

**BEFORE THE NATIONAL GREEN TRIBUNAL**

**SOUTHERN ZONE, CHENNAI**

**APPLICATION NO.126 & 127 OF 2017 (SZ)**

**In the matter of**

P.Ponnusamy,  
S.No.37, Komara Kattuthottam,  
Thannirpandal Palayam,  
Verappan Chattiram,  
Erode 638004

...Applicant  
(in Apln.126/2017)

G. Eswari  
Minnakattu Thottam  
Pavaya, Thaneer Pandal Palayam  
Verappan Chattiram  
Erode 638004

...Applicant  
(in Apln.127/2017)

Vs

1. The District Collector,  
Erode District, Erode.
2. The Chairman,  
Tamil Nadu Pollution Control Board,  
No.76, Mount Road,  
Guindy, Chennai 600032.
3. The District Environmental Engineer,  
Tamil Nadu Pollution Control Board,  
Erode District.
4. The Superintending Engineer  
TANGEDCO  
Electricity Distribution Circle, Erode

.. Respondents  
(in both)

5.Chenniappan  
Minnakattu Thottam  
Thaneer Pandal Palayam  
Verappan Chattiram  
Erode 638004

R5 in Apln.126/2017

6.Ramesh  
Minnakattu Thottam  
Thaneer Pandal Palayam  
Verappan Chattiram  
Erode 638004

R6 in Apln.126/2017

5.Karuppanaswamy  
Minnakadu Thottam  
T. P. Palayam  
Verappan Chattiram  
Erode 638004

R5 in Apln.127/2017

6.P. Elangovan  
Minnakadu Thottam  
T. P. Palayam  
Verappan Chattiram  
Erode 638004

R6 in Apln.127/2017

**Counsel appearing for the applicant**

M/s.S.Kolandasamy & G.Sumathi

**Counsel appearing for the respondents**

M/s.M.K.Subramanian, E.Manoharan,  
& P.Velmani for R1  
M/s.Rita Chandrasekar for R2 & R3  
M/s.Taaur Associates,  
S.Kamalesh Kannan & S.Sai Sathya Jith for R5 & R6

**ORDER**

Present

Hon'ble Shri Justice Dr. P. Jyothimani, Judicial Member  
Hon'ble Shri P.S. Rao, Expert Member

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28<sup>th</sup> August, 2017  
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Whether judgment is allowed to be published on the Internet .. Yes/No

Whether judgment is to be published in the All India NGT Reporter .. Yes/No

The applicants in these applications are residents of Thannirpandal Palayam Village, Verappan Chattiram, Erode. Their grievance is against the 5<sup>th</sup> and 6<sup>th</sup> respondents who are operating Power loom units. According to the applicants, the said respondents are carrying on the said activities without obtaining consent from the Tamil Nadu Pollution Control Board (Board). Further, it is their case that during the course of the business carried on by the said respondents, the noise level exceeds the limits prescribed by the Board and affects the people living in the surrounding areas particularly during the night time. It is their further case that by virtue of the said activity, dust pollution also occurs which affects the respiratory system of people living in the area. It is their case that these Power loom units are situated in the primary residential zone and hence they should not be permitted to continue to carry on the said activities. They also state that wet dyed yarn and clothes are dried in the premises of the Power loom units. The applicants made several complaints to the concerned authorities and inspite of it, no action has been taken and therefore they have filed the present applications with a prayer to direct the official respondents to take immediate action against the 5<sup>th</sup> and 6<sup>th</sup> respondents who are polluting the area.

2.The private respondents in these applications have raised the issue of maintainability of the applications on the ground that no substantial question relating to

environment has been raised and on that basis the applications filed under Section 14 of the NGT Act, 2010 are to be rejected. As per Rule 7 and 8 of the Noise Pollution (Regulation and Control) Rules, 2000, there is an effective alternate remedy available to the applicants if they are affected and they cannot approach this Tribunal which is having mandate only for the purpose of deciding about the cases dealing with substantial questions relating to the environment.

3. The private respondents have also objected to the maintainability of the applications under the question of limitation. It is their case that the said respondents have been carrying on the Power loom activity for the past more than 5 years and there was no objection by the applicants and others who are residing in the area. They have now raised the issue due to personal rivalry and have filed these applications which are barred by limitation.

4. It is further their case that Power loom units run by the respondents in Survey No.38/2C & 38/6C come under Micro scale Industrial category and they are registered with the concerned Department. They have also obtained the required NOCs from all the public Authorities apart from the electricity provided by Tamil Nadu Electricity Board. It is their case that the Power loom units are classified as 'GREEN' category as per TNPCB guidelines.

