

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

**Original Application No. 10 of 2017 (SZ)  
with  
Original Application No. 18 of 2017 (SZ)  
with  
Original Application No. 58 of 2017 (SZ)  
with  
Original Application No. 105 of 2017 (SZ)**

Suo Motu Proceedings initiated based on the news item Published in "The Times of India" Chennai - Edition dated 20.01.2017 on the caption "Bhavani river water unfit for consumption" and "Waste from Mettupalayam Government Hospital ends up in Bhavani River"

... Applicant(s)

***Versus***

The Chief Secretary,  
Government of Tami Nadu,  
Secretariat, Chennai and others.

...Respondent(s)

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**Filed by  
Thiru. C. Kasirajan,  
Advocate, Chennai.**



**Written Submission of the Applicant Thiru.T.T.Rangasamy in O.A. No. 58 of 2017**

S. No	Para No.	Facts in Brief	Remarks
1.	1.	<p>The Applicant respectfully submits the following facts with reference to the report of the Joint Committee before and for arriving at the proper, lawful, right and just decision by the Hon'ble Tribunal on the issue of alarming pollution in the water of the river Bhavani and the other consequential effects and issues of immense public interest, especially in the context of the report of the experts of in the field who had concluded that their "study indicates that the water of the entire River Bhavani stretch is not fit for drinking, bathing but it can be used for irrigation", as could be seen from the Bulletin of Environment, Pharmacology and Life Sciences, published in May 2018.</p>	No Remarks
2.	2.	<p><b>Facts in Brief</b>                      The Applicant submits that the Joint Committee constituted by the Hon'ble Tribunal consisted of only government officials. Neither the Applicant nor any independent agency was made part of the Joint Committee. Three of the four members of the Joint Committee are the officers under the Government of Tamil Nadu and the Respondents 6, 7 &amp; 9 in the present case. The fourth member (the Central Pollution Control Board), though not a Respondent in this case, is also a government servant but working under the Union Government of India.</p>	<p>The Joint Committee was constituted vide Proc. No.T1/TNPCB/LAW/LA-III/NGT/F.001904/CBE/2020 dated:06.03.2020 as per the Hon'ble NGT order dated: 02.01.2020 in O. A. No. 10, 18, 58 and 105/ 2017.</p>
2.	3.	<p>It is an unassailable fact that the commissions and omissions, deliberate or negligent, of the Respondents in this case, have alone been the primary and basic cause for the pollution in the water of the river Bhavani, which made the Hon'ble Tribunal to take notice of the issue and initiate action suo motu. As the Joint Committee was dominated only by the Respondents in this case, its report has ended up as a one-sided version of the case camouflaging the reality. The report, in essence, protects the interest of the erred and erring public servants and not the</p>	Not Applicable

		public interest.	
3.	4.	<p>The Applicant, therefore, submits that the report of the Joint Committee which is a bland and incorrect one without proper appreciation and analysis of the relevant facts cannot be and may not be given any more weightage, in law, than what can be given to a combined counter-affidavit of the Respondents 6, 7 &amp; 9. The Applicant submits that that report cannot be treated as a final fact-finding document to decide on the issues raised in this case. He, therefore, prays that he may be permitted to present all the relevant facts which are crucial, which escaped attention of the Joint Committee, willy-nilly, for deciding the real Facts-in-Issue in this case.</p>	<p>The Joint Committee report was prepared based on the analysis results of the water sample taken from River Bhavani at seven locations and the observations made during inspections. The samples were analyzed as per the standards of Monitoring Indian Natural Aquatic Resource System (MINARS). The ROA reveals that Fecal coliform are presence in all seven locations due discharge of sewage from the Mettupalayam Municipality and Sirumugai Town Panchayat and other parameters are within the permissible limits for drinking water standards except Copper which is slightly higher than the drinking water standards in 3 locations, which may be due to natural geographical condition.</p>
4.	5.	<p>The report of the Joint Committee, which claims to have visited and inspected all the seven major industrial units and the public bodies on a single day, on 18.03.2020 (as found recorded in Para 2.0. of its report), has, virtually, absolved all the major private industrial units of the guilt of pollution and has blamed only the government agencies like the Municipality and the government hospital. "All other parameters are within the standards which confirm that there is no industrial effluent contribution to the River Bhavani" says the Report in Para 4.0 (ii). If this is true, then all the pollution all these years, at least from the year 2017 onwards, was and is only because of municipal effluents and government hospital effluents.</p>	<p>The Joint Committee has inspected and monitored River Bhavani's major drains outside the premises of industries on <b>March 17, 2020</b>. The Joint Committee has also inspected the Government Hospital Mettupalayam and six industries located on the basin of the River Bhavani on <b>March 18, 2020</b> (Five industries have provided ZLD system except M/s. ITC Limited Paper Boards and Speciality Papers Division, Unit: Kovai). During inspection it was found that the five industries (except M/s. ITC Limited Paper Boards and Speciality Papers Division, Unit: Kovai) have provided Zero Liquid Discharge System (ZLDS) for the treatment of effluent generated. Zero Liquid Discharge System (ZLDS) in all five industries were in operation and treated effluent was recycled back to process and all the five units were achieving ZLD. There was no discharge of untreated/treated trade effluent into</p>

