properly comprehended. The authorities should have ensured that the site chosen for setting up the Sewage Pumping Station did not have any adverse impact on ecology and environment. Needless to say, a Sewage Pumping Station located in the middle of a residential colony would have an adverse impact on the surrounding environment. The said park will become wholly unsuitable for the purpose it was designated on its setting up. The Sewage Pumping Station proposed to be established to treat the raw sewage and the Sewage Pumping Station itself would be a potential threat of polluting the atmosphere. The municipal authorities who are under a statutory obligation to ensure proper collection, treatment and utilization of the end product in relation to the raw sewage should set up the plant in a safe location. It is most relevant to note that the disposal process of Sewage Pumping Station would undoubtedly cause offensive odour and generate unhealthy gases. Since seepage would be inevitable the same would pollute the ambient air quality and virtually impossible for the residents to live in the said colony. The entire ground water would get contaminated. There is a likelihood of permanent contamination of the ground water in the 62 wells which are the main water source for the residents. It is pertinent to point out that the frequent power cut in Chennai would result in a reverse flow of the sewage and effluents which would damage the environment and public health. Under such circumstances it becomes necessary to restrain the 1st and the 2nd respondents from establishing the Sewage Pumping Station at the site earmarked for a park in Tamil Nagar, Ramapuram village, Chennai and also direct them to relocate the proposed Sewage Pumping Station at an alternate site.

8. Contrary to the above contentions, the learned counsel for the 2nd respondent, CMWSSB would submit that the applicant without stating how the life of a person would be affected because of the establishment of the Sewage Pumping

Station has referred to Art. 21 and Art. 48A of the Constitution of India. The decision of the Hon'ble Supreme Court in *Vellore Citizen Welfare Forum v. Union of India* 1996 (5) SCC 647, cannot be applied to a case where the 2nd respondent has got a proposal for establishment of a Sewage Pumping Station which is meant for removal of sewage and it is which that would be for the benefit of the residents including the applicant. The Tamil Nagar Colony, Ramapuram which came into existence on the allotment of land and houses to various individuals by the TNHB has got a welfare association. But, it has no drainage system while every house has got its own septic tank which gives arise to problems like overflow and seepage from the septic tanks apart from causing contamination of the ground water and of the soil. The Tamil Nagar colony is situated at Ramapuram village and the same was merged with the Corporation of Chennai City. The water supply and sewerage system for the entire city including Ramapuram village falls within the jurisdiction of CMWSSB which is entrusted with the task of extending water supply and sewerage facilities to the localities which were not covered in the past. It has to be pointed out that in the absence of a sewerage system the streets will have scattered sewage flow which will in turn pose health hazards. In order to avoid ill health and unhygienic conditions, the Government and CMWSSB with Chennai Mega City Development Fund have embarked on providing sewerage system. The residents in the areas where there is no sewerage system are pressurizing for the same because the establishment and existence of a Sewage Pumping Station can ensure hygienic conditions by avoiding stagnation of sewer in the streets and the same would reduce the mosquito menace and avoid flies. While so, it is quite surprising that the applicant has come up with an application opposing the establishment of a Sewage Pumping Station. It is true that the TNWA initially raised objection to the Sewage Pumping Station at the present location. But, after having discussion with the concerned authorities and

coming to know the process involved, the office bearers of the TNWA welcomed the setting up of the Sewage Pumping Station. Not only they agreed but also they gave a letter dated 18.10.2013 that in the larger interest of the drainage facilities assured by the Superintending Engineer of the 2nd respondent, Ramapuram area as a whole and the Tamil Nagar Colony in particular the construction of the Sewage Pumping Station might be carried out in an area of 20 m × 12 m. Contention put forth by the applicant that the Sewage Pumping Station is likely to pollute is not only wild but also has no basis. There are 218 Sewage Pumping Stations in the city of Chennai situated in residential areas. The applicant cannot cite even one instance where Sewage Pumping Station has polluted water or environment. The EIA Notification, 2006 has listed various industries under Category 'A' and Category 'B' which require EC but the notification has no concern with Municipal Sewage Treatment Plants which operates on recycling basis not involving incineration or landfills. Hence, it would be clear that the intention of the applicant is only to impede the progress of the work in setting up the Sewage Pumping Stations. In the absence of sewerage system, the possible way for the residents is to construct localized septic tanks for treating the sewerage and discharge it in open spaces in the nearby ground which will certainly lead to the pollution of the ground water as well as the surface water. Thus, the residents need fool proof sewerage project for the safe disposal of sewage. In the instant case, the Sewage Pumping Station is constructed with RCC wall and thus there would not be any chance of seepage or leakage through the reinforced concrete structures. While so, the apprehension of the applicant that the seepage or leakage would pollute the ground water in the wells of the residents is thoroughly baseless and unfounded. The Sewage Pumping Station will receive fresh sewerage from the residences in closed drains with full safety and the same will not be allowed to remain stale and stagnant in the well of the pumping station and it would be immediately pumped

