

**BEFORE THE NATIONAL GREEN TRIBUNAL**

SOUTHERN ZONAL BENCH, CHENNAI

O.A.No..... 12 of 2020 (SZ)

BETWEEN

IN THE MATTER OF:

Tribunal on its own motion Suo Motu  
based on the news item in Mathrubhumi,  
Malayalam newspaper dated 19.01.2020,  
"The removal of debris in Maradu not according  
to Norms – National Green Tribunal"..... Applicant(s)

With

Government of Kerala,  
Rep. by its Chief Secretary, Secretariat,  
Central Stadium, Mahathma Gandhi Road,  
Near Junction, Palayam, Thiruvananthapuram..... Respondent(s)

**OBJECTION TO THE REPORT OF THE CENTRAL POLLUTION CONTROL  
BOARD BY THE MARADU MUNICIPALITY**

1. It is respectfully submitted that Hon'ble Supreme Court of India, in Civil Appeal Nos. 4784-4785, 4786-4789, dated 8<sup>th</sup> May, 2019, directed the demolition of four multistoried buildings. The said direction is not to this Maradu Municipality. When the said buildings were not removed proceedings were initiated against the State of Kerala. The Government of Kerala appointed a Committee, G.O.(Rt)No. 2193/2019/LSGD, dated 05-10-2019, consisting of six technical members which includes the Chief Environmental Engineer of the Kerala State Pollution Control Board. In accordance with their



*NS*

Secretary  
Maradu Municipality

directions the buildings were demolished on 11-1-2020 and 12-1-2020 by an expert agency appointed by the Government.

2. A news report was published in the *Mathrubhoomi* dated 19-1-2020 stating that there is violation of the disposal of construction and demolition waste. It is based on the observation of Hon'ble Justice Sri.A.V.Ramakrikshna Pillai who was heading a Committee for the implementation of Construction and Demolition Waste Management Rules, 2016, O.A.No.606/2018 of the Principal Bench. This Hon'ble Tribunal by order dated 22-01-2020 appointed a Joint Committee which includes the Secretary of Maradu Municipality, The Chief Engineer Kerala State Pollution Control Board, District Collector and Sub-Collector. The said Committee has been nominated to supervise the work of demolition and removal of waste by the Government. They are also authorised to suggest/recommend necessary pollution control measures to arrest the pollution caused on account of noise and dust pollution and remove the construction waste that has fallen in the Kayal so as to protect the Kayal from encroachment and submit a factual and action taken report.
3. It is respectfully submitted that the entire waste is removed on the basis of the directions from the said Committee wherein this Maradu Municipality is only a member. Therefore, no decision could be taken at any point of time by this Secretary. None of the authorities including the Chairman of the State Level Monitoring Committee has pointed out any violations at any point of time.
4. It is respectfully submitted that Annexure.A.1 illustration of Environmental Compensation calculation with respect to the Construction and Demolition waste management subsequent to the controlled implosion of four high rise buildings by the Central



  
Secretary  
Maradu Municipality

Pollution Control Board is contract to facts and law. It is based on assumptions and surmises and without understanding the law and facts.

5. The Construction and Demolition Waste Management Rules, 2016 (hereinafter referred to as the said CDWMR) is made in supersession of Municipal Solid Waste (Management and Handling) Rules, 2000. For the management of solid waste there is Solid Waste Management Rules, 2016. The duties case on the local authority under the CDWMR is district and different from the Solid Waste Management Rules, 2000. The duties of waste generator are defined under Rule 4 of the said CDW MR. The duties of the local authority are enshrined under Rule 6 of the said Rules. In so far as this case is concerned the entire solid waste is removed on the basis of the directions issued by the said Committee and therefore this Maradu Municipality cannot do anything. In regard to the management of demolition waste directions have been issued and was monitored as per the CDWM Rules. In this regard it is profitable to refer to the report of the Joint Committee dated 27-10-2020 where it has been found that the mission vested with the Maradu Municipality was properly completed. The directions issued by the State Pollution Control Board was followed. At no point of time no directions were issued by the both the Committees any violation of any of the provisions. The said portion of the report is extracted below:-

***The mission vested with the Maradu Municipality was properly completed. Is it hereby specified that the directions and supervision of the State Pollution Control Board were available for the Maradu Municipality in consonance with the removal of debris and it was helpful for the completion of this huge task. As part of preliminary estimate 76300 metric tonnes of waste***



*NS*  
Secretary  
Maradu Municipality

***was in calculation, but only 69600 metric tonnes were removed from various sites.***

6. Thus, there is no question of any damages to the ecology so as to determine the environmental compensation. The Chief Environmental Engineer, Kerala State Pollution Control Board in its report dated 30<sup>th</sup> March, 2023 has found that entire waste generated was disposed of as per law. Thus, no compensation could be imposed on the Maradu Municipality.
7. It is respectfully submitted that the action take by the CPCB is not correct. The reasons are given below: -

**7.1. Estimated total quantity of C & D waste generated with justification.**

According to CPCB there is no proper estimation of C& D waste generated.

It is respectfully submitted that till today no guidelines or methods for calculating demolition waste is issued by the Central Pollution Control Board. Since there is no legal method for the determination of construction waste generated the estimate was prepared by the Committee on the basis of the expertise available in the site. The fact a Technical Committee appointed by the Government of Kerala, as per G.O.(Rt)No. 2193/2019/LSGD, dated 05-10-2019, consisting of six technical members which includes the Environmental Engineer of the Kerala State Pollution Control Board determined the quantity is ignored by the CPCB. It may also be noted that only little time is available for the demolition of the building and the estimation was done with the said available time.