		<p>the drain or into River Bhavani from all the five units.</p> <p>The unit M/s. ITC Limited Paper Boards and Speciality Papers Division, Unit: Kovai has provided Effluent Treatment Plant for the treatment of effluent generated. During the Joint Committee inspection, the ETP was in operation and treated trade effluent is utilized for irrigation on their land. At the time of inspection, there was no discharge of untreated/treated effluent into drain or into River Bhavani from the unit. Regularly TNPC Board is analyzing treated effluent sample and all the parameters are within the irrigation standards prescribed by TNPCB. Online Continuous effluent monitoring system is also installed at the inlet and outlet of ETP for the parameters pH, COD, BOD, TSS and Temperature. The data is connected to CPCB and TNPCB server.</p> <p>The Government Hospital, Mettupalayam has not provided Sewage Treatment Plant for treating the liquid waste generated from the floor washing of wards, operation theatre, dialysis ward, toilets and canteen. During inspection it was informed by the GH authority that the liquid waste generated is first taken into a drum and disinfected with 5% hypochlorite solution giving 5 minutes retention time and then discharged into sewers/drains. However it was noticed that the drums were empty and no sign of dosing was observed. GH has constructed two lines inside the premises, one for the storm water and another for discharging the liquid wastewater. The untreated liquid wastewater is discharged into a public sewer which finally joins the River Bhavani. During inspection, sample from the drain discharging liquid waste was collected and analyzed. From the</p>
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			<p>Report of Analysis, TSS, Oil and Grease, BOD and COD are not meeting the standards prescribed by TNPCB for discharging trade effluent into inland surface water. Hence, it is evident that Government Hospital, Mettupalayam is discharging untreated trade effluent into public sewer which finally reaches River Bhavani.</p> <p>During inspection the flow of the river was moderate and observed that, the major drains carrying sewage generated from the Mettupalayam Municipality was directly discharged into the river. The river water samples at seven locations from the downstream of the drains joining the River Bhavani were collected and analyzed in the Advanced Environmental Laboratory, TNPCB, Salem. ROA reveals that there is discharge of sewage from the Mettupalayam Municipality due to the presence of Fecal coliform in all seven locations.</p>
5.	6.	<p>The report of the present Joint Committee is in total contradiction to the findings of the earlier Joint Committee set up by the Hon'ble Tribunal in the O.A. 26 of 2019 in respect of the ITC. The ITC is, till date, guilty of not having developed proper effluent management system. A simple arithmetical calculation would show that the ITC cannot and does not use the entire effluent for agro-purposes and, consequently, lets the effluents pollute the lands and river in the neighborhood. Numerous violations of very serious nature as recorded in detail in the report of the earlier Joint Committee, which had also been summarized in Para 1 (i) to (xiii) and in Para 5.0 (in Pages 8 &amp; 9 of its Report) have not been taken into consideration at all by the present Joint Committee. The entire report of the present Joint Committee is thus incomplete and defective and is required to be rejected in to, on this score alone.</p>	<p>The Joint Committee formed by the Hon'ble Tribunal in the O.A. 26 of 2019 has inspected M/s. ITC Limited Paper Boards and Speciality Papers Division, Unit: Kovai during January 06 to 08, 2020. During inspection, ETP was found in operation and the treated trade effluent was being utilized for irrigation purposes. There is no discharge of either untreated or treated trade effluent outside the unit premises and confirmed with the Applicant Thiru. Ashok Raj Kumar in the O.A. 26 of 2019.</p> <p>However based on the Joint Committee recommendations in the O.A. 26 of 2019, TNPCB has directed to levy Interim Environmental Compensation Rs.331.80 Lakhs till 11.03.2020 and thereon each day Rs.30,000/- until compliance.</p>

			The same was also mentioned in the joint committee report and did not go in detail, as it was dealt in another NGT case.
6.	7.	The Report given, thus, by the Joint Committee indicates only the fact that the public servants in the Executive consistently fail or refuse to enforce law to protect public interest and shift the onus only on the shoulders of the Judiciary.	No comments/ Not Applicable
7.	7 (a).	The Joint Committee did not collect samples of water throughout the stretch of the River Bhavani which extends up to Bhavani-Kooduthurai where there is the confluence of the river Bhavani with the river Cauvery, even when the Hon'ble Tribunal had, specifically, directed them "to test the water quality of River Bhavani throughout the stretch and find out its quality and if it is not to the extent of potable drinking water standard, suggest the remedial measures to achieve the same". The seven points from which it collected the samples, as mentioned in Pages 3 & 4 of its report, cannot represent the "water quality of River Bhavani throughout the stretch". The report of the Joint Committee does not, therefore, present the complete and comprehensive picture of the problems faced by the people in the field.	<p>Joint Committee collected the water samples after analyzing the major sewage outfall to River Bhavani. The samples were collected at seven locations downstream of the sewage joining point to get the true representation. Hence the water samples were collected entire stretch of River Bhavani that flows in Coimbatore District. River Bhavani downstream from Sirumugai – Kooduthurai stretch is flows in Erode District.</p> <p>Fecal coliform are presence in all seven locations due discharge of sewage from the Mettupalayam Municipality and Sirumugai Town Panchayat while the other parameters are within the permissible limits for drinking water standards except Copper which is slightly higher than the drinking water standards in 3 locations, which may be due to natural geographical condition.</p>
8.	7 (b).	The Joint Committee did not take note of the fact that the ETP cannot do the work of STP, when it says, in Page 13 of its report, that M/s. Sharadha Terry Products Ltd, which generates 132 KLD of sewage has it "connected to trade effluent ETP" and left the matter at that. It is a fact that the fecal matter in the sewage cannot be treated by ETP.	The unit M/s. Sharadha Terry Products Ltd has provided 150 KLD capacity of STP comprising Bar Screen Chamber, Oil & Grease Separator, Collection tank, Aeration tank, settling tank, pressure sand filter, chlorine contact tank for the treatment of 132 KLD sewage generation. The treated sewage is further treated in ETP and recycling into process.