through submersible Pumping Station erected in the well and sent to the treatment plant situated nearby. In such a process, there is no scope for pollution of air, water noise or environment. It is pertinent to point out that the fresh sewerage has slightly soapy and earthy odour and cloudy appearance depending upon the concentration and in the passage of time it becomes stale darkening in colour with a pronounced smell due to the microbial activity. But in case of present Sewage Pumping Station the domestic sewerage received through the closed pipes will be pumped out instantaneously as and when received to the treatment plant and there is no chance of foul smell. In so far as the contention of noise pollution because of installation of high power motors for running the plant, the vibration of the motor could not be heard by the nearest residents since for pumping the sewerage submerged motor is used. Equally, the contention that during power cut there would be reverse flow of sewage and effluent which would be harmful to the environment and public health is unfounded because, during power cut the generator would be used to have a continuous process. Even the generator has inbuilt acoustic safety as per CPCB standards. The total area of open space available is 924 sq.m. out of which the proposed Sewage Pumping Station has to be set up only in an area of $20\text{ m} \times 12\text{ m} = 240\text{ sq.m}$. The park and the open space would remain unaffected by the proposal. According to the Government Notification of MoEF&CC dated 14.09.2006 for setting up of the Sewage Pumping Station clearance from the PCB is not necessary since it does not pose any risk on the environment.

9. The Learned Counsel for the 1st and 2nd respondents further added that based on the topography of Ramapuram village, the entire area is divided into four zones. Sewage generated in each zone will be collected at the Pumping Station at the lowest contour of the respective zones. The location of the new pumping stations is at Tamil Nagar, Near Alamkulam, Near SRM College, Amman Nagar

and the respective lengths of the collection system are 13120, 10160, 13506, 12318 metres. The construction of the pumping stations in the three locations at Alamkulam, Near SRM College and Amman Nagar are nearing completion. The applicant has pointed out certain alternate sites which are neither available nor suitable. In so far as the site at Bharathi Salai-Natarajan Salai Junction, Near SRM College is concerned the site has already been taken in possession by the Metro Water for the construction of pumping station pertaining to Zone-3 sewerage collection system and for the construction of Terminal Power Station. In so far as the site suggested at Ramapuram - Manappakkam main road abutting burial road at Nalla, the said site is a burial ground and cannot be used for the construction of Pumping Station. It is pertinent to point out that the Corporation of Chennai in its reply dated 05.11.2013 submitted to the Hon'ble Chief Minister's Cell on the application of the applicant dated 15.10.2013 stated that there was no alternate land for construction of Pumping Station to the Metro Water. Hence, it was decided to develop a part of the area as a park during the financial year 2013-2014. Thus, the 2nd respondent is utilizing only one-fourth of area available at Tamil Nagar for the construction of Sewage Pumping Station which would be beneficial to 16000 people residing without basic amenities. Since pumping stations are non polluting units Pollution Control Board has not included Pumping Station in the list rather it will improve the aesthetics of the living conditions of the people. If the proposed Sewage Pumping Station is dropped that would cause irreparable damage and loss to the interest of the people. Hence, the application has got to be dismissed.

10. The learned counsel for the 3rd respondent would submit that the site in question is earmarked as playground in the layout and it was exclusively earmarked for the benefit of the residents of the colony and for which land cost was also collected from them. Hence, there should not be any deviation from the purpose it was reserved. Since the residents of the colony had objection to the

construction of the Sewage Pumping Station in the said land, the 3rd respondent has suggested the proposed construction of Sewage Pumping Station to another area.

11. The Learned Counsel for the 4th respondent stated that the establishment of the Sewage Pumping Station does not come under the purview of the TNPCB under Section 25 of the Water (Prevention and Control of Pollution) Act, 1974 as amended and Section 21 of the Air (Prevention and Control of Pollution) Act, 1981 as amended and thus it is not a necessary party.

12. The Tribunal paid its anxious consideration on those submissions and made a scrutiny of the materials made available.