5. It is their further case that more than 5000 such power loom units are situated in Erode District and the business carried on is at household level. Further, the respondents are carrying on the activity in 4 blocks (Blocks 1-4) in S.No.38/2C and another 2 blocks (Blocks 5 & 6) in S.No.38/6C. It is their case that they have put up civil constructions to avoid any noise pollution and closed the windows in their premises. It is their case that no wet yarn is dried and it is a false allegation.

6. The Pollution Control Board in its report has stated that there was an inspection carried on 18.06.2017 by the District Environmental Engineer, Erode. The Board states that these units are small scale units and surrounded by the applicants' residences on 3 sides except on one side where the unit is facing the applicant's house. While it is

admitted by the Board that these units are situated in primary residential area, it is stated that the 5<sup>th</sup> respondent in these cases is operating four sheds without taking consent from the Board. It was in those circumstances the Board has issued a show cause notice on 19.06.2017. It is stated that the Chief Scientific Officer, District Environmental Laboratory, Tiruppur has conducted Ambient Air Quality (AAQ) and Ambient Noise Level Survey. It is stated that for the show cause notice dated 19.06.2017 issued by the Board, the private respondent has replied on 21.07.2017 stating that the power loom unit is in operation from 2006 onwards and they have made proper construction to avoid noise level. It is their case that the noise level is within the limit prescribed by the Board. Further inspection was carried on 11.07.2017 and Ambient Noise Level Survey was conducted which revealed that the noise level at five locations is found to be dB (A) – $L_{eq}$  64.9, 58.3, 62.6 58.4 and 58.4 which is beyond the permissible level of 55 dB(A) in the residential area during day time.

7. After the inspection was carried on 11.07.2017 the 5<sup>th</sup> respondent has provided adequate noise control measures by putting up additional asbestos sheets and completely closed the joints between the compound wall and the sheets. It was therefore another inspection was carried on 02.08.2017 and Ambient Noise Level Survey was conducted during which it was found that the noise levels –dB(A) – $L_{eq}$  is 53.8, 52.5, 51.1, and 54.3 at four places which are all within the prescribed limit of the Board. It is relevant to note that on 31.05.2017 the Tribunal has issued directions not to run these units between 6.00 p.m and 6.00 a.m. and it is informed that the said order is being followed scrupulously.

8. While it is the case of the applicants reiterating the stand taken in the applications as enumerated above, it was agreed by the applicants as well as Pollution Control Board and private respondents that similar issue was squarely discussed in Application No.65 of 2017. This Tribunal while disposing of the said application which is also related to Power loom units situated in Erode in the order dated 23.03.2012, has made clear observation that as per Rule 7 of the Noise Pollution (Regulation and Control) Rules, 2000 complaint has to be made to the competent Authority and there is

no other effective alternate remedy. For better appreciation of the issue, we extract the relevant portion of para 5 of the judgment of this Tribunal which is as follows:

“Moreover, even otherwise the case of the applicant is that respondent No.6 by operating the Power Loom is creating noise more than the permissible limit for the residential area. The Noise Pollution (Regulation and Control) Rules, 2000 under Rule 7 provides for complaints to be made to the Authority.

Rule 7 reads as follows:

7. Complaints to be made to the authority:- (1) A person may, if the noise level exceeds the ambient noise standards by 10 dB (A) or more given in the corresponding columns against any area /zone (or, if there is a violation of any provision of these rules regarding restrictions imposed during night time), make a complaint to the authority.

The Authority is defined under Rule 2 (c ) as follows:

2(c ) “authority” means and includes any authority or officer authorized by the Central Government, or as the case may be, the State Government in accordance with the laws in force and includes a District Magistrate, Police Commissioner, or any other Officer not below the rank of the Deputy Superintendent of Police designated for the maintenance of the ambient air quality stands in respect of noise under any law for the time being in force”

By observing so, the Tribunal has left it open to the parties to approach the appropriate Authority notified under the Noise (Regulation and Control) Rules 2000 for redressal of their grievance. The applicants are not entitled to approach this Tribunal. In view of the findings as stated above, we are of the considered view that there is no need for this Tribunal to take any contradictory view. It is always open to the applicants to work out their remedy in the manner known to law particularly as per Rule 7 and 8 of Noise (Regulation and Control) Rules 2000 as stated above.

However, the Pollution Control Board shall continue to monitor the noise level and as and when it exceeds the permissible level, it is for the Board to take appropriate action in accordance with law.

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

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