9.	7 (c).	The Joint Committee did not record how M/s K. G. Denim Textiles, is treating the 50 KLD of sewage, before and for using it for gardening. The report is silent on this aspect.	M/s K. G. Denim Textiles is treating the 50 KLD of sewage in the existing Sewage Treatment Plant before disposing in to Gardening. The STP comprising the following components as Bar screen chamber, Collection tank. Aeration tank, Outlet tank, Pressure sand filter.
10.	7 (d).	The Joint Committee did not take note of the fact that the ITC which is located within the distance of 3 Km from the southern bank of the River Bhavani is bounded on the north by a semi-perennial brook (Odai) named Bokkai Pallam, which is within 50 mts. of their effluent plant.	M/s. ITC was not found to be discharging the treated/untreated water outside the unit premises during the Joint Committee inspection on 17 <sup>th</sup> and 18 <sup>th</sup> March 2020. The treated water was found to be used on Industries Own land for irrigation. No discharge of treated /untreated effluent observed during inspection.
11.	7 (e).	The Joint Committee did not take note of the fact that the ITC does not submit its irrigation management plan to the TNPCB and the latter does not verify it before issuing Consent to the ITC. As a result the ITC, which draws 66,00,000 liters of water every day from the river, and generates 26,00,000 liters of effluent per day does not use the entire effluent for cultivation which is shown to be done only in 13.51 hectare for coconut trees. The requirement of water per coconut tree is 410 liters per application, for each of the required 50 applications in a year (410x50). The 2000+ trees of the ITC would require only 42.6 million liters per year while the effluent discharged is whopping 949 million liters. The remaining 906.4 million liters is discharged by the ITC on empty land. Neither the TNPCB nor the Joint Committee looked into this very serious aspect of deliberate pollution of the earth by the ITC.	The unit has made an agreement with Tamilnadu Agricultural University, Coimbatore for continuous monitoring of the effect of the treated effluent on land for irrigation, on soil and crops/plants/trees. Water samples taken from different locations, both within the ITC factory premises and nearby open well indicated that all the parameters are within the standards prescribed by the TNPCB and also as per irrigation water standards prescribed by TNPCB.
12.	7 (f).	The Joint Committee had failed to take note of the fact that the ITC has been consistently violating all the 12 guidelines which were framed by the CPCB in September 2019, as per the Order dated 24.05.2019 passed by the Principal Bench of the Hon'ble Tribunal in the O.A. 348 of 2017.	The unit has made an agreement with Tamilnadu Agricultural University, Coimbatore for continuous monitoring of the effect of the treated effluent on land for irrigation, on soil and crops/plants/trees.

13.	7 (g).	The Joint Committee has failed to take note of the fact that the ITC does not have the impervious storage tank for storing the effluent for a minimum period of 15 days capacity during the period of low/no demand based on the irrigation management plan, as per CPCB guideline No. 3 (vi).	During the Joint Committee inspection, the ETP provided by ITC was in operation and treated trade effluent is utilized for irrigation on their land. At the time of inspection, there was no discharge of untreated/treated effluent into drain or into River Bhavani from the unit. Regularly TNPC Board is analyzing treated effluent sample and all the parameters are within the irrigation standards prescribed by TNPCB. Online Continuous effluent monitoring system is also installed at the inlet and outlet of ETP for the parameters pH, COD, BOD, TSS and Temperature. The data is connected to CPCB and TNPCB server.
14.	7 (h).	The Joint Committee did not take and analyse samples from at least 120 points, after mapping the cropping pattern, crop age, soil type, etc., Each sample should have an aggregate of minimum 10 sub-samples in an area, which meant 120x10=1200 points as per the standard procedure. But the Joint Committee had come forward to give a superficial report.	Joint Committee was constituted to oversee the quality of water in River Bhavani. Hence the water samples were collected only in the stretches of River Bhavani as directed by the Hon'ble NGT.
15.	7 (i).	The Joint Committee did not draw samples from neighboring farmlands and the streams to assess the extent and impact of pollution.	
16.	7 (j).	The Joint Committee did not take note of the fact that the ITC does have only ETP and not STP. The consequential pollution of the water for irrigation in the absence of STP affects the humans through food chain the extent of which is too well-known to describe.	The basic principle in the operation of STP is Aeration. M/s. ITC has provided "Package of primary settling, aeration & secondary settling". After Treating in this component, the sewage is further treated in ETP before discharging into its own land for irrigation purpose.
17.	7 (k).	The Joint Committee did not take note of the fact that the ITC does have its thermal power unit boiler at just 150 meters away from the Kandiyur Reserve Forest of Nilagiri bio-reserve.	The unit's Co-Generation Power Plant – 8 MW site is located in the Thekkampatty Village which is declared as Hill Village as per the Annexure – I of G.O.Ms.No.49 Housing and Urban Development (UD2.2) Dept.dt.24-03-2003, and the Power Plant included in the said G.O.as Category No.3. Energy Industry, a. Industrial Installations producing Electricity, Steam and Hot

			<p>water.</p> <p>The unit has obtained HACA clearance from the Director of Town and Country planning, Chennai vide letter No.ROC.No.11500/2014/BA1 dated: 09.03.2015 for the installation of captive power plant.</p>
18.	8.	<p>The Applicant submits that the report of Joint Committee needs to be read not only between the lines but also beyond the lines, as it does not focus attention on the essential and Relevant Facts pertaining to the core issues and has not answered the consequent Questions of Fact and Questions of Law, on the issues which had been placed before the Hon'ble Tribunal in the O.A. 58 of 2017.</p>	<p>Joint Committee is constituted as per the Hon'ble NGT order dated: 02.01.2020 in O. A. No. 10, 18, 58 and 105/ 2017.</p> <p>“to oversee the quality of water in River Bhavani and steps taken and ensure that the neither the industrial units nor the local bodies are discharging untreated effluent / sewage into the River Bhavani, so as to contaminate the water quality in the river. They are also directed to inspect the industrial units and find out whether any of the industries are discharging their trade effluent without treating the same either in to the drain or into the river. The above committee is directed to test the water quality of River Bhavani throughout the stretch and find out its quality and if it is not to the extent of potable drinking water standard, then suggest the remedial measures to achieve the same and if there are any violators, take appropriate action against those violators including prosecution, closure of such unit and imposing environmental compensation as directed by this Tribunal in several cases of similar nature, and submit a consolidated and cumulative report of status and action taken within a period of three months.”</p> <p>Accordingly, Joint Committee has prepared the report and submitted before the Hon'ble NGT.</p>
19.	9.	<p>The report is, primarily, defective on the</p>	<p>The Municipal Commissioner,</p>