13. As seen above, the applicant, a resident of Tamil Nagar, Ramapuram, Chennai has sought for a direction restraining the 1st and 2nd respondents from establishing a Sewage Pumping Station at the site in which it is proposed to be established on the grounds that the said site is a common vacant area which was earmarked by the 3rd respondent, TNHB as a park and right from inception the same has been continuously used by all the members of the said colony having 62 independent houses not only as a park but as a playground for the children and if the Sewage Pumping Station is allowed to be established, it would certainly have an adverse effect on the surrounding environment by emanation of foul order, contaminating the ground water and also would be the cause of health hazard and it would certainly cause noise pollution by installation of high power motors required to run the said plant.

14. Admittedly, the land situated in Survey Nos.114/2,114/3,129/3,118/1 of Ramapuram village on acquisition of TNHB, the 3rd respondent herein, and the scheme was implemented only after obtaining approval from the CMDA in the year 1988. The 3rd respondent promoted, developed and conveyed those houses to

the respective owners. On construction of the residential houses they were sold to different persons under registered sale deeds and the purchases were put in possession. The applicant who purchased a house situated in M-9 was put in possession in the month of October, 1989. There are 62 independent houses including that of the applicant in the Tamil Nagar colony. The owners joined together and formed TNWA which was registered on 26.02.1990 under the Societies Registration Act. The said fact was also intimated to the 3rd respondent. A common area which was not conveyed to the owners was left vacant. Pursuant to a letter by the 3rd respondent it was informed to the association that the expenditure for maintenance was to be incurred towards the maintenance of the colony including the vacant site which was meant for the park and playground by the association from November, 1991 onwards. The total area kept vacant meant for the park and the playground was 960 sq.m. out of which the proposed Sewage Pumping Station according to the 2nd respondent has to be established in an area of 240 sq.m. (20 m × 12 m) which is the subject matter of this application.

15. It is also an admitted position that when the 1st and 2nd respondents originally made a proposal for establishing Sewage Pumping Station in the year 2012 the TNWA raised their objection for establishment at the present location and the same was stopped after the same was complained to the Hon'ble Mayor, Corporation of Chennai and the Hon'ble Chief Minister's cell. In the meanwhile, a communication was addressed by the Corporation Commissioner - Municipal Administration and Water Supply that the land earmarked for the park and the playground was handed over to the Ramapuram village which was vested with the Corporation of Chennai. The Water Supply and Sewerage System for the entire area including the Ramapuram village fell within the jurisdiction of the CMWSSB which was entrusted with the task of extending Water Supply and Sewerage System to all the residential areas which were not provided in the past. When the

2nd respondent, CMWSSB noticed the absence of proper sewerage system in the area in question again moved the present proposal for the establishment of Sewage Pumping Station in a part of the land as stated above. Though the TNWA of Ramapuram originally raised objection to the establishment of Sewage Pumping Station in the present location, after being explained the necessity of Sewage Pumping Station in that area and the process involved, has given a consent letter dated 18.10.2013. The said letter was addressed to the Chief Engineer, CMWSSB, Chennai and signed by the Secretary for TNWA and copies were addressed to the Hon'ble Chief Minister's Cell and to the Hon'ble Mayor. The said letter reads as follows:

“To this end, the CMWSSB officials wanted to have a discussion with the TNWA. In this connection, a meeting was held in the library premises of Tamil Nagar on 15.10.2013 between the Officials of the CMWSSB and TNWA members, presided over by the Superintending Engineer, CMWSSB.

The Superintending Engineer had given a detailed picture of the scheme and the inevitability of choosing the playground for the purpose of constructing the pumping station.

Our Association's main objections (as indicated below) were conveyed to the Superintending Engineer and other officials of the CMWSSB.

a) The Pumping Station in the playground in the middle of the colony will emanate foul smell affecting the health of the residents and polluting the atmosphere.

b) We had already given away a portion of the playground for the purpose of construction of Library building, Ration Shop and Water Tank. Hence in the event of construction of pumping station, the playground will be reduced to “NIL”.

For the first objection, it was conveyed that the problem will be minimum, compared to the ultimate aim of bringing the underground drainage system in the entire Ramapuram. For the second objection, the Superintending Engineer has informed that they require 20 m × 12 m area on the south west side of the playground and assured that beyond this area, they will not encroach the playground.

Further the Superintending Engineer has assured us that the remaining part of the playground could be developed into a Park / Poonga and to this end, they will recommend to the concerned in Corporation of Chennai to do the needful.

