

BEFORE THE NATIONAL GREEN TRIBUNAL**SOUTHERN ZONE, CHENNAI****Application No.148 of 2016 (SZ)**

In the matter of

S.Kannan Viswanath,
No.1/68, Padmanabamangalam,
Sri Vaikundam Taluk,
Thoothukudi District.

.. Appellant

Vs.

1. The District Collector,
Thoothukudi District,
Thoothukudi.
2. The Secretary to Government of
Tamil Nadu
Department of Environment and Forest,
Fort St. George,
Chennai 600 009
3. The District Forest Officer,
The District Forest Office,
Thoothukudi -2
4. The Chairman,
Tamil Nadu Pollution Control Board,
76, Mount Salai, Guindy,
Chennai.
5. The District Environmental Engineer,
Tamil Nadu Pollution Control Board,
SIPCOT, Thoothukudi District.
6. The Inspector of Police,
Srivaikundam Police Station,
Thoothukudi District.
7. The Standard Fire Works (P) Ltd.
Rep. by its Director,
Padmanabamangalam Village,
Srivaikundam, Thoothukudi District.
8. Joint Chief Controller of Explosives,
A & D Wing, Block I-8, II Floor,
Shastri Bhavan, 26, Haddows Road,
Nungambakkam, Chennai 600 006.

.. Respondents

Counsel appearing for the applicant

M/s.A.Saravanan, J.Karthikeyan,
AK.Gopalan, & K.Thirunavukarasu

Counsel appearing for the Respondent

M/s.M.K.Subramanian &
P.Velman for R1, R2, R3 & R6
Mr.S.Azhagam Perumal for R4 & R5
Mr.D.Ramesh Kumar for R8
Mr.A.R.Ramanathan for R7

ORDER

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

19th September, 2017

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

We have heard learned counsel appearing for the applicant as well as respondents. The applicant Mr.S.Kannan Viswanath who is a practising Advocate in Thoothukudi District, has filed this application praying for a direction against the official respondent Nos.1 to 5 to issue closure orders to the 7th respondent Standard Fire Works (P) Ltd., Padmanabamangalam village on the ground that the unit is being operated without obtaining consent or permission or license from any of the official respondents and also to direct the official respondents to take action against the 7th respondent.

The applicant, who has earlier appeared through counsel, has now chosen himself to appear as a party in person. In fact, the applicant party in person has filed a memo today permitting Mr.A.Saravanan to withdraw his vakkallat and the memo is accepted.

The applicant has made his submission stating that the 7th respondent has been carrying on the activity of manufacturing gun powder which according to him is situated within the prohibited distance from the Forest.

It is also his case that manufacturing of gun powder which is highly inflammable, results in environmental damage in the surrounding areas.

The 7th respondent in its reply dated 20th August, 2016 has stated that the unit was established in an area of 414 acres and it has obtained all the necessary valid permissions from the concerned Authorities. In the said reply it is stated that the unit prepares gun powder by mixing Potassium Nitrate and charcoal and other chemicals and thereafter it is stored and sent to various manufacturers who in turn manufacture fireworks and crackers. It is further stated that the application is not maintainable since the applicant has suppressed the material facts that the 7th respondent has obtained all valid license. It is stated that the 7th respondent is running the unit by obtaining the following licenses and permissions:

- i) License for manufacture of gun powder and other explosive activity under the provisions of Explosives Act, 1884 and the Explosives Rules, 2008
- ii) License for Storage of gun powder and other items under the provisions of the Explosives Act, 1884 and the Explosives Rules, 2008.
- iii) License under the Arms Act, 1958 for its operations as per the provisions of the said Act.
- iv) Factory License under the provisions of Factories Act, 1948.
- v) License from the Srivaikuntam Panchayat Union for establishment and functioning of the Unit.
- vi) Consent Order under the provisions of Water (Prevention & Control of Pollution) Act, 1974.
- vii) Consent Order under the provisions of Air (Prevention & Control of Pollution) Act, 1981.
- viii) NOC from the Fire Service, Government of Tamil Nadu.
- ix) NOC issued in 2006 by the Forest Department, Tirunelveli to the Tahsildar, Srivaikuntam Taluk for establishment of the unit by the 7th respondent.