		following counts:	Mettupalayam in his letters dated 16.03.2020 and 29.05.2020 assured to complete the constructions of STP and UGSS by the June 2021 and to make operational by the June 2021.
20.	9 (a).	The Municipal Commissioner, Mettupalayam, did not say anything in his report contrary to what had been said in the Municipal Resolution dated 11.06.2015. But he had been made to sign to the contrary as a member of the Joint Committee.	
21.	9 (b).	The demand of the people of Mettupalayam which was reflected in the Resolution dated 11.06.2015 was just in accordance with the precedent set in the year 2012 in respect of Kaundanpalayam-Vadavalli project in the year 2012 by the TWAD Board. But the Joint Committee did not examine this aspect.	
22.	9 (c).	The need for the closure of two unviable barrages which are the cause for increased pollution in summer season and their negative cost-benefit ratio have not been dealt with by the Joint Committee.	Not Applicable
23.	9 (d).	The ITC says that its factory is situated "around 5 kilometers away" from the riverbank while the Joint Committee says that that unit "is located at 3 km from River Bhavani". Yet the authorities permit auto-renewals and expansion, indiscriminately, to this unit and many others, on the basis of self-certifications. The authorities do not pay adequate attention to inspect the veracity of the facts selfcertified by the ITC. The ITC indulges in violation of the environmental laws in numerous ways that adds to the pollution in the river water to a significantly substantial extent.	The unit is located within 4980 m from the River Bhavani as per the certificate obtained from the Tahsildar, Mettupalayam dated:30.07.2004. Aerial distance between the unit and River Bhavani is around 3 Km as per the Google Earth Pro. Renewal of consent order was issued to the unit dated:03.05.2017 based on the inspection carried out by the DEE, Coimbatore North & AEE, O/o Coimbatore North on 23.02.2017 and recommendation.
24.	9 (e).	The Joint Committee did not draw any samples for analysis from the Kallaru river which, actually, brings in the municipal effluents of Coonoor Town of Nilagiri district to the River Bhavani at a point above the intake-well that supplies water to the town Mettupalayam and above the Barrage No. II.	Joint Committee is constituted to oversee the quality of water in River Bhavani. Hence the water samples were collected only in the stretches of River Bhavani with respect to Coimbatore District.
25.	9 (f).	The Joint Committee did not pay any attention to the upper reaches of the river Bhavani from Barrage-I to Nellithurai, the point where the river emerges out of the forest.	
26.	9 (g).	In respect of the supply of drinking water to Karamadai area, the intake well was shifted from	

		south bank and relocated at the west upstream of the North bank.	
27.	9 (h).	Quantum of Water flow in the river throughout the year, especially in summer, was not examined.	
28.	9 (i).	Critical water flow not examined. Problems of the livestock was not taken into account by the Joint Committee.	Joint Committee's report was submitted based on the Hon'ble NGT directions in O.A.Nos.10,18,58 & 105 of 2017.
29.	9 (j).	The Joint Committee did not take into account the findings of the earlier Joint Committee set up by the Hon'ble Tribunal in the O.A. 26 of 2019, although they are relevant and essential to arrive at the fact pertaining to pollution in the river as on date.	Joint Committee in its report has incorporated the findings vide 2.6.1. Based on the Joint Committee recommendations in the O.A. 26 of 2019, TNPCB has directed to levy Interim Environmental Compensation Rs.331.80 Lakhs till 11.03.2020 and thereon each day Rs.30,000/- until compliance.
30.	10.	The facts relevant to the lapses on the part of the authorities and the consequent defects in the Report of the Joint Committee, as enumerated in Para 9 supra, are as follows:	
31.	10 (a).	The necessity for shifting the point of supply of the drinking water upstream at Vilamarathur near Nellithurai through closed pipeline, had been the consistent demand of the Municipality itself as could be seen from their Resolution dated 11.06.2015. The Municipal Commissioner has, in his letter No. ROC. No. 1368 / 2017 / E1 dated 29.05.2020 addressed to the Chairman of the Joint Committee, referred, indeed, to the Under Ground Drainage Scheme sanctioned by the Government of Tamil Nadu on 09.09.2016. But he has not said anywhere in his letter that "once the project is completed, shifting of water lifting head works station to the upstream of River Bhavani will not be required." The observation of the Joint Committee in Para 3.1 in Page 18 of its report that "there is no necessity to shift the Mettupalayam Municipality water pumping station to upstream region of River Bhavani once the Mettupalayam Municipality Under Ground Sewerage Scheme with STP is commissioned" is an arbitrary one. The resolution of the elected Municipal Council still stands valid. The	Joint Committee in its report has incorporated the statement of Municipal Commissioner as submitted to the Chairman of the Committee.

		<p>Municipal Commissioner cannot take two different stands at the same time. He as an Executive, cannot to go back or traverse beyond the resolution of the elected body, the Municipality. It is apparent that the Municipal Commissioner, the Respondent-9, had signed the report under undue influence, as the Joint Committee did not have any other independent person as a Member to prevent such bureaucratic pressure by one on the other. He has been made to approbate and reprobate at one and the same time. In this case, however, he has done so by signing the report of the Joint Committee when the resolution of the Municipality has not been withdrawn or modified till date. The report is invalid on this score. It is also submitted that the letter dated 29.05.2020 of the Municipal Commissioner does not link the STP project of 2016 with my prayer for shifting the supply point. Moreover, his report mixes up both the UGDS and UGSS.</p>	
32.	10 (b).	<p>Diversion of the supply point had been done by the TWAD Board earlier in respect of Kaundanpalayam-Vadavalli project in the year 2012 because of excess TDS in the Periapallam which carries the polluted water from the ITC to the river Bhavani. The demand of the people of Mettupalayam which was reflected in the Resolution dated 11.06.2015 was just on the lines of the said precedent. There was no reason for the District Collector to sit on that file for such a long time of five years and come up with the present stand in the report of the Joint Committee. His office files in which the said resolution of the Mettupalayam Municipality had been dealt with would provide clear insight into the arbitrary delay and wrong decisions and abuse of power by the officials of the Collectorate.</p>	<p>Joint Committee's report was submitted based on the Hon'ble NGT directions in O.A.Nos.10,18,58 &amp; 105 of 2017.</p>
33.	10 (c) (i).	<p>The barrages built by the Tangedco at Umaipalayam (at a cost of 187.61 cores in October 2012) and Samayapuram (at a cost of 185.81 crores in July 2015) are producing only 3 MW of power each as against the 20 MW as was supposed to generate. They are not cost-effective.</p>	<p>Joint Committee's report was submitted based on the Hon'ble NGT directions in O.A.Nos.10, 18, 58 &amp; 105 of 2017.</p>