In the larger interest of the drainage facilities promised by the Superintending Engineer/ CMWSSB in Ramapuram area as a whole and in our area in particular, the construction of the pumping station may be carried out as per the diagram (20 m × 12 m area).

16. A reading of the letter would be clearly indicative of the fact that the office bearers and also the members of the TNWA who participated in the meeting were not only conscious of the larger interests of the drainage facilities required at Ramapuram area as a whole and Tamil Nagar colony in particular and were also conscious of the interest of the owners of the houses who are members of the association which is evident by raising two main objections that the Sewage Pumping Station should not be constructed in the middle of the colony and if done so, it would emanate foul smell affecting the health of the residents and polluting the atmosphere and secondly in the event of the construction of the Sewage Pumping Station the extent of the playground should not be reduced. It is also made clear in the letter that consent was given on the assurance of the Superintending Engineer, that the Sewage Pumping Station would be constructed in an area of 20 m × 12 m on the south west area of the play ground and beyond that area the department would not take any other part of the playground. Apart from the above, it was also assured that the remaining part of the playground would be developed into Park / Poonga and it would be recommended to the Corporation of Chennai to do the needful. After taking into consideration of all the above, and being convinced with the necessity TNWA has given the consent for the establishment of the Sewage Pumping Station in the present location. A perusal of the diagram for the proposed construction of the Sewage Pumping Station would clearly indicate that the proposed Sewage Pumping Station has to be located on the south west corner side in a total area of 240 sq.m. (20 m × 12 m) while the remaining space has to be left vacant. From the letter it is quite evident that the entire area was kept vacant all along in the past without developing any

Park / *Poonga* and the department has also given an assurance to give recommendation for development of the remaining area as a Park / *Poonga*. The contention put forth by the applicant side is that the above said letter was unilateral and the same would not be binding on the members of the association. This contention cannot be countenanced for more reasons than one. It is quite evident from the letter that there was objection to the original proposal since Ramapuram village has been taken over by the Corporation of Chennai for the requirement for the implementation of Corporation facilities to the Ramapuram area also and pursuant to the desire of the officials to have discussion with the TNWA, a meeting was held on 05.10.2013 in the library premises of Tamil Nagar between the officials of the Board and the Welfare Association Members presided over by the superintending engineer of the CMWSSB. While such a meeting was convened and conducted that too in the library premises attached to the colony in which all have participated, it would be futile to contend that no such meeting was convened or conducted. As stated above, it is clear that the consent was given for the construction of the Sewage Pumping Station in an area of 240 sq.m. only that too at the south west corner of the vacant site after raising necessary objections, discussions with the officials and also on the assurance not to exceed the above mentioned area of 240 sq. m. Even now, the 2nd respondent has a proposal to establish the Sewage Pumping Station in the said location not exceeding the above extent of land earmarked for that purpose. It remains to be stated that the owners of the 62 independent houses in that colony have formed the welfare association. The applicant has filed the application individually. Neither it is filed in a representative capacity nor in the capacity of office bearer nor the association which is a registered body under the Societies Registration Act, 1860 as a party to the proceedings. All would go to show that the TNWA after withdrawing the original objection has given consent for the construction of the Sewage Pumping

Station in the said location on appraisal of the scheme and realised it is a necessity. Therefore construction of the Sewage Pumping Station in a part of the said vacant site is inevitable and unavoidable in view of the necessity of creating environment friendly drainage facility and sewage disposal in the larger interest of the Ramapuram village and Tamil Nagar Colony in particular. Pointing to certain alternate sites the learned counsel for the applicant would submit that the 2nd respondent can establish Sewage Pumping Station in any one of the alternate sites instead of choosing the present location. It is suitably answered by the 2nd respondent that taking into consideration of the topography of the Ramapuram the entire area was divided into four zones and the sewage generated in each zone would be collected at the Pumping Station at the lowest contour of the respective zones. The said 4 Sewage Pumping Stations are to be located at Tamil Nagar, Near Alamkulam, Near SRM College and Amman Nagar. It is also contended that except the one proposed in Tamil Nagar construction of all the other 3 Sewage Pumping Stations is nearing completion. In so far as the alternate site pointed out by the applicant at Bharathi Salai- Natarajan Salai junction near SRM College is concerned the said site was already taken possession by the metro water for the construction of Pumping Station pertaining to zone-III sewage collection system and for the construction of Terminal Power Station and in so far as the other site at Ramapuram - Manappkam Main Road is concerned it is a burial ground which cannot be considered for the construction of the Pumping Station. In the absence of any alternate site the 2nd respondent has to be permitted to construct the Sewage Pumping Station at the present location. In view of the interest of the public at large and in particular the residents of Tamil Nagar colony it cannot be disputed that by the establishment of the proposed Sewage Pumping Station, the applicant would be one of the beneficiaries. At this juncture it is pertinent to point out that the proposed Sewage Pumping Station would benefit 16000 people living in that

area. Hence the contention put forth by the applicant side in respect of the site in question has got to be rejected.