  
Secretary  
Maradu Municipality

**7.2. Details of phased disposal of C & D waste along the location details, quantities disposed of or stored at temporary storage yards, mode of disposal generated C & D waste**

The CPCB has categorially found that there are no details available on temporary stocking yard and mode of ultimate disposal.

The statement that the weight is not calculated on the basis of weighing bridge details is not correct.

The details of the temporary stocking yard and mode of ultimate disposals are not available is incorrect. There was no occasion for the temporary stocking. The debris were taken for the formation of road formation and dumped. All the said activities are being monitored by the Joint Committee appointed by this Hon'ble Tribunal on 22-01-2020. They are fully aware of the situation.

**7.3. Agency entrusted with disposal and to verify whether the waste generated was disposed in line with the relevant rules or not.**

The CPCB has found that the municipality generated a revenue of ` 35,13,000/- from the contract.

The statement that no condition was imposed on the agency, M/s. Prompt Enterprises, who managed waste the disposal as per the provisions of the C&D Waste Rules, 2016 is not a correct statement. The said company has obtained authorisation as contemplated under Rule 7 (2) of the said Rules from the Kerala State Pollution Control Board. Thus, it is to be presumed that they are bound by the said Rules.



  
Secretary  
Maradu Municipality

The C&D Waste Rules, 2016 is a legislation coming under the Environment (Protection) Act, 1986. As per Sec. 19 of the Act no authorisation was issued to the Maradu Municipality to impose fine or launch prosecution. Therefore, no penalty could be imposed under law, even if there is violation

**7.4. Total cost spent towards disposal and the cost recovered from violations if any.**

The report found that the cost incurred for demolition of the four buildings is not furnished. No details of penalty furnished.

It is respectfully submitted that the no such details were called from the Municipality. The said expenditure has no connection with the management of demolition waste.

8. The CPCB report assumed that the local authority has selected the higher bidder to remove the debris and there was no intention to comply with the provisions of C&D Waste Rules, 2016 is incorrect statement. To the best of our knowledge, no notices have been sent to the said contractors alleging any violation of the said Rules. It may be true that that the waste removed could not be taken to processing centre. But it was used to formation of a public road and such usage is permitted under law. Thus, it cannot be presumed there is violation of the said Rules.
9. The finding on relying on the Audit Report of Comptroller and Auditor General (CAG) of India is an observation about the reality. The Joint Committee has not entered into such a finding.
10. The findings and observations of the CPCB is also based on surmises and not based on any law. The finding that Municipality ignored their responsibility to transport the waste sites/facilities for safe disposal/reprocessing as per the rules is incorrect. The Municipality is not the waste generator as per the C&D Waste Rules, 2016. As per



  
Secretary  
Maradu Municipality

Rule 4, the duty vested is on the waste generator and not on the local authority.

11. It is respectfully submitted that there is no finding by the Joint Committee or the Kerala State Pollution Control Board that any environmental loss has been caused. There is no finding that damage has been caused to any flora or fauna of the area. No public are affected by the demolition activities which has been taken care by the Technical Committee appointed by the Government of Kerala. Even the Chairman appointed by this Hon'ble Tribunal, Hon'ble Justice A.V.Ramakrishna Pillai has not found any damage to any ecology or any public.
  
12. It is respectfully submitted that the buildings were demolished on a peculiar situation. After raizing these buildings to the ground Hon'ble Supreme Court by order dated 02-05-2022 appointed a Hon'ble Justice Thottathil B Nair Radhakrishnan to enquire about the involvement of Builder/Promoter/persons/officials responsible for the illegal constructions of the buildings which have already been raized. The enquiry report has been furnished to the Court finding that the builders cannot be made responsible for it and found that State of Kerala, Maradu Panchayat as well as Maradu Municipality, the officials of the State Government and Local Self Government institutions. Objections have been filed to the said report and the issue is still pending before the Hon'ble Supreme Court of India. The issue is still pending consideration before the Court.
  
13. It is respectfully submitted that the power conferred on the Central and State Pollution Control Board to impose compensation arises only in case where there is actual loss to the ecology. The Kerala State Pollution Control Board has unequivocally has made it clear in their report dated 30<sup>th</sup> March, 2023 there is no loss. Thus, the calculation



  
Secretary  
Maradu Municipality

made by the Central Pollution Control Board on the basis of assumptions is not valid and sustainable in the facts and circumstances of case.

Dated this the 4<sup>th</sup> December, 2023



Maradu Municipality:

  
Secretary  
Maradu Municipality

### VERIFICATION

I, Nassim.E, aged 50 years, son of M.Ebrahim Kunju, Secretary, Maradu Municipality, Maradu. P.O. Pin-682 034. do hereby solemnly affirm and state what is stated above in paragraphs 1 to 13 are true and correct to the best of my knowledge, information and belief.

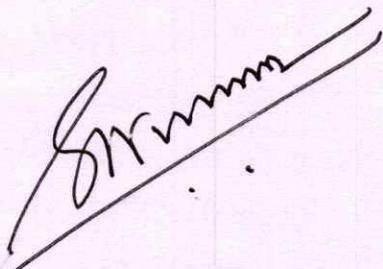
Dated this the 4<sup>th</sup> day of December, 2023.



Maradu Municipality:

  
Secretary  
Maradu Municipality

SIGNED BEFORE ME.

  
P.B. SAHASRANAMAN  
Advocate  
"Narayaneeyam" Chittoor Road  
Cochin-682 011  
E-mail: sahasram@gmail.com  
Phone: 0484 -2354339