	<p>Moreover, both these barrages are really unlawful constructions as they have been built overlooking various legal formalities, without clearance from even the Respondent-6, as confirmed by him in his letter dated 02.02.2016. These two barrages dam up the river Bhavani near Mettupalayam at Samayapuram (Velspuram- Barrage I) and Umaipalayam (Vellipalayam Road- Barrage II). But in addition to the pollution caused by the polluted Kallaru river water, the Municipality of Mettupalayam itself lets sewage of the town flow into the river water in the upper reaches of the river, ahead of Mettupalayam and ahead of the aforesaid second barrage. And, it is only from that point, water is taken for Mettupalayam Drinking Water Project. According to a report by Tamil Nadu Water Supply and Drainage Board dated 19.10.2016, which is under the control of the Respondent-3, River Bhavani water, which is supplied to 1.5 lakh residents of Mettupalayam for potable purpose, is unfit for consumption. The report states the water is chemically not potable as the turbidity and iron values exceed permissible limits.</p>	
34.	(ii). The drinking water supplied by the municipalities suffer a steady deterioration in taste. By storing the water released from the Pilloor Reservoir in the first barrage, generating power and then releasing the water to the second barrage, the Tamil Nadu Generation and Distribution Corporation Limited (Tangedco) is preventing free flow of water in the River. The colourless pristine water that once flowed in the river Bhavani now flows with coloured water, whenever there is decreased water flow in the river. Water becomes dark in colour, then, due to heavy industrial pollution with decreased light entry into the bottom which again affect the fish and aquatic organisms. It is submitted that the pollution levels have shot up and there is overuse of water treatment technology and chemicals like chlorine only after the dams were built. The river water is bacteriologically unsafe due to the presence of fecal coli form, which comes from human and animal excreta.	The analysis results of River Bhavani water samples reveals that Fecal coliform are presence in all seven locations due discharge of sewage from the Mettupalayam Municipality and Sirumugai Town Panchayat and other parameters are within the permissible limits for drinking water standards except Copper which is slightly higher than the drinking water standards in 3 locations, which may be due to natural geographical condition.

35.	(iii).	<p>These barrages have been constructed in places which are not suitable locations for hydroelectric power generation. These two barrages have increased the problem of the people by adding to the pollution, phenomenally, by preventing the normal water flow. It is submitted that agriculture has been severely affected with the land becoming barren or not providing the usual produce. It, therefore, becomes very essential, now, to protect the river water from pollution in the interest of humanity. The WWF, which conducted a study of the pollution of the river water, had concluded that the Barrages had made the river Bhavani into a cesspool. But the Joint Committee has not examined this important aspect at all.</p>	No Remarks
36.	(iv).	<p>It is only appropriate on the part of the respondents to close down the two power-projects which do not generate any power worth their names when the costbenefit ratio also does not justify their continued existence, while they cause a lot of damage to the living beings, men, cattle and birds, living downstream.</p>	No Remarks
37.	10 (d) (i).	<p>The G.O. Ms. No. 127 Environment and Forests (EC.3) dated 08.05.1998 read with the G.O. Ms. No. 223 Environment and Forests (EC.3) dated 02.09.1998 prohibit setting up of the Highly Polluting Industries within 5 kilometers from the embankments of the rivers and its tributaries. Red category industries (Pulp and Paper industries) are not permitted at all within 5 kilometers. The expansion permitted for these industries, thereafter, was not lawful. The major industry ITC is located within 3 kilometers from the embankment of the River Bhavani. This itself is in clear violation of the norms laid down by the Government of Tamil Nadu in the orders dated 08.05.1998 and 02.09.1998. Yet the ITC has, given a patently false statement that their unit "is located around 5 kilometers away from the river Bhavani", in their letter dated 16.03.2020 addressed to the District Collector, Coimbatore. However, the Joint Committee did not buy this lie but has recorded, in Page 12 of its report that the</p>	<p>The unit is located within 4980 m from the River Bhavani as per the certificate obtained from the Tahsildar, Mettupalayam dated:30.07.2004. Aerial distance between the unit and River Bhavani is around 3 Km as per the Google Earth Pro.</p> <p>Since, the unit is located within 4980 m from the River Bhavani as per the certificate obtained from the Tahsildar, Mettupalayam dated:30.07.2004 and as such it attracts the provisions of G.O.Ms.No.213 of E&amp;F Dept dt:30.03.1989 and the unit had to expand its production activity only after obtaining relaxation from Tamilnadu Government.</p> <p>Hence, the unit had obtained G.O relaxation from the Environment and Forest (EC3) department Vide G.O.(3D) No.15 dated:14.02.2014 for the</p>

		<p>ITC “is located at 3 km from River Bhavani”. A factory that gives such a patently false statement on an issue which can be physically verified so easily, is relied upon by the authorities and their self-certifications are accepted as a matter of routine, as per the Circular Memo No. P&amp;D / 16032/2010 dated 29.10.2015 and auto-renewals permitted wholesale even for red category industries. This contradiction between the letter dated 16.03.2020 of the ITC and the report of the Joint Committee proves that the ITC cannot be relied upon to continue to accept its self-certifications. The authorities do not pay adequate attention to inspect the veracity of the facts self-certified by the ITC. The ITC indulges in violation of the environmental laws in numerous ways that adds to the pollution in the river water to a significantly substantial extent.</p>	<p>following:  <b>Products Manufactured:</b>  Duplex Board, Cromo Board &amp; Art Board – 10000 T/M  Power Generation (Captive Use) – 8 MW  <b>Discharge Outlets:</b>  Sewage: 73 KLD–Treated in the Existing ETP and disposed on Industry’s own Land.  Trade Effluent – 2600 KLD on Industry’s Own land for Irrigation.    Renewal of consent order was issued to the unit dated:03.05.2017 based on the inspection carried out by the DEE, Coimbatore North &amp; AEE, O/o Coimbatore North on 23.02.2017 and recommendation.</p>
38.	(ii).	<p>The ITC is discharging effluents to the extent of 26,00,000 liters per day. It has pumped approximately 32740 tons of TDS, so far, into the land measuring 61 hectares, other than those occupied by buildings. So, the per-hectare load of TDS is 536 tons/hectare. Since there is no serious cultivation except in about 15 hectares, all the TDS that had been pumped into this land of 15 hectares under irrigation resulted in TDS accumulation of 2182.6 tons/hectare so far. Such a huge load of TDS has resulted in enormous quantum of aggregated TDS in the soil in the neighborhood due to its consequential and continued leaching. The ITC has, thus, spoiled the underground water and surface water. The neighborhood farm wells have become unfit for drinking and the ITC is consoling them by supplying drinking water to the farmers in the neighborhood.</p>	<p>The Joint Committee formed by the Hon’ble Tribunal in the O.A. 26 of 2019 has collected water samples in bore wells, open wells &amp; odai during January 06 to 08, 2020. The analysis results reveal that the ground and surface water parameters are within the permissible limits for irrigation and livestock. There was no contamination of ground/surface water observed due to industrial activity. In all the ground/surface water samples, Nickel is found slightly higher than the drinking water standard 0.02 mg/l, which may be due to natural resources.</p>
39.	10	<p>The Joint Committee did not take note of the fact</p>	<p>Joint Committee is constituted to</p>