- x) NOC from the Health Department issued by the Deputy Director, Tuticorin.
- xi) Approval by the Chief Inspector of Factories for factory buildings and machineries
- xii) License from the Town & Country Planning Department, Executive Engineer, Thamiraparani, Public Works Department.
- xiii) Approval given by Padmanabamangalam Panchayath

The 7th respondent has also enclosed copies of the aforesaid documents issued by the Authorities concerned. In the letter of the District Forest Officer dated 29.04.2006, it is stated that the Forest Department has No Objection for granting permission to the 7th respondent unit.

The 3rd respondent, District Forest Officer, Thoothukudi in his affidavit dated August, 2016 has stated that there is Vallanadu Reserved Forest in the area and the Vallanadu hills consist of Southern Thorn Scrub, the species composition being thorny hardwood and xerophytes. It is stated that the total area of Vallanadu Reserved Forest is 2054.85 ha. and part of it viz., 1641.21 ha. has been declared as Vallanadu Blackbuck Sanctuary vide G.O.Ms No.1028 dated 28.09.1987 under sub section 1 of section 18 of Wildlife (Protection) Act 1972.

The District Forest Officer in his affidavit dated August 2016 narrated various permissions obtained by the 7th respondent as stated by the 7th respondent. It is stated that the said Fire works Production Unit has obtained License for manufacture and storage of gun powder and other items under the provisions of Explosives Act, 1884 and the Explosives Rules, 2008. There is no unlawful activity or interest being pursued by the said Gun Powder Production Unit as it is within its right to manufacture gun powder by virtue of the licenses granted by various Authorities.

It is also stated that the unit is situated very close to the Vallanadu Blackbuck Sanctuary. However, during stakeholders meet held on 03.02.2016 the Standard Fire Works Authorities have promised to shift the units which are close to Vallanadu Blackbuck Sanctuary i.e. beyond the Eco-Sensitive Zone (ESZ) of 500 meters.

