

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
SOUTHERN ZONE, CHENNAI.

Original Application No. 107 of 2021 (SZ)

S.M. Sivan,
Silver Cloud Estates,
Nilgiris.

...Applicant(s)

Versus

The Government of Tamil Nadu,
Rep by its Secretary to Government,
Department of Environment & Forest,
Chennai and Others.

....Respondent(s)

With

Original Application No. 42 of 2013 (SZ)
(Earlier O.A. No. 525/2018 (PB))
P.Radhakrishnan, Ooty.

...Applicant(s)

Vs

The Union of India,
MoEF, Rep by its Secretary,
New Delhi and others.

...Respondent(s)

With

Original Application No. 86 of 2017 (SZ)
(Earlier O.A. No. 526/2018 (PB))
P.Subramani, Gudalur,
the Nilgiris.

...Applicant(s)

Vs

The Government of Tamil Nadu,
Rep. by its Secretary Department of
Environment and Forest, Chennai and 7 others.

...Respondent(s)

With

Original Application No. 190 of 2015 (SZ)
(Earlier O.A. No. 527/2018) (PB)
C.N. Prem Sagar,
2 Gudalur, Nilgiris.

...Applicant(s)

Vs

Gudalur Municipality,
Rep. by its Commissioner,
Gudalur and 4 others

...Respondent(s)

With

Original Application No. 209 of 2015 (SZ)
(Earlier O.A. No. 528/2018 (PB)
Madayya, Gudalur TK,
The Nilgiri District & another

..Applicant(s)

Vs

Gudalur Municipality,
Rep. by the Commissioner of Gudalur,
The Nilgiri District and 7 others.

...Respondent(s)

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**BEFORE THE NATIONAL GREEN TRIBUNAL
SOUTHERN ZONE BENCH AT CHENNAI**

**REPORT OF THE JOINT COMMITTEE CONSTITUTED BY THE
HON'BLE NATIONAL GREEN TRIBUNAL (SZ) ORIGINAL
APPLICATION No.: 107 of 2021**

1. Background:

An Application was filed by Thiru S M Sivan, a resident of Gudalur Municipality, praying to

- (i) Direct the 7th Respondent, the Gudalur Municipality to relocate the dumping garbage yard from S.No.: 195/2A in R.S. No.: 1281 at 27th Mile of Upper Gudalur, Gudalur Village to any other place at Padanthorai Village and thus render justice.
- (ii) Grant a permanent injunction restraining the Respondents, their men, agents, servants, subordinates or anybody from dumping the garbage and burning the same in 3.10 acres of land in S.No.: 195/2A in R.S. No.: 1281 at 27th Mile of Upper Gudalur, Gudalur Village, and surrounding area.
- (iii) Award costs incurred for this litigation.
- (iv) And pass such other order or further orders as this Hon'ble Tribunal may deem fit and proper in the circumstances of the case and thus render justice.

Vide order dated 21.05.2021, this Hon'ble Tribunal have appointed Joint Committee comprising of (1) The District Collector, Udthagamandalam District, (2) a senior officer from the Tamil Nadu Pollution Control Board (TNPCB) deputed by its Chairman and (3) The District Forest Officer (DFO), Gudalur Division to inspect the area in question and submit a factual as well as action report, if there is any violation found. The Hon'ble Tribunal has fixed The Tamil Nadu Pollution Control Board as the Nodal agency for co- ordination and for providing necessary logistics for this purpose, and posted the matter to 30.06.2021, for further hearing. .

As one of the member of the Committee, deputed by the Chairman, Tamilnadu Pollution Control Board, was nominated only vide proceedings dated 23.06.2021, which was received on 06.07.2021, and in order to file response to the Hon'ble National Green Tribunal (SZ), the District Collector, The Nilgiris District directed the District Environmental Engineer, Udthagamandalam, the Commissioner, Gudalur Municipality to cause inspection, headed by the

Revenue Divisional Officer Gudalur of the Municipal Solid Waste management Facility of Gudalur Municipality located at 27th Mile, in R.S. No.:1281/(pt.) of Guadaluur -2 village. The Team carried out the inspection on 24.06.2021. Based on the observations made during the inspection on 24.06.2021, a reply affidavit was filed by the District Collector, The Nilgiris District. The same was considered by the Hon'ble National Green Tribunal (SZ) during the hearing on 30.06.2021, and ordered, among other things that:

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8. The joint committee is also directed to expedite the inspection and submit the report. The Chairman, Tamil Nadu Pollution Control Board is directed to nominate the nominee as directed by this tribunal, so that the inspection can be co-ordinated and the report could be expedited by the committee.

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11. The office is also directed to communicate this order to the Chairman, State Level Monitoring Committee for their information and it is better that the Chairman of the State Level Monitoring Committee or a member of the committee nominated by the Chairman if any available also be present at the time when inspection is carried out by the joint committee appointed by this Tribunal in this case. The nodal agency is directed to inform the date of inspection to the counsel appearing for the applicant in this case (O.A. No. 107 of 2021), so that the counsel can also be present at the time of inspection. The counsel for the applicant is also directed to co-operate with the committee in carrying out the inspection instead of making any hindrance to work of the committee.

*12. The committee as well the other respondents are directed to file their report as well as their independent responses as directed by this Tribunal on or before **27.07.2021**, by e-filing in the form of searchable PDF/OCR Support PDF and not in the form of Image PDF along with necessary hard copies to be produced as per rules.*

The dated for the inspection by the Joint Committee was finalized in consultation with the Chairperson of the State Level Monitoring Committee and the District Collector, The Nilgiris District, and fixed as 11.00 a.m. on 17.07.2021, and intimated the same to all members as well as the Counsel for the Applicant, vide letter dated 13.07.2021.