	(e).	that the leach ate with the TDS reaches the river Bhavani through two adjoining streams that join the Periapallam, which, in turn, joins the river Bhavani which is within the distance of 3 KM. The river Kallaru carries the municipal sewage of Coonoor town of Nilagiri district. It is submitted that the point from which water is lifted for Mettupalayam town happens to be at a place below the confluence of the Kallaru river with the river Bhavani and above the Barrage-II built across the river Bhavani near Mettupalayam. The World Wildlife Fund (WWF) had, in its study during the years 2015, 2016 and 2017, concluded that the Kallaru river water was loaded with coli form bacteria. Yet, the Joint Committee did not evince interest in the task assigned by the Hon'ble Tribunal to study the extent of pollution and the cause of pollution. The Committee did not draw any sample from the river Kallaru for analysis, although it is very relevant to the issues before the Committee concerned.	oversee the quality of water in River Bhavani. Hence the water samples were collected only in the stretches of River Bhavani as directed by the Hon'ble NGT in its order.
40.	10 (f).	It is submitted that the Joint Committee had not paid any attention to the upper reaches of the river Bhavani, above Welspuram and to the Periapallam of Thekkampatti which carries the pollutants of the ITC. No samples had been drawn from the Periapallam Odai to assess the quality of water. It is submitted that because of the excessive TDS found in the said Odai during rainy season that the TWAD Board relocated its intake well, from the South Bank of the river Bhavani, very near the joining point of Periapallam, to the upper reaches of the North Bank. This is one of the very serious flaws in the report of the Joint Committee, whose very approach to the issue had not been an informed one. The Joint Committee did not understand the intricacies of the issues as there was no one in the Committee who understood the history of the case and the facts, both core and peripheral.	
41.	10 (g).	In respect of the supply of drinking water to Karamadai area, the intake well was shifted from south bank and relocated at the west upstream of the North bank. The plea of the Applicant herein	

		for shifting the supply point of drinking water to a point from Vilamarathur near Nellithurai is also similar to it. But the Joint Committee did not take these precedents into consideration and has given its report in an arbitrary manner.	
42.	10 (h).	It is submitted that the core issue of availability of water in the river has not been examined by the Joint Committee with reference to the extent of pollution. The quantum of water flow is very low in summer while the quantum of effluents remains almost the same. The Applicant had already furnished the authentic data collected in this regard. But the Joint Committee had gone on with its task in a half-hearted manner without exhibiting sincerity of purpose in an issue that affects the living beings. The report cannot be treated as a complete one without examining the flow of water throughout the year. It is submitted that the actual data collected by the Applicant for the one year period from October 2016 to September 2017, showed that the water flow was about or more than 165.75 Cu.sec only on 168 days out of 365 days.	
43.	10 (i).	It is submitted that the Joint Committee did not examine the issue of 'Critical water flow' required to be maintained in the river throughout the year. Problems of the livestock have not been taken into account by the Joint Committee. This minimum and continuous critical water flow of 200 cusecs per day to enable the existence of aquatic life and to ensure living environment of the people, animals and birds in the riparian villages. There is nothing in the report of the Joint Committee on this issue.	Joint Committee's report was submitted based on the Hon'ble NGT directions in O.A.Nos.10, 18, 58 & 105 of 2017.
44.	10 (j).	The Joint Committee did not take into account the findings of the earlier Joint Committee set up by the Hon'ble Tribunal in the O.A. 26 of 2019. Those findings are very essential and relevant to the present case. That Joint Committee had been set up to look, specifically, into the violations of norms by the ITC. That committee had reported numerous violations on the part of the ITC like (a) Trade affluent being bypassed and discharged without treatment, (b) the process of composting	Based on the earlier Joint Committee recommendations in the O.A. 26 of 2019, TNPCB has directed to levy Interim Environmental Compensation Rs.331.80 Lakhs till 11.03.2020 and thereon each day Rs.30,000/- until compliance. This has been incorporated in the Joint Committee's report in para No. 2.6.1.