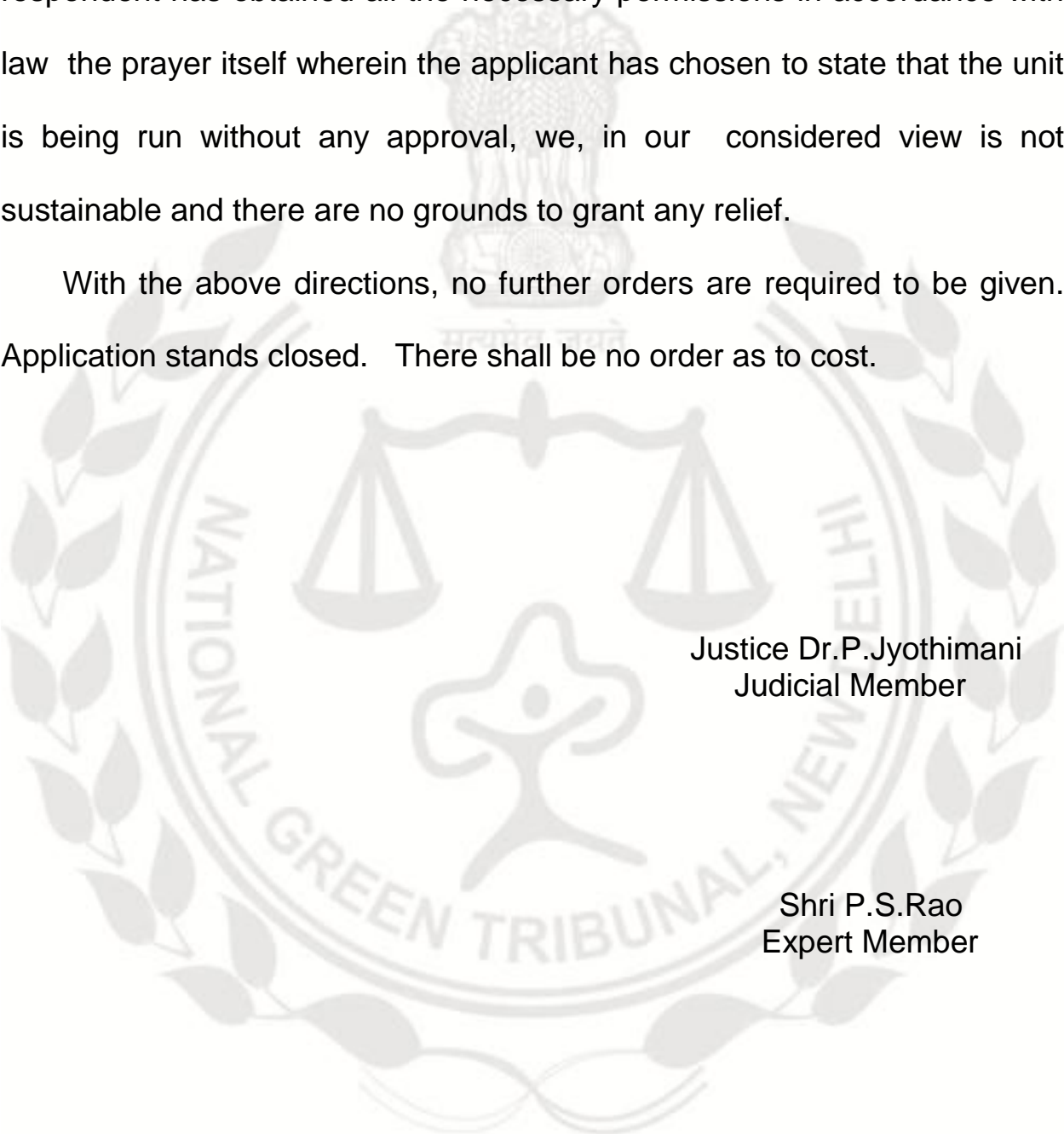
The learned counsel appearing for the 7th respondent would submit that in so far as it relates to ESZ stated by District Forest Officer, 3rd respondent which is the only concern of environment, steps are being taken by the 7th respondent for shifting the unit in course of time even though the unit manufactures only gun powder which is not causing any damage to the environment. We make it clear that it is for the department to take appropriate action. We have directed the Forest Department as to how the ESZ has been restricted to 500 m. But the counsel for the Forest Department is unable to explain the reason for arriving at 500 m. ESZ. We leave it to the Forest Department to make appropriate decision in accordance with law and with the decision taken in the meeting which is stated to have taken place on 03.02.2016.

The Joint Chief Environmental Engineer of Tamil Nadu Pollution Control Board in its reply dated 30.11.2016 has stated that the gun powder is manufactured by dry process by involving three raw materials, viz., Sulphur, Potassium Nitrate and Charcoal. Sulphur and Charcoal are blended in a ball mill with wooden balls in separate chamber. The mixture is then taken and sieved to remove the dust and grit and then fed into another ball mill to mix Potassium Nitrate. This mixture is the gun powder. It is stated by the Board that there is no effluent discharge during the manufacturing process. The unit has a boiler with a stack height of 9.25 m. The boiler blow down is discharged into the solar evaporation pans.

There are no complaints against the industry regarding discharge of trade effluent or emissions.

Considering the totality of the situation and taking note that the 7th respondent has obtained all the necessary permissions in accordance with law the prayer itself wherein the applicant has chosen to state that the unit is being run without any approval, we, in our considered view is not sustainable and there are no grounds to grant any relief.

With the above directions, no further orders are required to be given. Application stands closed. There shall be no order as to cost.

The seal of the National Green Tribunal, New Delhi, is a circular emblem. It features a central figure of a person with arms raised, symbolizing environmental protection or justice. Above the figure are two scales of justice. The emblem is surrounded by a laurel wreath. The text 'NATIONAL GREEN TRIBUNAL, NEW DELHI' is inscribed around the perimeter of the seal. At the top, there is a small emblem of the Government of India with the motto 'Satyameva Jayate' in Devanagari script.

Justice Dr.P.Jyothimani
Judicial Member

Shri P.S.Rao
Expert Member

NGT