

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)

Mr. Yogeshwaran. A

Legal Practitioners for Respondents

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.E. Manoharan for R7 & R8

Application No. 152 of 2016 (SZ)

Applicant/s

Respondents

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

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

Counsel appearing for appellant

Counsel appearing for respondents

Mr.K. Mageswaran

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.E.Manoharan for R1, R2, R4,&R9
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

Application No. 198 of 2016 (SZ)

Applicant (s)

Respondents

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

1. The State of Tamil Nadu, rep.
by its Chief Secretary to Govt.
Secretariat, Fort St.George,
Chennai & others

Counsel appearing for applicant

Counsel appearing for respondents

For Mr.K.Mageshwaran

M/s.E.Manoharan for R2 to R6
M/s.S.Azhagam Perumal for R8 & R10

Note of the Registry	Orders of the Tribunal
Item No.14 to 16	<p data-bbox="410 311 802 352">Date: 21st December, 2017</p> <p data-bbox="410 387 1382 642">It is pointed out that there is a clerical error in the penultimate paragraph of the order dated 14.12.2017 that it is not respondent no.4 but respondent no.4 who has to treat the Experts. The order dated 14.12.2017 is therefore corrected as follows:</p> <p data-bbox="410 677 1382 790">“Instead of respondent no.4 in the first sentence of the penultimate paragraph of the order it shall be respondent no.2”</p> <p data-bbox="410 825 1382 1964">The learned counsel appearing for the applicant submitted that some interim order is warranted, as the report submitted by the Experts discloses a very serious environmental problem which has to be addressed urgently. The learned counsel pointed out that the report shows that heavy metals including Chromium and Mercury are detected not only in the river water and underground water but also even in the vegetables planted in the households. It is submitted that in such circumstances, when the report shows that the even the drinking water is contaminated with heavy metals like Mercury and Chromium, a direction is to be issued to supply drinking water to the nearby residents. The learned counsel also argued that the existing ash ponds are constructed without proper lining and as a result it is contaminating the land and the ground water and if the fly ash removed from the area is dumped in the existing pond, it would aggravate the position. The learned counsel also argued that Kosathalaiyar Main River which is reported to be heavily silted need</p>

to be desilted to enable free flow of water and a direction is to be issued to that effect. It was also submitted that respondents 2 and 3 are to be directed to construct adhoc ash ponds with required lining.

Mr. Abdul Saleem, the learned counsel appearing for respondents 2 and 3 submitted that they intend to get analysis of the water, including the ground water alone from another laboratory and also the fly ash, as the presence of the heavy metals noted in the report is not correct and in any case presence of heavy metals is not due to the activity of the respondents 2 and 3 alone as it is also caused by the nearby polluting industries. The learned counsel also submitted that a proposal is being sent to the government to use the fly ash in preparing bricks, making it mandatory to use such bricks in all government buildings. The learned counsel also submitted that drinking water is to be supplied by the local civic bodies and in any case the pollution is not caused solely by the respondents 2 and 3. The learned counsel also submitted that there is sufficient space in the existing ash pond to enable the deposit of the fly ash which would be removed from the area.

On going through the report submitted by the Experts, it is seen that there is high contamination of heavy metals, not only in the water collected but even on the fish and vegetables. As against the prescribed standard of Mercury viz., 0.01 mg/l, the river water sample analysis of Kosasthalaiyar River shows that presence of Mercury was 23.18 mg/l, 29.1 mg/l, 18.19 mg/l, 22.11 mg/l and 18.18 mg/l. So also presence of Mercury detected in the samples

collected from the backwater shows the percentages as 30.28 mg/l, 16.55 mg/l, 24.66 mg/l, 24.99 mg/l and 22.18 mg/l. The river water samples analysis also shows that presence of Mercury detected are 16.95 mg/l and 18.11 mg/l. The fly ash sample analysis also shows that 3 out of 20 samples contained Selenium and all the samples contained Copper with maximum concentration of 40.18 and 13 out of 20 fly ash samples contained Chromium with a maximum recorded concentration of 13.71 mg/kg, as against the prescribed standard of 2 mg/l. 6 out of 20 samples contained Cadmium, with a maximum recorded concentration of 0.54 mg/kg as against the prescribed standard of 2 mg/l. 6 out of 20 samples contained Lead with the maximum recorded concentration of 6.61 mg/kg, as against the prescribed standard of 0.1 mg/l. Even the analysis of fish, crab and prawn establish the presence of alarming percentage of heavy metals. All the 5 samples of home grown vegetables also found presence of Chromium and Lead. Chromium levels ranging from 1.12 to 5.56 mg/kg. It is thus clear that even the ground water there is not fit for consumption. It would be dangerous to consume such highly contaminated water.

In such circumstances, some arrangement necessarily has to be made with regard to the drinking water. Though the learned counsel appearing for the respondents 2 and 3 submits that pollution is not caused by the respondents and as per the report of the Board, there are more than 1,000 industries, included in the 'red' category operating there causing pollution and it is the duty of the local body

to supply the drinking water.

Considering the fact that the main pollutant is the fly ash produced by the respondents 2 and 3, the principle of 'polluter pays' shall necessarily to be applied with regard to supply of drinking water to the people of the locality. The people of the area cannot be directed to drink contaminated water and suffer the consequences, which would adversely affect not only the existing generation but also the future generations to come.

In such circumstances, the respondents 2 and 3 are directed to provide sufficient drinking water to all the nearby residents, if the local bodies are not supplying sufficient drinking water to them. It is made clear that the water to be supplied should be of drinking water, quality and every household should be supplied with drinking water, in case there is no supply of sufficient quantity of potable drinking water by the local body.

It is made clear from the report and the admitted facts that the existing ash pond is not lined. In such circumstances, adding further fly ash removed from the area into that pond would only aggravate the position. The respondents 2 and 3 are directed to provide properly lined ash pond on adhoc or permanent basis, so that the fly ash to be removed could be accommodated there. Even if the government mandates that the fly ash is to be used for all brick manufacturing units and such bricks shall be used for construction of all government buildings, it will take time and till then they are to be stored also. In such circumstances, respondents 2 and 3 shall

provide ash pond permanent or adhoc with proper lining.

The report also shows that the Kosasthalaiyar River Main Channel is heavily silted with fly ash and that is to be desilted for free flow of water. The respondents 2 and 3 are directed to dredge the Kosasthalaiyar Main Channel to remove the fly ash with the aid of respondent no.8. The respondent no.8 shall take steps to desilt the fly ash at the expense of respondents 2 and 3. It is also made clear that once the fly ash is dredged, its removal shall be by the respondents 2 and 3 and it shall be kept in a ash pond with proper lining.

The report also shows that the workers engaged in the removal of fly ash, pursuant to the order of this Tribunal, continue to work without adequate respiratory or dermal protection. It is also suggested that considering the fact that most of the workers are youngmen with life ahead, exposure could seriously harm their economic prospects and lifespan. The learned counsel appearing for the respondents 2 and 3, on instructions from the officers present, submitted that sufficient protection is provided. But admittedly no dermal protection is provided. The respondents 2 and 3 are therefore directed to provide all the required protection to the workers both respiratory and dermal, who remove the fly ash, as otherwise it would cause danger to their life.

The respondents 2 and 3 are also directed to take steps to remediate, based on the findings in the report, after conducting proper study.

The respondents 2 and 3 shall expedite the process of replacing the existing ash pipeline.

List the matter on 5.2.2018

....., JM
(Justice M.S.Nambiar)

