

BEFORE THE NATIONAL GREEN TRIBUNAL

SOUTHERN ZONE, CHENNAI

Application No. 8 of 2016 (SZ)

Applicant(s)

Respondent(s)

R. Ravimaran
Ennore, Chennai

1. Union of India,
rep. by its Secretary,
The Ministry of Environment, Forests
And Climate Change, New Delhi
2. Tamil Nadu Generation and
Distribution Corporation, rep. by its
Chairman cum Managing Director
Chennai
3. North Chennai Thermal Power
Station, rep by its Chief Engineer
Athipattu, Chennai
4. Kamarajar Port Ltd., rep. by its
Chairman cum Managing Director
Chennai
5. The Tamil Nadu Pollution Control
Board, rep. By its Member Secretary
Chennai
- 6..The District Environmental Engineer
Tamilnadu Pollution Control Board
Ambattur, Chennai
- 7 The Tamil Nadu Coastal Zone
Management Authority, rep. by its
Member Secretary, Chennai
- 8 The Public Works Department
Rep. by its Secretary
Fort St. George, Chennai

Legal Practitioners for Applicant(s)

Legal Practitioners for Respondents

Mr. Yogeshwaran. A

Mr.G.M. Syed Nurullah Sheriff for R1
Mr.Abdul Saleem for R2, R3 & R8
Mr.M.T.Arunan for R4
Mrs.Yasmeen Ali for R5 and R6
M/s.M.K. Subramanian, E.Manoharan,
& P.Velmani for R7

Application No.1 of 2017 (SZ)

Applicant(s)

R.L.Srinivasan
31/36, Porkali Amman Street
Kaatukuppam, Ennore,
Chennai 600057

Respondent(s)

1. Union of India, rep. by the Secretary,
Ministry of Environment, Forests &
Climate Change, Indira Paryavaran
Bhavan, Jor Bag Road, New Delhi
And others

Counsel appearing for applicant

M/s.Ritwick Dutta, Rahul
Choudhary, & G.Stanly Hebzon Singh

Counsel appearing for respondents

Mrs.Me. Saraswathy for R1

Application No. 152 of 2016 (SZ)

Applicant/s

Meenava Thanthai
K.R. Selvaraj Kumar
Meenavar Nala Sangam
Rep. by its President, M.R. Thiyagarajan
Royapuram, Chennai – 13

Respondents

1. The Chief Secretary
Govt. of Tamil Nadu
Secretariat, Chennai & others

Counsel appearing for appellant

Mr.K. Mageswaran

Counsel appearing for respondents

Respondent No.1 is deleted as per
Order dated 27th February, 2017
Respondent Nos.2 to R5 are deleted
as per order dated 8th November, 2016

Mr.M.K.Subramanian, E.Manoharan
& P.Velmani for R1, R2, & R9
Mr.Abdul Saleem for R4
M/s.H.Yasmeen Ali for R3
Respondent No.11 is deleted as per
Order dated 20.03.2017
M/s.King & Partridge for R6
Mr.M.T.Arunan for R7
M/s.R.Thirunavukarasu &
& M.Swarnalatha for R8

Note of the Registry	Orders of the Tribunal
Item No.11 to 13	Date:31 th May, 2017

In our order dated 18.11.2017 we have directed Kamarajar Port Trust to remove the dumped materials and while removing the same, absolute care should be taken to see that the mangroves are not damaged. We have also stated that the site should be made suitable for spreading of mangroves. The learned counsel appearing for the Kamarajar Port Trust has filed compliane report along with photographs stating that the entire work of removal of dumped material has been completed.

Today, the learned counsel appearing for the applicant in Application No.152 of 2016 has filed objection to the Report of the Kamarajar Port Trust enclosing photographs taken on 30.5.2017. The photographs show that while one portion contains mangroves, the other portion from where the dumped material is removed, is empty and it is the case of the learned counsel appearing for the applicant that mangroves were unscrupulously removed/damaged, while removing the dumped material. The applicant further states in his objection that on his inspection of the site on 29.5.2017 he found that major portion of the dumped materials are still existing in the river bed of

Kosathalaiyar River which will affect free flow of water in the river.

In view of the contradictory stand taken by both sides, we are of the view that an Advocate of this Tribunal should be appointed as Commissioner to inspect the spot concerned and file a report.

The report shall be in respect of the following:

(1) Whether the entire dumped materials have been removed by Kamarajar Port Trust, as per the directions issued in our order dated 18.11.2016?

(2) While removing the dumped materials whether the Port Trust has taken care of retaining mangroves and find out as to whether mangroves have been removed/damaged.

Accordingly, we appoint Mr. T. Sai Krishnan, having Cell No. **9840229542** as Advocate-Commissioner to inspect the spot concerned and file a report.

The Kamarajar Port Trust as well as the Tamil Nadu Pollution Control Board (Board) shall make adequate arrangements to enable the Commissioner to inspect the place. Before inspection, the Commissioner shall give notice to the parties and permit the parties to be present at

the time of inspection. We direct the applicant in Application No.152 of 2016 to pay an initial remuneration of Rs.15,000/- (Rupees Fifteen Thousand Only) to the Advocate-Commissioner.

The Board has filed status report dated 31.5.2017 through its Joint Chief Environmental Engineer. A reading of the report shows that the Thermal Power Plant is more than 20 years old and operating with coal received from different sources. Therefore, the ash content and SPM levels vary accordingly and the project proponent is taking efforts to control emission and keep within the norms.

In so far as it relates to taking action against the officials of TANGEDCO in accordance with the Water (Prevention and Control of Pollution) Act, 1974 and Air (Prevention and Control of Pollution) Act, 1981 the report states that various officials are functioning and it is difficult to identify a particular individual officer concerned for the purpose of prosecution. However, it is stated that steps are being taken for the purpose of issuing show-cause notice.

On a consideration of the report, we are of the view that the Board has not properly exercised its duty in

accordance with the provisions of the Act. Therefore, it is appropriate to direct the Board to launch immediate criminal prosecution against the officers who are incharge of the department concerned. In case if such officials are transferred, such officials are also to be implicated in the prosecution.

In the last hearing the learned counsel appearing for the TANGEDCO has submitted that fly ash has been completely removed. However, Mr. Yogeshwaran, learned counsel appearing for the applicant in Application No.8 of 2016 has filed documents which show that fresh dumping of fly ash in Buckingham Canal, Kosathalaiyar Paraval has taken place and TANGEDCO has not taken any steps either to prevent fresh dumping or removing the dumped ash.

The learned counsel representing TANGECO would submit that the counsel is not available and therefore the matter may be adjourned.

However, taking note of the fact that the Board is not serious in taking action against the officials and TANGEDCO failed to co-operate for passing appropriate

orders and indulged in fresh dumping of ash in waterbodies, we direct the Chairman and Managing Director of TANGEDCO to be present on the next date of hearing and explain as to why proper action was not taken for the removal of fly ash completely and why ash was dumped afresh inspite of orders passed by this Tribunal. In the mean time, TANGEDCO shall take appropriate action for the purpose of removal of fly ash completely.

The Board shall conduct fresh inspection and file report on the next date of hearing.

Post the applications on 11.7.2017.

....., JM
(Justice Dr. P. Jyothimani)

.....EM
(Shri P.S. Rao)