The Joint Committee caused inspection of the Solid Waste Management Facility of Gudalur Municipality, located at 27th Mile, in R.S. No.:1281/(pt.) of Guadaluur -2 village, Gudalur Taluk, The Nilgiris District on 17.07.2021. During the inspection, Hon'ble Justice (Retd.) **Dr. P. Jyothimani**, Chairperson, State Level Monitoring Committee on Solid Waste Management, TamilNadu graciously present and moderated the proceedings. The other participants of the inspection is given below:

Members of the Joint Committee:

1	Tmt. J Innocent Divya, I.A.S., District Collector, The Nilgiris District	Head of the Committee
2	Er P S Livingston, District Environmental Engineer, Udhagamandalam	Deputed by Chairman, TNPCB - Nodal Person
3	Thiru Vengatesh Prabhu, I.F.S., District Forest Officer, (Training), Gudalur	Representing the District Forest Officer, Gudalur Division
4	Thiru P Ganesan, Forest Range Officer, Gudalur	

Other Officials Present:

1	Thiru J Saravana Kannan, Revenue Divisional Officer, Gudalur
2	Thiru N Ravichandran, Regional Director of Municipal Administration, Tirrupur
2	Thiru K Sivakumar, Tahsildhar, Gudalur
3	Thiru V Bhaskaran, Commissioner, Gudalur Municipality
4	Thiru N Saravanan, Sanitary Inspector, Gudalur Municipality

Participants in Support of the Applicant:

1	Tmt. Selvi George, Advocate, Chennai-Counsel for the Applicant
2	Thiru S M Sivan, Applicant- Worker in Silver Cloud Estate (P) Limited, Gudalur
3	Thiru Shetty, Manager, Silver Cloud Estates (P) Limited, Gudalur.
4	Thiru M Vasudevan, Office-in-Charge, Silver Cloud Estates (P) Limited, Gudalur.
5	Thiru Thiagarajan, Supervisor, Silver Cloud Estates (P) Limited, Gudalur.
6	Thiru Pichamuthu, Ex-Councillor, Worker- Silver Cloud Estates (P) Limited, Gudalur.
7	Tmt. Ameena, Worker- Silver Cloud Estates (P) Limited, Gudalur.
8	Tmt. Sumathi, Worker- Silver Cloud Estates (P) Limited, Gudalur.
9	Tmt. Saraswathi, Worker- Silver Cloud Estates (P) Limited, Gudalur.

2. Observations made by the Joint Committee:

During the inspection on 17.07.2021, the Joint Committee observed that Gudalur Municipality is carrying out the processing of the Municipal Solid Wastes that are generated in the territorial jurisdiction of Gudalur Municipality, at 27th Mile, in R.S. No.:1281/(pt.) of Gudalur -2 village, Gudalur Taluk, The Nilgiris District, over an area of one acre of land taken on lease from one Thiru A.C. Peter, the 8th Respondent in this Application. The boundary of the facility is guarded with Solar Fencing, with a view to prevent the entry of elephants entering in to the Facility and cause damage to the amenities that are provided for the management of solid wastes. This was carried-out by Gudalur Municipality in compliance of the order dated 12.05.2017 in O.A. No.: 86 of 2017 filed by Thiru P. Subramani.

The Joint Committee observed that there are four sheds available within the facility. In one of the shed, the Micro Composting operation is carried out, wherein there are 18 numbers of masonry tanks are present, wherein the micro composting is carried out. The shredder provided to shred the organic wastes in to smaller particles is also housed in this shed. This is a closed shed. The second shed is a top covered shed and the sides are open, wherein the wind-row composting is carried out. The Box-Composting machine is also housed in this shed. The third shed is a closed one, wherein the high temperature, controlled burning system for burning the rags, used sanitary napkins etc., is housed. This is having a capacity to burn around 2.00 MT of wastes in a day at a temperature of around 400°C. The flue gas generated during the combustion process is cleaned with water scrubber, and let out through a stack of 15 m height. The scrubbing water collected in a series of three tanks, wherein the carbon particles are allowed to settle, and the water is allowed to cool and then recycled. The fourth shed is also a open one wherein the recyclable wastes are bailed, before despatched to actual users.

The Gudalur Municipality is generating around 14 MT/Day of solid waste comprising of 3.5 MT dry waste, of which 1.5 MT is recycled and 2 MT of non recyclable dry waste such as waste rags, used diapers, sanitary napkins etc. or burned in a high temperature burner. Out of the 10.5 MT of wet waste generated, 1 MT of food wastes are taken to piggeries. 5.0 MT of wet waste is handled in micro composting centre. 3.5 MT of wet waste is composted in windrows. The wastes from the chicken stalls/ meat waste/ fish stall to the tune of 1 MT is processed in a semi mechanized box composting arrangement. The compost produced is sold out at the rate of Rs. 3.00 per kilogram.

The Committee observed that there is no odour nuisance is felt in the Solid Waste Management Facility of Gudalur Municipality, except very mild stinky smell felt in view of the stocking of huge quantities of organic wastes comprising of waste vegetables, food materials etc., The workers and representatives of Silver Cloud Estates (P) Limited, present during the inspection, in support of the Applicant informed that the reduced level of odour is due to the application of disinfectants like Bleaching Powder/ Lime Powder, which is applied only during the visits of Higher Officials/ Teams. The Inspecting Committee took note of the same and instructed Gudalur Municipality that the application of disinfectant and deodorizers shall be periodically carried out.

The Committee observed the presence flies in the facility, which is mostly seasonal, and they hibernate during the winter. The committee realized the need to control the flies.

The returning of smoke from the burning chamber of the burner was observed. The District Environmental Engineer informed that the same is due to the overcharging of the waste in the burning chamber, which could be avoided by charging the waste in smaller quantities in between small time intervals. The Committee also found pale black smoke from the stack attached with the burner, which would also be controlled by changing the waste charging pattern, in smaller quantities in between small time intervals. The Committee instructed the District Environmental Engineer to issue suitable instructions to the Gudalur Municipality in this regard.