		being carried out in open yard, (c) lignite and boiler fuel being stored in open yard, (d) filling the land with plastics, (e) dumping the processed waste sludge in open , (f) defying the statutory obligation by not installing OCEMS, etc., But the present Joint Committee did not deal with those issues making, thereby, its report incomplete. The facts submitted in Paragraphs 6 & 7 supra are relevant to be recalled in this context.	
45.	11.	The Applicant submits that his consistent plea to segregate the O.A. No. 58 of 2017 from the other cases and to grant his plea for shifting the intake point to the upper reaches and to supply drinking water from Vilamarathur near Nellithurai though closed pipeline has not, so far, been conceded and his case has been intricately intertwined with the overall pollution in the water of the river Bhavani. I, therefore, pray that the Hon'ble Tribunal may be pleased to constitute a Committee of independent experts with direction to it to give a fact-finding report, with opportunity being given to the Applicant and the Respondents to explain their cases before it, and present a comprehensive report on an issue that affects the fundamental right of the people for clean drinking water.	No Remarks
46.	12.	It is submitted that the present report of the Joint Committee cannot be of any assistance to the Hon'ble Tribunal to know the real truth about the overall pollution in the river water. The report of the Joint Committee is not an objective analysis of the issues, after proper inspection of the situation in the field. It presents only one side of the case, without being objective in its approach. This committee ought to have but did not consider itself to be on a fact-finding-mission. It just attempted to justify the commissions and omissions of the Respondent officials. It heard the industrial units only. The Hon'ble Supreme Court of India has, in Essar Oil Limited v. Halar Utkarsh Samiti & Others, (2004) 2 SCC 392, held "There is also a strong link between Article 21 and the right to know particularly where "secret Government decisions may affect health, life and	Joint Committee's report was submitted based on the Hon'ble NGT directions in O.A.Nos.10, 18, 58 & 105 of 2017.

		livelihood". It is submitted that the report of the Joint Committee is neither comprehensive nor objective.	
47.	13.	In Nirbhai Singh Vs. State of Punjab (CWP. 7036 of 2005), Hon'ble High Court of Punjab-Haryana, held on 14.11.2011, that "industry for its profits and gains cannot show its back to responsibilities and demands, towards betterment of the community. The industry cannot turn blind towards its social role". Hon'ble High Court had also directed the High Power Committee constituted under the chairmanship of Chief Secretary to ensure probity and transparency in the affairs of the Committee and directed it "to publish the action taken report quarterly so that in case any citizen or a well-meaning group is aggrieved, he can again approach this court for redressal of grievances". The case of pollution of River Bhavani water is also of the same kind and it deserves constitution of such High-Power Committee whose functioning must be directed to be demonstrated by probity and transparency.	As per the Order of NGT, Joint Committee report was submitted.
48.	14.	The Applicant submits that the Academy for Environment and Life Sciences, India had published in its "Bulletin of Environment, Pharmacology and Life Sciences" in the month of May, 2018, a report given by a group of four experts from the Tamil Nadu Agricultural University, Coimbatore and Nirmala College for Women, Coimbatore.. The Corresponding Author of the article was Associate Professor (Environmental Sciences), Department of Silviculture, Forest College and Research Institute, Mettupalayam. That team of experts had arrived at the conclusion that "On an overall, our study indicates that the water of the entire River Bhavani stretch is not fit for drinking, bathing but it can be used for irrigation". But the present Joint Committee did not even think of going into the problems highlighted and the remedial measures suggested by the experts in the said Bulletin. It is submitted that the Respondents 6, 7 & 9 ought to have taken official cognizance of that Bulletin in the month of May 2018 itself and analysed the	Joint Committee consists of District Collector Coimbatore, The Commissioner Mettupalayam Municipality, Central Pollution Control Board and State Pollution Control Board to oversee the quality of water in River Bhavani. Hence inspection was carried out and water samples were collected in entire stretch of River Bhavani that flows in Coimbatore District. Joint Committee's report was submitted based on the Hon'ble NGT directions in O.A.Nos.10, 18, 58 & 105 of 2017.

		issues on file. The Joint Committee could have invited the experts to ascertain their views and record it in its report to make its report serve the purpose for which it was constituted. But it did not do so and had consistently avoided knowledge. Its report has, consequently, become purposeless.	
49.	15.	The Kasthurirangan report had also recommended that “no thermal or power projects should be allowed in ESA (Ecologically Sensitive Area)” and that all red category industries in that ESA should be banned. The present Joint Committee could, at least, have gone through the reasons for pollution brought out in the said report to make itself aware of the seriousness of the task entrusted to it by the Hon’ble Tribunal.	Joint Committee’s report was submitted based on the Hon’ble NGT directions in O.A.Nos.10, 18, 58 & 105 of 2017.
50	16.	The Joint Committee has, through its incomplete report, prevented the Hon’ble Tribunal from knowing the real situation in the field. Hon’ble Tribunal needs facts to decide the issue but the report of the present Joint Committee hides the facts and keeps the Relevant Facts off the record. It is, therefore, necessary in the interest of the large mass of the people who are affected by the pollution in the river water, the superficial report of the present Joint Committee should be rejected and discarded.	Joint Committee is constituted to oversee the quality of water in River Bhavani. The analysis results reveals that Fecal coliform are presence in all seven locations due discharge of sewage from the Mettupalayam Municipality and Sirumugai Town Panchayat and other parameters are within the permissible limits for drinking water standards except Copper which is slightly higher than the drinking water standards in 3 locations, which may be due to natural geographical condition. For the violation of norms as in O.A. 26 of 2019, Environmental Compensation has been already levied on M/s. ITC. Joint Committee’s report was submitted based on the Hon’ble NGT directions in O.A.Nos.10, 18, 58 & 105 of 2017.
51.	17.	The Applicant submits that when the residents of Kolhapur city sought legal intersession to get drinking water through "direct pipe line from Kalamawadi Dam" and to take steps to prevent pollution of the Panchaganga River, Hon'ble High Court of Bombay took note of the acceptance of the demand by the State Government which had given sanction for “supply of water to the city of Kolhapur directly from Kalamawadi Dam” and	No Remarks

