

Presented on: 02/02/2022

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

O.A. No. 1 of 2022

Kuzhikkad Residents Association
& Another : Applicants

Vs.

The Secretary, Minsitry Of Environment
and Forest & 9 others : Respondents

**WRITTEN SUBMISSION FILED BY THE COUNSEL FOR THE
APPLICANTS**

**JOSE PAUL THOTTAM
COUNSEL FOR THE APPLICANTS**

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Brief facts of the case

The 1st applicant is a registered association of 130 families who are finically poor and they have been residing there from decades. The members of the said association reside very near to the 10th respondent business unit and the 2nd respondent is a resident of the area and some houses of the association members are situated even within a radius of 20 metres. The 10th respondent industrial units were causing severe pollution in the area without even complying the norms of maintenance of green belt and safe zone (buffer zone). Infact with the expansion of the units by the 10th respondent for the LPG bottling plant and IREP (Integrated Refinery Expansion Project), the condition even got worse thereby by posing great threat to the life and property of the people and environment at large.

That there has been many instances of gas leakage from the 10th respondent industrial units including the gas leakage on 29.09.2016 and 04.04.2019 leaving behind many causalities. That the expert Committee/technical committee reports including Annexure A22 reports has affirmed that the mandatory compliances like maintenance of green belt, buffer zone are not being fulfilled.

The main points urged by the applicants:

1. The 1st Applicant and the 2nd applicant are residents who reside very close to the 10th respondent industrial unit. The members of first applicant reside north to the

10th respondent and some of the members of the applicants houses are reside within 20 metres from the industrial area of the said respondent and there is no green belt and safe zone.

2. The 10th respondent require large extent of land for its expansion project. Because of the excessive levels of pollution and permanent threat to their lives and property of the members of the 1st Applicant were prepared to surrender their land to the 10th respondent on it being acquired by the 10th respondent. On several occasions the 1st Applicant requested the 10th respondent to shift the new plants so that there will be a buffer zone of at least 500 metre radius around it and a green belt. The 10th respondent was also informed that if in case it is not possible to provide a buffer zone of 500 metres radius, the land of the members of the 1st Applicant may be acquired to which they will not raise any objection. The said requests made by the 1st Applicant did not evoke any positive response from the 10th respondent.
3. Mandatory compliances upon expansion is not observed by the 10th respondent. The applicant herein has preferred a petition before the Kerala State Human Rights Commission which was numbered as HRMP 11018 of 2014 as **Annexure A6**. On 10-3-2015, the Kerala Pollution Control Board herein filed a report as **Annexure A9** before the Human Rights Commission essentially stating that the criteria with respect to distance to dwelling houses, silence zones, public buildings, extent of green belt, height of stacks etc will be protected and reviewed during operation stage of the new units that are coming up.
4. That in HRMP 11018 of 2014 that The Kerala State Pollution Control Board filed a report stating that the green belt, distance to dwelling houses, will be reviewed and protected during operation of new projects vide report 10.03.2015. This was considered by The Kerala State Pollution Control Board was directed to visit and

factors like green belt to be assessed. That later an additional report was filed by The Kerala State Pollution Control Board as Annexure A11 dated 26.10.2015 are silent regarding the aspects of green belt etc.

5. That a joint inspection to be done at the time of renewal of consent as per order of Kerala Human Rights Commission dated 08.02.2016. That even inspite of the above no information was given and the applicant has given a representation as Annexure A13 dated 18.04.2016 to the Kerala State Pollution Control Board to submit and also to consider the grievance of the applicant at the time of renewal of the permit to the 10th respondent unit.
6. The 10th respondent unit is functioning without complying proper safety standards like safety zone, green belt . This is leading to great threat to the life and property of the applicant and residents nearby.
7. That there was a gas leakage from the 10th respondent unit on 29.09.2016 leaving several casualties including school children. That a representation was preferred by the applicants to the District Collector, Ernakulam as Annexure A15 dated 29.09.2016 .Further the district Collector preferred a report from the Tehsildar Kunnathunadu as Annexure A16 on 04.11.2016 and the said report states that there is non compliance of green belt and the residents near to the 10th respondent are also prone to diseases.
8. That there has been another leakage of gas from the plant of the 10th respondent on 04.04.2019 as Annexure A17. That has resulted in serious casualties including children of the nearby school and all the residents of the nearby including the applicants. That a representation was preferred to the Honourable Prime Minister, Chief Minister of Kerala, Minister of Industries. That the Central Pollution Control Board report which is Annexure A 18 states that there is no green belt and buffer zone.

9. That a joint inspection was conducted by the Kerala State Pollution Control Board and Central Pollution Control Board. Kerala State Pollution Control Board has order to form a technical committee. That the pollution control Board has given suggestion to the technical committee, which is Annexure A21.
10. That as per Annexure A21 the light emission and high sound level will affect the residents who reside near the 10th respondent unit. Various safety precautions and gas leakage from the unit needs to be addressed including the issue as to buffer zone. The technical committee has also confirmed to the above observation.
11. That as per Annexure A18 report of the Central Pollution Control Board after inspection it is stated that there is no green belt. As per the Environment Clearance it is mandatory to develop at least 40 acres of green belt which is not done. Storage units are seen to be very close to the boundary of the unit. That safety audit shall throw light into the issue of buffer zone. That with relation to the issue of land acquisition it is to be observed whether certain resident pockets are being created and that an appropriate Committee under District Magistrate shall look into the issue. That the A19 report of the Kerala State Pollution Control Board also concede and ratify as to the issues of buffer zone, green belt, ..etc.
12. That the Annexure A22 report by the technical committee is very relevant that the observations as to there has been clear violation in the noise pollution levels and that the intensity of noise pollution, flare stack, light emission are all beyond the level. That the boundary of the 10th respondent is also an issue and it is suggested that the 10th respondent unit shall acquire land adjacent to these areas and provide buffer zone. That the general recommendations include that land acquired if any shall be used for buffer zone and not be used for future expansion.

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For these and other grounds it is most humbly prayed that this Hon'ble court may be pleased to allow the application O.A. 1/2022 with cost of proceedings to the appellants, in the interest of justice.

Dated this the 2nd day of February, 2022

A handwritten signature in black ink, appearing to read 'JP Thottam', written over a horizontal line.

Jose Paul Thottam
Counsel for the applicants .