The Committee observed that the water used for scrubbing the smoke from the burner is collected in three tanks in series, allow the carbon dust to settle and the water to cool and recycle the water back in to the scrubbing system. No leachate, as alleged by the applicant is generated in the processes employed by Gudalur Municipality. The water that is used in the scrubbing process is termed to be leachate by the executives of Silver Cloud Estates (P) Limited, which they claim is polluting the stream, which is the drinking water source for the people. The Committee observed that the water is not allowed to discharge in to the stream, but recycled in the scrubbing process. The Chairperson of the State Level Monitoring Committee opined that even the water from the scrubbing operation is allowed to be discharged; it is not likely to affect the quality of the stream water. However, the Chairperson opined that the residents of the Silver Cloud Estates are entitled for protected water supply, and the Committee is completely in agreement with the same, and hence assured that protected water supply would be supplied to the residential areas of Silver Cloud Estates (P) Limited, by providing Syntex Tanks at prominent locations, which the Gudalur Municipality was instructed to provide within a month's time.

3. Representation during the Inspection:

The Executives of Silver Cloud Estates (P) Limited and the workers of the Estates present during the Inspection made certain representations, both related and not related to the averments made in the Application. The workers also handed over a memorandum to the District Collector (Copy attached with the report). The response of the Committee is furnished as below:

Representation of the Public	Response of the Committee
Handling of waste at this location is attracting elephants, and when they are not able to enter in to the facility, they come in to the estates.	The movements of elephants prevail in the entire Gudalur and Pandalur Taluks. Therefore, this cannot be attributed to the Facility.
Odour nuisance is felt due to the facility, which is causing nausea and other ailments.	Not much of odour is felt. Instructed to apply disinfectants and deodorizer periodically, to contain odour. Also instructed to provide roof top exhausts.
Fly menace occur due to the facility, result in skin irritation etc. They could not take suitable treatment for skin ailments due to the non-availability of skin specialist at Gudalur Government Hospital.	Gudalur Municipality is instructed to provide fly catchers and also to apply solution cedar vinegar mixture with soap water to get rid of fly menace. District Collector assured to ensure the presence of Dermatologist once in a week.
The road blocked due to the Solid Waste Management Facility.	District Collector assured to put the blocked road for Public use in three months.
Smoke from the rags Burner is causing suffocation.	The smoke is not likely to cause suffocation. Advised to reduce the charging rate to avoid black smokes.
Leachate mixes with stream and pollute the drinking water	No leachate generated. However, assured to provide protected water supply to the Estate Workers Colony.
Solid Waste Management Facility is to be shifted to Silukkadi or Padanthorai areas.	Both are much more vulnerable zones (on elephant movement, terrain etc.) comparing to this location. Admittedly, there is no habitation within 500m in this location, and the Estate workers residential area is at least 800m away. Moreover, both areas are not part of Gudalur Municipality. Taking the waste outside the Municipality limits would not be accepted by the other local bodies, and against the settled principle that the wastes should be handled as closed to its point of generation.

4. Response on the Averments made in the Application:

In general, the Applicant makes only frivolous allegations without any material evidence. The allegation that the wastes are dumped is not true. Gudalur Municipality is not carrying out any dumping activity; instead it is carrying out the processing the wet waste in to compost. Similarly, the allegation that the Municipality is burning the wastes dumped is also false and the truth being the waste materials such as rags and used sanitary napkins are destructed at high Temperature of around 400°C, in controlled conditions. The allegation that the leachate generated is reaching the streams and polluting the drinking water source is also not correct. The reality is no leachate is generated in the facility and the water that is used for scrubbing the burner is also kept in closed cycle and reused without any discharge, after removing the carbon particles, in a series of three settling tanks. At no point of time the biomedical waste or chemical waste is brought in to the facility. The waste from the butcher stall and fish market are collected and composted in a Box Type Composter. No appreciable level of odour was observed in the facility, except the stinky smell due to the storing of huge quantities of wet waste for further processing. Flies were found in the Facility, for which the Municipality has been instructed to carry-out certain measures to control the same.

The averment that the Solid Waste Management Facility is located in Elephant Corridor is not correct. It is a well known fact, in Gudalur and Pandalaur Taluks, the crossing of elephants is a very common phenomenon, and hence for the reason that elephants are roaming now and then in an area, the same cannot be termed as Corridor. The averment that the Facility is located in a Residential Area is also not correct and completely false. The Facility, as stated by the Applicant, is surrounded by tea Estates and the nearest house from the Facility is at least 500 m away and the residence of the applicant and the workers colony of the Silver Cloud Estates (P) Limited is admittedly 800m away from the facility.

The detailed response of the Joint Committee on the various averments made in the Application is furnished as **Appendix-1**.

5. Cases involving Gudalur Municipality on Solid Waste Management:

Various litigations were filed against the Solid Waste Management practices of Gudalur Municipality. Their statuses are briefly mentioned below:

5.1: O.A. No.: 190 of 2015 (SZ):

This application was filed by Thiru C N Prem Sagar of Gudalur, filed to restrain Gudalur Municipality from dumping garbage waste and burning the same in the forest situated in Survey Nos.:750, 813/1 and 813/2 of Gudalur Village and also to direct the respondents to remove the waste. The dumping of waste in that location was stopped by the Municipality after the order of injunction passed on 06.11.2015. The said application was disposed by the Hon'ble Principal bench, vide common order dated 15.11.2018, in O.A. No.: 527 of 2018 (PB), directing the Gudalur Municipality, among other things to remove the waste dumped at the Forest lands at Thorapalli, and remitted the matter to the State Level Monitoring Committee on Solid Waste Management. In compliance, Gudalur Municipality has removed about 1685 MT of waste and another 800 MT of waste yet to be removed. The outbreak of COVID-19 during 2020 and 2021, is also one of the reason in carrying-out the removal of the dumped waste. Gudalur Municipality informed that they would carry-out the sieving the waste using semi mechanized seiver, which was used by Coonoor Municipality and complete the works by another three months.