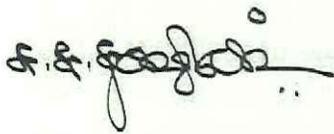
		directed constitution of "a Committee of experts consisting three members (who may or may not be Municipal Councillors) in the field of water technology so as to monitor supply of unpolluted potable water to the city of Kolhapur and to find out ways and means so that there may not be any discharge of drain water into the Panchaganga river". (Para 16 (v) - Dhanajirao Jivarao Jadhav & ... vs State of Maharashtra & Others on 16 December 1997). The plea of the Applicant, which had also been the demand of the Municipality of Mettupalayam, is also similar to it for supply of drinking water from a different point of the river, through closed pipeline, which is valid and justifiable.	
<b>S. No</b>	<b>Para No.</b>	<b>Prayer</b>	<b>Remarks</b>
52.	18.	The Applicant therefore prays that the Hon'ble Tribunal may be pleased	The Hon'ble NGT has directed to constitute a Joint Committee for the purpose of overseeing the quality of Bhavani river. The Hon'ble NGT also nominated the Committee members as The District Collector Coimbatore, The Commissioner Mettupalayam Municipality, Central Pollution Control Board and State Pollution Control Board vide Hon'ble NGT order dated 02.01.2020 in O A No. 10,18,58 and 105/2017. Even though the Committee members are Government officials, inspection was carried out and the report was submitted as directed by the Hon'ble NGT directions extending their obligating responsibility, their professional spirit, accountability and without deviating any scope of deficiency in the Hon'ble NGT's Directions.
53.	a.	To constitute another Committee of independent experts, like those in the Central Pulp & Paper Research Institute, Saharanpur, Centre for Environmental Studies of Anna University, Chennai and the National Environmental Engineering Research Institute, with direction to it to give a fact-finding report, with opportunity being given to the Applicant and the Respondents to explain their cases before it, and present a comprehensive report on an issue that affects the fundamental right of the people for clean drinking water;	
54.	b.	To eliminate the supply of polluted water to the citizens of the towns / villages, viz., (1) Mettupalayam, (2) Tirupur, (3) Karamadai (4) Sikkadasampalayam, (5) Jadayampalayam and (6) Sirumugai besides the Water Supply Schemes for (1) Annur-Avinashi-Sulur Project and (2)	The TWAD Board has been supplying potable drinking water to all the six areas and the two schemes. Hence the committee feels there is no scope for polluted water. However, if the Hon'ble NGT feels, it may please direct the

		Southern Railways by supplying drinking water to these villages from Vilamarathur near Nellithurai through closed pipeline;	TWAD Board to furnish their technical report and clear remarks in this regard.
55.	c.	To allow in the River Bhavani the critical water flow of 200 cusecs per day to enable the living environment of the people, animals and birds in the riparian villages, despite the existence of the two electrical projects or by closing down these two non-viable projects; and	Two Barrages were built and Maintained by the Tamilnadu Generation and Distribution Corporation Limited (TANGEDCO). However, if the Hon'ble NGT feels, it may please direct the TANGEDCO to furnish the Technical and feasibility report in this regard.
56.	d.	To prevent the sewage of the nearby towns and factories from polluting the waters of Bhavani and Kallaru rivers and divert them away and make use of them for some other purposes.	<p>During inspection it was found that the five industries have provided Zero Liquid Discharge System (ZLDS) for the treatment of effluent generated. Zero Liquid Discharge System (ZLDS) in all five industries were in operation and treated effluent was recycled back to process and all the five units were achieving ZLD. There was no discharge of untreated/treated trade effluent into the drain or into River Bhavani from all the five units.</p> <p>The unit M/s. ITC Limited Paper Boards and Speciality Papers Division, Unit: Kovai has provided Effluent Treatment Plant for the treatment of effluent generated. During the Joint Committee inspection, the ETP was in operation and treated trade effluent is utilized for irrigation on their land. At the time of inspection, there was no discharge of untreated/treated effluent into drain or into River Bhavani from the unit. Regularly TNPC Board is analyzing treated effluent sample and all the parameters are within the irrigation standards prescribed by TNPCB. Online Continuous effluent monitoring system is also installed at the inlet and outlet of ETP for the parameters pH, COD, BOD, TSS and Temperature. The data is connected to CPCB and TNPCB server.</p> <p>The Joint Director of Medical and Rural</p>

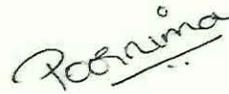
Health Services has requested the Chief Engineer(Buildings), PWD, Trichy Region to send the cost estimation for the "Construction of Combined Sewage Treatment Plant (100 KLD) in Government Sub District Hospital at Mettupalayam in Coimbatore District vide letter dated:25.09.2020 & 08.10.2020. The Rough cost estimated for the combined STP is Rs. 102.0 Lakhs by the PWD and submitted to the Director of Medical and Rural Health Services, Chennai to obtain administrative sanction from the Government.

The Mettupalayam Municipality is in the process of implementing the UGDS with STP for the cost of 701.58 Lakhs. Due to COVID19 Pandemic situation, the project has been delayed and will be completed by June 2021.

Hence the Committee reports that there is no pollution from the Industries in Bhavani River and it is periodically monitored by TNPCB. All efforts will be taken to retain the quality of Bhavani river in future also.



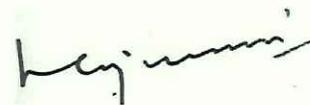
Thiru.S.S.Sureshkumar  
Municipal Commissioner  
Mettupalayam Municipality  
Mettupalayam.



Tmt. Poornima B.M  
Scientist D  
Central pollution Control Board  
Regional Directorate (South),Bengaluru



Dr. P.Asokan  
Joint Chief Environmental Engineer(M)  
Tamilnadu pollution Control Board  
Coimbatore.



Thiru. K.Rajamani, I.A.S.  
District Collector  
Coimbatore.

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

**Original Application No. 10 of 2017 (SZ)  
with  
Original Application No. 18 of 2017 (SZ)  
with  
Original Application No. 58 of 2017 (SZ)  
with  
Original Application No. 105 of 2017  
(SZ)**

Suo Motu Proceedings initiated based on the news item Published in "The Times of India" Chennai - Edition dated 20.01.2017 on the caption "Bhavani river water unfit for consumption" and "Waste from Mettupalayam Government Hospital ends up in Bhavani River"

*Versus*

The Chief Secretary,  
Government of Tami Nadu,  
Secretariat, Chennai and others.

...Respondent(s)

**WRITTEN SUBMISSION OF THE JOINT  
COMMITTEE ON THE OBJECTIONS  
RAISED BY THE APPLICANT IN  
O.A.NO.58 OF 2017**

**Advocate for Respondent: TNPCB  
Thiru.C. Kasirajan,  
Advocate, Chennai.**

**Date: 11.03.2021.**

**Date of hearing on 22.03.2021**