17. It is a pleaded case of the applicant that there are about 62 wells each one situated in the backyard of one house in the colony and they are the main water source for the day to day needs and there is all possibility of the ground water being degraded by the construction of the proposed Sewage Pumping Station also when the provision has been made for septic tanks for collection of waste, there is no necessity of Sewage Pumping Station. If the proposed Sewage Pumping Station is permitted, it would have an adverse effect on the surrounding environment by emanating foul odour, contamination of ground water and cause health hazards. Surprising, it is to note that the applicant has come out with the case that the construction of Sewage Pumping Station would have adverse effect on the surrounding environment. On the contrary, it would bring positive effect on the environment. Needless to say that when the residents in an area are allowed to have local septic tanks for treating the sewage and discharge it in the open space available nearby no doubt it will lead to the pollution of ground water as well as the surface water. This would lead to the degradation of the environment and would also lead to health hazards. From that angle also the residents in every area need to have a proper sewerage project for safe disposal of sewage not only to protect the environment but also their health. The main apprehension of the applicant as could be seen from the averments and arguments put forth by the counsel is that if there is any seepage or leakage in future after the construction of the proposed Sewage Pumping Station and during the process of its working it would be highly disastrous and dangerous. This apprehension is totally unfounded and based on no reason. It is submitted by the 2nd respondent that the proposed Sewage Pumping Station would be constructed with RCC wall, therefore there would be no chance of seepage or leakage. Equally, when the sewage enters into

the Pumping Station from the houses in closed drains full safety would be maintained and the same would be immediately pumped through submersible Pumping Station erected in the well and sent to the nearby treatment plant. As rightly pointed out by the Learned Counsel for the 3rd respondent, when the said process is followed there would be no scope for pollution of air or water. There is no possibility for any bad odour emanating or affecting the environment since the domestic sewage received through closed pipes is pumped out instantaneously to the treatment plant. Equally, the contention put forth by the applicant side that there would be noise pollution by installation of high power electric motors for running the plant and during the power cuts there would be reverse flow of sewage which would cause harmful effect on the environment and public health, are worth to be ignored. It is submitted by the 2nd respondent that for pumping the sewage submerged motors would be used and if so vibration of the motor could be minimised with meagre sound production and thus there is no possibility for noise pollution. In so far as, the apprehended power cuts are concerned it is submitted by the 2nd respondent that the generator with an inbuilt acoustic safety as per the CPCB standards will be kept ready and hence even during power cuts the process could be continued without break by using the generators.

18. The Tribunal is unable to find any force in the contention put forth by the learned counsel for the applicant that the 2nd respondent before commencement of the proposed Sewage Pumping Station should obtain EC from the MoEF&CC and also Consent to establish from the State. It is pertinent to point out that as per the EIA Notification, 2006 all the industries are classified as Category 'A' and Category 'B' which alone would require EC. The EIA Notification, 2006 does not mandate that the municipal sewage treatment plants which operate on recycling basis not involving incineration or land fill require EC. Equally, the contention of the applicant side that the establishment of proposed Sewage Pumping Station

requires the Consent to establish has to be rejected in view of the answer given by the 4th respondent TNPCB that the establishment of Sewage Pumping Station does not come under the purview of the TNPCB under Section 25 of the Water (Prevention and Control of Pollution) Act, 1974 as amended and Section 21 of the Air (Prevention and Control of Pollution) Act, 1981 as amended.

19. Thus, the Tribunal is unable to notice any force in the contentions put forth by the applicant's side and no ground is made out either to injunct the proposed Pumping Station by the 2nd respondent in Tamil Nagar or shift the same to any alternate site and thus the applicant is not entitled for any of the reliefs prayed for. Hence the application is dismissed as it is devoid of merits both on facts and in law. No costs.

(Justice M. Chockalingam)
Judicial Member

(Shri. P.S.Rao)
Expert Member

Chennai.
Dated, 24th September, 2015.

NGT