5.2: O.A. No.: 209 of 2015 (SZ):

This application was filed by Thiru Madaya of Gudalur and one another, against the dumping of Municipal Solid Wastes at the Private Forest lands located at Sellukadi in S. No.: 232/3, Padanthorai village, which comes under the territory of Devarshola Town Panchayat. The Hon'ble National Green Tribunal, vide order dated 16.12.2015 granted an ex-parte injunction and the same was made absolute vide order dated 28.03.2016 for the reason that the land in question is covered under the TamilNadu Preservation of Private Forests Act, 1949, and as such Forest Clearance is to be obtained from the Ministry of Environment, Forest and Climate Change, for using the same for the purpose of Solid Waste Management, which is a non-forest activity. Gudalur Municipality stopped/ has not carried-out dumping in that location The said application was disposed by the Hon'ble Principal bench, as O.A. No.: 528 of 2018 (PB) vide common order dated 15.11.2018, without any further direction, and remitted the matter to the State Level Monitoring Committee on Solid Waste Management. The applicant in O.A. No. 107 of 2021 (SZ) is now seeking a direction to carry-out the solid waste management activities by Gudalur Municipality in this location, ie in S. No. 232/3 of Padanthorai Village, Gudalur Taluk.

5.3: O.A. No.: 86 of 2017 (SZ):

This application was filed by Thiru P Subramani of Gudalur, against the dumping of Municipal Solid Wastes at the present location, located at 27th Mile, in R.S. No.:1281/(pt.) of Gudalur -2 village, over an area of 3.10 acres. The Hon'ble Tribunal on 25.04.2017 granted an Interim Injunction, to dump the waste in that location. Subsequently, vide order dated 12.05.2017, Hon'ble National Green Tribunal (SZ) modified the earlier order and permitted to carry-out dumping of waste only over an area of 1.00 acre, and that the said arrangement is only a temporary measure and as soon as a permanent place is allotted in the manner known to law, the municipality shall remove all wastages, which are put at the site as a temporary measure and restore the site at their cost. The said application was disposed by the Hon'ble Principal bench, as O.A. No.: 526 of 2018 (PB) vide common order dated 15.11.2018, without any further direction, and remitted the matter to the State Level Monitoring Committee on Solid Waste Management. In this location, no dumping of waste is carried out, and only the processing of the segregated waste is carried-out.

5.4: O.A. No.: 107 of 2021 (SZ):

This application was filed by Thiru S M Sivan of Silver Cloud Estates, seeking a direction to relocate and shift the dumping garbage yard from S.No.: 195/2A in R.S. No.: 1281 at 27th Mile, in R.S. No.:1281/(pt.) of Gudalur, Gudalur village, to any other place at Padanthorai and to grant an order of permanent injunction restraining from dumping the garbage and burning the same, on which the Joint Committee has carried out the inspection and filing this Report.

6. Suitability of Present Location for Solid Waste Management:

The suitability of the present location ie, S.No.: 195/2A in R.S. No.: 1281 at 27th Mile, in R.S. No.:1281/(pt.) of Gudalur, Gudalur-2 village, wherein the Solid Waste Management Facility is being operated by Gudalur Municipality is generally found to be suitable for the reasons that (i) No residential area is located nearby (ii) The nearest house is at least 500 m away (iii) The nearest habilitation is the workers colony of Silver Cloud Estate (P) Limited, which is at least 800 m away (iv) There is no water bodies nearby and the stream is at least 500 m away (v) There is no place of Public importance is located at least for about 500m.

The area is surrounded by Tea Estates, which cannot be a restraining factor considering the factor, that in Gudalur Taluk, other than residential and public places, almost all other areas are Tea Estates only. The area is not an Elephant Corridor, as claimed by the Applicant. The movement of Elephants is also an inevitable phenomenon, in almost all areas of Gudalur Taluk, and hence no land without elephant movement could be identified and hence this could also be not a limiting factor in operating the Solid Waste Management Facility.

Therefore, this Joint Committee is of the considered opinion, without prejudice to the orders passed by this Hon'ble National Green Tribunal (SZ) in O.A. No.: 86 of 2017 (SZ) that the dumping of waste in this location is permitted only as a temporary measure and so on, that the present location is more suitable environmentally considering the site at Padanthorai village. It is also submitted that finding another suitable site away from residential area and other environmental features in Gudalur Municipal Limits would be very difficult.

7. Performance of the Solid Waste Management Facility:

The Joint Committee, based on the inspection carried out on 17.07.2021, is of the considered opinion that Gudalur Municipality is carrying out the Solid Waste Management operations at the site located at S.No.: 195/2A in R.S. No.: 1281 at 27th Mile, in R.S. No.:1281/(pt.) of Gudalur, Gudalur-2 village, satisfactorily and in conformity with the provisions of the Solid Waste Management Rules, 2016. Only the segregated waste is brought to the Facility and the wastes are only processed; not dumped as alleged. No indiscriminate burning of waste is carried out. Only the rags and the sanitary napkins, which could not be processed with wet waste or sent for recycling along with dry waste, alone burnt in controlled conditions. The Committee has not felt any odour nuisance from the Facility. The presence of flies, was observed, which in the opinion of the committee, could be contained by suitable measures. No leachate was found generated and the water used in the system used to scrub the smoke from the burner is allowed to settle and cool in three settling tanks and the carbon dust removed water is recycled in the scrubbing system, without any discharge. The dry recyclable wastes are bailed and sent for recycling or to be used as fuel in cement kilns. No chemical waste is handled in the facility. Similarly, no biomedical waste is also handled in this Facility. At times smoke returning from the burning chamber and smoke discharged in black colour were observed at a few occasion, which could be rectified by operational adjustments.

Therefore, the Joint Committee is of the considered view that the performance of operation of the Solid Waste Management Facility of Gudalur Municipality is satisfactory.

8. Measures for Improvement:

Even though the performance of the Solid Waste Management Facility of Gudalur Municipality, located at S.No.: 195/2A in R.S. No.: 1281 at 27th Mile, in R.S. No.:1281/(pt.) of Gudalur, Guadalu-2 village is satisfactory, the Joint Committee hereby recommend the following measures to improve its performance.

- (i) Application of disinfectants such as lime powder/ bleaching powder shall be carried out periodically, at least twice in a week. This would minimize the odour, if any.
- (ii) The application cedar vinegar and soap solution mixture in the facility and the nearby area would prevent the flies.
- (iii) Gudalur Municipality shall provide Flies catcher/ Traps, at least six numbers two each in the Micro Composting Shed and the Wind Row Composting shed and one each in the Burner shed and the bailing shed, to control the flies menace. This work shall be carried-out before 30.09.2021.
- (iv) Gudalur Municipality shall provide roof top ventilators, six numbers in the Micro Composting shed and four numbers in the wind row composting shed, to ensuring adequate ventilation and to avoid spreading of stinky smell laterally. This work shall be completed before 30.09.2021.
- (v) The charging of wastes in the burner should be carried-out minimizing the quantities and the charging interval, instead of charging at huge quantities at larger interval. This would ensure adequate complete combustion, avoid developing positive pressure resulting in returning of fumes through the charging door and eliminate black smoke in the stack.
- (vi) Gudalur Municipality shall arrange for protected water supply to the residents of Silver Cloud Estates (P) Limited workers colony, through syntex tanks. This shall be provided before 15.08.2021.

9. Possibilities of Shifting the Facility:

The Hon'ble national Green Tribunal (SZ) in order dated 12.05.2017 in O.A. No.:86 of 2017 (SZ) ordered permitted Gudalur Municipality to carry-out

dumping of waste only over an area of 1.00 acre, and that the said arrangement is only a temporary measure and as soon as a permanent place is allotted in the manner known to law, the municipality shall remove all wastages, which are put at the site as a temporary measure and restore the site at their cost.

In compliance, Gudalur Municipality is bound to shift the Facility to S.No.: 232/3 of Padanthorai village, after getting the Forest Clearance, or some other suitable location. S. No.; 232/3 of Padanthorai Village, lies in the territory of Devarshola Town Panchayat. Such being the case, transporting the waste generated from Gudalur Municipality limits to that place would end up in large public protest, even if the required Forest Clearance is obtained. Furthermore, Padanthorai area is having much more Elephant movements, as compared to the present location. In addition, the terrain of that location is much more unfavourable, in view of the reason that the area is a part of valley with steep slope results the run-off during precipitation joins the stream. Further, the location of the site is closer to residences. About 5 houses are located in the Eastern side, the closest one is within 30 m. In the Western side. There are about 25 houses, and the nearest house is within 100m.

Therefore, the Joint Committee considers that an attempt to shift the solid waste management facility to S. No.: 232/3 of Padanthorai village, over the present location is undesirable, would face a lot of public protests, involve litigation etc., and as such not practically possible.

Identifying a suitable land, within the territorial boundary of Gudalur Municipality, which would suit better to the present location is also very challenging. The NIMBY Syndrome, which prevails within the communities, would result in stiff opposition, whenever attempts are made to develop solid waste management facilities, in a new location, and end up in legal battles.

Therefore, The Joint Committee is of the opinion that shifting the Solid Waste Management Facility from the present location to some other location may not be a feasible proposition, considering environmental, legal and social aspects of the issues involved.

10. Difficulties faced in the Present Location:

The infrastructure available is just adequate to handle the present quantity of waste generated, and there is no provision to handle any surge in the quantity

of waste and the increase in generation over a period of time. No more space is available to expand the activity, as the Hon'ble national Green Tribunal (SZ) vide order dated 12.05.2017 restricted the area to 1.00 acre. The attempt of the Gudalur Municipality to establish an Additional Micro Composting Centre at Makkamoola, R.S. No.: 732/2 of Gudalur-1 Village is also stalled due to the public protests/ objections.

Further, the power requirement of the Facility is catered through a Diesel Generator Set of 20 KVA, and as such the Facility is experiencing difficulties in operating all the mechanical equipments simultaneously, thereby the output get decreases.

The Hon'ble National Green Tribunal (SZ) restricted the activity to an extent of only to 1.00 acre, for the reason at that point of time the waste was dumped, and not processed. It is informed by Gudalur Municipality that they are filing a Petition before the Hon'ble National Green Tribunal (SZ) for the modification of its earlier order dated 12.05.2018 that:

- (1) The Municipality shall not use the entire 3.10 acres of land in R.S.No.1281, at the 27th Mile of Upper Gudalur, Gudalur Village but shall restrict use of the area only to an extent of 1 acre and the entire land is to be cordoned off and fenced properly so as to avoid interference by the animals
- (2) The said arrangement is only a temporary measure and as soon as a permanent place is allotted in the manner known to law, the municipality shall remove all wastages, which are put at the site as a temporary measure and restore the site at their cost
- (3) Regarding the alternative place at Padanthurai, we direct the Commissioner of Gudalur Municipality to expedite the process by contacting the Forest officials and inform the same by filing appropriate Status Report on the next date of hearing.

Gudalur Municipality has proposed to approach this Hon'ble Tribunal, to permit them to establish and operate the Solid Waste Management Facility over at least another one acre of land, allow the Municipality to operate the Solid Waste Management facility permanently at this location and considering the objections, land setting and environmental features prevail, not to insist on getting the Forest Clearance for the land at S.No.: 232/3, Padanthorai village.

In as much as the Municipality is now carrying-out only the processing of segregated waste in the Facility, and no dumping of waste is carried which was the situation when Hon'ble National Green Tribunal (SZ) has imposed such restrictions, it is recommended that the Hon'ble National Green Tribunal (SZ) may consider the request of Gudalur Municipality favourably, thereby the Municipal Solid Waste Management in Gudalur Municipality could be carried out in a much efficient manner.

Similarly, granting of electric power connection would also be of immense help in carrying out the activities more effectively.

11. Directions Issued in O.A. No.: 606 of 2018 (PB):

As per the orders laid by the Hon'ble National Green Tribunal (PB), the remediation of the legacy waste has to be completed by April, 2021. Gudalur Municipality, in response have commenced the removal of the legacy waste, that were dumped at Thorapalli, S. No.: 750, 813/1 and 813/2 of Gudalur-1 Village, was commenced and waste to the tune of 1685 MT were removed. However, another 800 MT of waste remained, which need to be removed, which was delayed due to the COVID-19 pandemic, and the infection control activities, over which the entire. Municipal machineries were deployed. However, Gudalur Municipality planned to borrow the seiver used at Coonoor Municipality and to carry-out the bio mining of the remaining 800 MT waste, and scheduled to complete in another 3 months. The Committee is satisfied with progress made in this regard, and desired that the remaining waste to be removed/ processed within three months, as scheduled.

12. Findings:

It is submitted that the Joint Committee is of the considered opinion that the Solid Waste Management Facility of the Gudalur Municipality is operated in compliance to the provisions of the Solid Waste Management Rules, 2016, and its performance is satisfactory.

It is further submitted that the shortcomings noticed during the inspection could be rectified and its performance could be improved and in could be ensured that no adverse impact to the environment occurs.

The current location of the Solid Waste Management Facility is found to be more suitable for operating the Solid Waste Management facility comparing to

the land in Padanthorai village, which is located outside the Gudalur Municipal Limits.

Permitting Gudalur Municipality to carry out the Municipal Solid Waste Management activities over a larger area, at least for another 0.50 acres, if not another 1.00 acre land, would improve the operation of the Facility.

13. Recommendations:

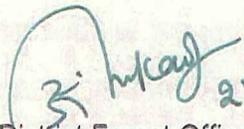
The Joint Committee recommends that this Hon'ble National Green Tribunal to allow Gudalur Municipality to carry-out their operation of Solid Waste Management at the present location viz. 27th Mile, in R.S. No.:1281/(pt.) of Guadalur -2 village, Gudalur Taluk, The Nilgiris District.

The Joint Committee further recommend that Gudalur Municipality would be permitted to carry out the operation by at least another 0.50 acres, if not 1.00 acre, so as to carry out the solid waste management activities more efficiently and hindrance.

14. Prayer:

The Committee humbly prays that this Hon'ble National Tribunal (SZ) may accept the Report of the Joint Committee, together with its recommendations and to pass appropriate orders the Hon'ble National Green Tribunal (SZ), considers deem and fit on the facts and circumstances of the issue.


District Environmental Engineer,
TamilNadu Pollution Control Board,
Udhagamandalam


District Forest Officer,
Gudalur Division,
Gudalur

21-07-2021


District Collector,
The Nilgiris District,
Udhagamandalam.

THE UNITED STATES OF AMERICA

IN SENATE

COMMITTEE ON THE JUDICIARY

REPORT

ON THE

PROCEEDINGS

OF THE

SENATE

Appendix -1

Detailed Response of the Joint Committee on the Averments made by the Applicant in O.A. No.: 107 of 2021

Averment made in the Application	Response of the Committee
<p>The applicant have sent a representation to Gudalur Municipality and requested them to shift the dumping yard, but there is absolutely no response from them and because of the Garbage we are now put to untold health hazard and severe hardship and prejudice and this apart from the fact that there is absolutely no safety and we are forced to live in nightmare because of the Wild Elephant used to come to the dumping yard to eat the garbage (Para 1).</p>	<p>This is a Solid Waste Processing facility; not a dumping Yard as averred by the Applicant. As admitted during the inspection the residences of Applicant and other workers of the Estate are at least 800 m away from the Facility, and as such elephant movement, adjoining to their residences could not be attributed to the Facility. Similarly, the activities are causing health hazard to the residents is also not acceptable. The workers are likely to work in the adjoining Estate area once in a fortnight only. As such these averments are frivolous and vexatious.</p>
<p>The Municipality is dumping all the wastes and garbage and burning the waste in the above mentioned place. This place (dumping yard) is situated in a residential area where people belonging to all ages are living. This action of 7th Respondent creates lots of health hazard not only for the human being, but also for the wild animals. We are put to lot of health problems, not only because of the dumping waste/ garbage but also by the Wild Elephants which is getting attracted by seeing these garbage and used to come there in a group to eat and our lives are now under great danger (Para 2).</p>	<p>Garbage is not dumped- but processed in this location. Stating that the Facility is located in a Residential area is completely false and misleading. The nearest house is at least 500 m away and the residential area of the applicant is at least 800 m away. The Facility is provided with Solar Fencing as ordered by Hon'ble National Green Tribunal (SZ) in O.A. No.: 86 of 2017 dated 12.05.2017. The wild elephant movement in that area is a common phenomenon and the same cannot be attributed to the Facility, particularly when the same is at least 800 m away from their residential area.</p>

The 7th respondent is dumping garbage also with Plastic, Medical Waste, Chemical Wastes and Wastes of Butcher stall which emanates bad smell which is getting mixed in the air and thereby creates air pollution and during the rainy season water gets stagnated in this place which is mixed in the source of drinking water including the ground water and water get contaminated." We drink this polluted and contaminated water which is not fit for human consumption and the same results in health hazard. Because of the butchers waste, house Flies and Mosquitoes which are really gigantic in size are generated in lakhs and lakhs which causes contagious illness not only to the residents but also to the tourists who come here to enjoy the climate and most of us are affected by Diarrhoea, Cholera etc. Our lives has become a big question mark. The applicant has requested the 7th respondent to shift the dumping yard from the existing place to some faraway place. The 7th respondent is not taking any action (Para 3).

The Plastic wastes collected are bailed out and sent to recyclers and to cement kilns. The Biomedical Wastes and Chemical Wastes are not brought to the Facility at all. Wastes from butcher stalls, fish market etc are composted in a Box Composter. As already stated there is not much appreciable odour in the facility. As already stated, no leachate is generated. No liquid waste from the Facility is discharged. Lakhs and lakhs are flies generated are a massive exaggeration. Mosquitoes were not noticed during inspection. The averment that Tourists are affected is misleading. There is no place of tourist importance is located nearby. The applicant is attempting to mislead the Hon'ble Tribunal, by presenting non-factual, exaggerated, frivolous, vexatious averments without any material evidence to support his claims.

There after the respondents have entered their appearance and the Pollution Control Board and the Municipality filed their counter. In the counter filed by the Tamil Nadu Pollution Control Board stated the following:
" The Gudalur Municipality dump yard is surrounded by Tea Plantations and Private estates. The Gudalur Municipality has not obtained authorization under the Solid Waste Management Rules 2016 for solid waste processing, treatment or disposal facility. By virtue of order dated 12.05.2017 the Gudalur Municipality have

At that point of time Gudalur Municipality has not obtained Authorization under the Solid Waste Management Rules, 2016, which was submitted to the Hon'ble National Green Tribunal (SZ). However, Authorization to Gudalur Municipality has been granted on 12.04.2019 with validity up to 31.03.2020. Its validity was extended by common orders, in view of COVID-19 pandemic situation by TamilNadu Pollution Control Board. The Municipality has filed application

<p>started dumping of Municipal Solid Waste collected from 21 wards of Gudalur Municipality of about 19MT/day at the dumpsite located at RS No. 1281, 27th Mile of Upper Gudalur with effect from 16.05.2017." (Para 3).</p>	<p>for its renewal on 15.07.2021, which has been recommended to the Joint Chief Environmental Engineer (M), Coimbatore for granting of Authorization for the further period. the is under process.</p>
<p>It is further averred by them (TNPCB) that the entire waste generated from the Gudalur Municipality of about 19 MT/day is dumped at the above site without proper segregation and for further treatment and Solar fencing was provided in the earmarked area of about 1 acre. It is further stated that they have directed the Municipality to find out the permanent place to carry out MSW handling and disposal facility within the time line and to intimate the same to the Board at the earliest (Para 4).</p>	<p>At that point of time the wastes were dumped. However, the Municipality subsequently brought only the segregated waste to the Facility for further processing and to convert the wet wastes in to compost, dry wastes are bailed and sent for recycling and as fuel to cement kilns. The District Environmental Engineer, TamilNadu Pollution Control Board expressed satisfaction on the functioning of the facility. An opinion expressed when the performance was not satisfactory cannot be taken as against the Municipality, when the shortcomings are rectified and operated satisfactorily.</p>
<p>Every day an average of 19 MT/day is being collected in Gudalur Town and out of which the wet waste such as Vegetable wastes from the Hotels and Market areas (Para 5).</p>	<p>The wet waste such as vegetable waste from the Hotels and market areas are collected, received at the facility, shredded and composted either in Micro Composting Centre or in wind rows.</p>
<p>The subject area is an Elephant Corridor and that the Elephants are getting attracted because of the dumping of wastes and garbage. Since the garbage are thrown in plastic bags and the Elephants eat that also which results in death of elephants. We the residents are not able to live in our dwelling place without any fear. The Wild Elephants comes there in large number and we don't know at what time the Elephants will come</p>	<p>The area is not an Elephant Corridor. No incidence of death of elephant due to eating of Plastic is reported. The movement of elephants in Gudalur and Pandalur Taluks is a common phenomenon. When the residence of the applicant and other workers of the Estate is located at least 800 m away from the Facility, the elephant movement at their residential area</p>

<p>and there are many incidents that the villagers are attacked by Wild Elephants and out dwelling houses are destroyed by the Elephants and we fear for our life and property (Para 6).</p>	<p>cannot be attributed to the existence of the Facility.</p>
<p>By order dated 11.08.2017 it was observed by the Hon'ble Tribunal that "However, we are unable to understand as to why the Municipality has not taken any action for implementing the source segregation" (Para 7).</p>	<p>This was the situation prevailed during 2017, when O.A. No.: 86 of 2017 was filed. Subsequently, Gudalur Municipality implemented source segregation, and after the establishment of waste processing facilities, only segregated waste is brought to the facility.</p>
<p>It is alarming to note (as observed by NGT-SZ in O A No.: 86 of 2017) that the waste includes plastic materials also. This goes to show that the municipality has not so far taken any action in implementing the Solid Waste Management Rules 2016. (Para 7).</p>	<p>The action of the Municipality in operating the Municipal Solid Waste Management Facility in this location is completely in conformity with the provisions of Solid Waste Management Rules 2016, except to the infirmity that the Hon'ble National Green Tribunal (SZ) ordered this being a temporary arrangement.</p>
<p>Our lives are in danger and that it is the duty of the State to give clean environment to us. The Municipality is not giving us the clean environment, but by their action they are polluting the environment and because of their action we are put to tremendous hardship and prejudice. Our children and aged parents are falling sick very often. We are not able to even sleep in our houses and because of the garbage, flies and mosquitoes are generated in large numbers and we are now suffering with so many other ailments (Para 9).</p>	<p>The claim of the applicant that they are unable to sleep in their houses, due to flies and mosquitoes is baseless, in as much as their houses are located at least 800 m away. No environmental pollution is caused due to the action of the Gudalur Municipality, in processing the Municipal Solid Waste at this location.</p>
<p>7th respondent is liable to shift the dumping yard from O.S.No.195/2A, R.S.No.1281 at 27 mile of upper Gudalur Village and to relocate the same at Padanthurai or to some other place. Through the alternate</p>	<p>The site at Padanthorai is Private Forest and as such Forest Clearance is required. The present site is much more suitable comparing to the Padanthorai site. More elephant</p>

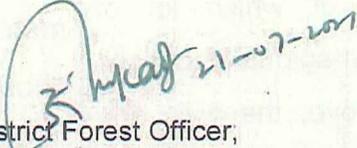
<p>site at Padanthurai was located, for the reasons best known to the respondents the actual shifting was not done and because of inaction on the part of the respondent we the permanent residents of Gudalur Municipality is subjected to tremendous hardships and prejudice (Para 10).</p>	<p>movements prevail in Padanthorai site. The terrain is also unfavourable. Moreover, processing the waste generated by Gudalur Municipality, to a site located in another local body would end up severe protests.</p>
<p>The applicant also requested the Respondents not to dump the Garbage and to relocate the same to some faraway place and however the Respondents did not stop the dumping of Garbage and the applicant is given to understand that Medical waste and butcher stall wastes from Kerala State is also dumped here (Para 11).</p>	<p>The allegation that Medical waste is dumped is baseless. Similarly, the allegation that butcher stall waste from Kerala is also brought to the facility and dumped is baseless and without any basis. The Applicant is making wild allegations to mislead the Hon'ble Tribunal.</p>
<p>This subject area is also an Elephant corridor and repository of wild life. The land situated at a height of 800ft from the main sea level above Gudalur Town which situated at a height of from 1300 meter than the main sea level. This land is bordering Ooty to Mysore Road encircled by streams which provided drinking water to Gudalur Town and other low lying areas. The land is surrounded by private and Reserve Forests, Government Hospital, Schools, Mosque, Temples, Church, Tea Factory and other dwelling houses. The Forest Department erected a sign board cautioning in the area depicting that it is an Elephant Corridor. There was repeated Elephant trampling in this area. The area is also form part of wild life namely Tiger, Panther etc. The action of dumping Garbage in the midst of Forest is also in violation of the orders of the Hon'ble Apex Court (Para 11).</p>	<p>The area is not an Elephant Cooridor. The Public amenities such as Hospitals, Mosque, Temple, Church, Tea Factory, dwelling area are located at least 800 m away. Forest Department has erected a sign board indicating that this is Elephants Crossing Area, which is not Elephant Corridor. The movement of Elephants in almost all areas of Gudalur and Pandalur Taluks is a very common phenomenon.</p>
<p>The 7 and 8 respondents are dumping the Garbage collected from the 21 wards</p>	<p>Garbage is not dumped and burnt; only processed and only the rags and</p>

<p>Gudalur Municipality in the 3.10 acres in O.S.No.195/2A in spite of repeated protest by the public. The 7th Respondent also set fire to the garbage dumped in the area and from that poisonous gas like Dioxin and other harmful gases comes out and not only pollutes the Air, Water but the entire Environment is at peril. The action of the Respondents 7 and 8 are totally harmful for the living being and it affects the vegetation in the area. The fire and smoke emanating by the burning of the garbage dumped will create smog in the surrounding areas. The smog will cause zero visibility in the terrain especially in the Ooty to Mysore Road. The applicant reliably understand that the respondents have not obtained the required prior sanction for dumping of Garbage as the Environmental Clearance is mandatory by the EIA notification of 2006 and authorization under the Municipal Waste (Management and Handling) Rules 2000. The Respondents who are the statutory authority who supposed to protect the Environment is causing damage and polluting the Environment and their action is violative of Article 48-A read with 51 A of the Constitution of India. The applicant reiterates that the 7th Respondent has got alternative areas to dump the Garbage (Para 12).</p>	<p>sanitary napkins are burnt under controlled condition. As such the claim that Dioxins are generated is baseless, which are generated only when chlorinated plastics are burnt, which is not the case at present. When no open burning is carried out, claiming that the fire and smoke from the burning of garbage dumped will create smog, affect visibility of terrain, etc are baseless.</p> <p>Establishing and Operating the Solid Waste Management Facility do not require any Environmental Clearance. It is required only for Land Fill, which is not the case.</p> <p>Authorization to Gudalur Municipality under the Solid Wastes Management Rules, 2016 is granted in proceedings dated 12.04.2019 by Tamilnadu Pollution Control Board. It subsequent renewal application is under process.</p>
<p>The 7th Respondent Municipality has not obtained the mandatory environment clearance for the Dumping yard as mentioned in the EIA notification 2006 (Ground-B).</p>	<p>Establishing and Operating the Solid Waste Management Facility do not require any Environmental Clearance. It is required only for Land Fill, which is not the case.</p>
<p>The 7th Respondent failed to consider the fact that the subject area is a residential area where infants, Children, and old aged people are living and therefore this place</p>	<p>The area is not a residential area. There is no house up to 500 m distance and the nearest habitation is about 800</p>

cannot be used as a dumping yard (Ground-C).	m away. As such this claim is completely false.
The 7 th Respondent failed to consider the fact that because of the dumping of Garbage which includes medical waste, eatery shop waste, butcher shall waste etc and plastic bags it creates lot of health hazard to the people who are living here (Ground-D).	Medical wastes are not brought to the facility. Plastic wastes are bailed and sent to cement kiln, to be used as fuel. The other streams are composted and used as manure. These activities would not create any health hazard.
The 7 th Respondent failed to consider that because of the dumping yard the number of mosquitoes and flies have become lakhs and lakhs and it creates lot of health hazard and because of which lot of diseases especially contagious deceases are getting spread all over the area and the people are suffering a lot (Ground-E).	Other than the nuisance due to flies, no other menace is created due to the functioning of the facility. The applicant is making wild allegations without any material evidence for his claim, which should be ignored.
The 7 th respondent also failed to appreciate the fact that the burning of Garbage in this area affects the Air, Water and the Environment at a maximum level (Ground-F).	No open burning of garbage is carried out. Only the rags and used napkins are burnt in a controlled condition, which would in no way cause air and water pollution.
The 7 th Respondent failed to appreciate that the burning of Garbage result in release of dioxin gas which causes Cancer and the toxic fumes also causing immediate threat to the livelihood of people and also for the Wildlife and other living things(Ground-G).	No open burning of garbage is carried out. Only the rags and used napkins are burnt in a controlled condition. Plastics are not at all burnt. As such the claim that Dioxins are generated is baseless, which are generated only when chlorinated plastics are burnt.
The action of the 7 th Respondent is in violation of Water (Prevention and Control of Pollution) Act, Forest Conservation Act and the Biological Diversity Act 2002 and Environment Protection Act 1986 (Ground-H).	None of the provisions of those statutes are violated. In fact it is very unfortunate that orchestrated attempts are made to stall the initiatives of the local body to manage the municipal solid waste in compliance to the provisions of the statute.
The 7 th respondent also failed to note that the dumping of Garbage also pollutes the Water and it contaminates the Water, Soil	No dumping of garbage is carried out, and as such the averment that there is pollution and contamination of water

<p>and Air and also it poses serious threats to the residents of Gudalur (Ground-I).</p>	<p>and air are baseless. The applicant attempts to mislead the Hon'ble Green Tribunal by alleging that that garbage is being dumped, which is completely false.</p>
<p>The 7th Respondent failed to appreciate that the main and major avocation of this area people is agriculture and the action of the Respondents causing severe threat to Agriculture (Ground-J).</p>	<p>The area surrounding the facility is Tea Estate and the Tea Estates are in no way affected by the functioning of the Solid Waste Management Facility. The allegation is baseless.</p>


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 Udhagamandalam


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