

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
SOUTHERN ZONE AT CHENNAI**

APPLICATION NO. 12 OF 2021 (SZ)

BETWEEN

Mass Empowerment and Guidance Association

... Applicant

And

The Kayalpattinam Municipality and Others.

... Respondents

REPLY STATEMENT FILED BY THE 1ST RESPONDENT

Dated at Chennai on this the 7th day of September, 2021.

E-Filing No. :

Date : 07.09.2021



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

O.A. NO. 12 of 2021 (SZ)

BETWEEN

Mass Empowerment and Guidance Association
Reg No: 75/2016
Rep by its Secretary Mr. Mohamed Salihu,
2C, Thaika Street, Kayalpattinam,
Thoothukudi District

... Applicant

AND

1. The Kayalpattinam Municipality
Rep by its Commissioner
Municipal Office, 49, Muthuramman Kovil Street,
Kayalpattinam. Pin 628 204.
2. The District Collector
Chairman,
District Coastal Zone Management Authority
District Collectorate,
Thoothukudi
3. The District Environmental Engineer
Tamil Nadu Pollution Control Board
C7 & C9, SIPCOT Industrial Complex, Meelavittan,
Thoothukudi
4. The Tamil Nadu Coastal Zone Management Authority
Rep by its Director
Department of Environment
No.1, Jeenis Road, Panagal Building,
Ground Floor, Saidapet, Chennai – 600 015.

... Respondents

**REPLY STATEMENT FILED ON BEHALF OF THE 1ST
RESPONDENT**

I, M.Sugandhi, Daughter of Mr.K.Masanamuthu, aged 25 years, the Commissioner of Kayalpattinam Municipality, having office at Municipal Office, Kayalpattinam Municipality, 49, Mutharamman Kovil Street, Kayalpattinam, Tiruchendur Taluk, Thoothukudi District – 628 204, do hereby solemnly affirm and sincerely state as follows:-

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**COMMISSIONER
KAYALPATTINAM MUNICIPALITY**

1. That I am the Commissioner of Kayalpattinam Municipality, the 1st Respondent herein and as such I am well acquainted with the facts of the case from the available records. I am filing this Reply Statement in my official capacity and I am authorized to do so.
2. That the present application has been filed by the applicant herein under Section 14 read with 18 (1) of the National Green Tribunal Act, 2010, for the following relief:-
 - a. *Direct Respondents No. 2 to 4 to forthwith demolish the illegal structure constructed at in CRZ area at Beach Poramboke Land in the intertidal Zone at Kayalpattinam South village, remove the debris and restore the area to its previous pristine state.*
 - b. *Direct the payment of compensation for environmental harm on account of the violation committed by the 1st respondent and suffered by the applicant.*
 - c. *Direct respondents 2-4 to prosecute the 1st respondent for violation of the CRZ Notification, 2011.*
 - d. *Issue such other orders as it deems fit in the interest of the case and render justice."*
3. That nothing contained in this Reply Statement shall be construed as an admission of any statement or averment made in the present Application save and except what has specifically been admitted by the answering Respondent herein.
4. That the answering Respondent denies each and every averment, which is contrary to and/or inconsistent with what is stated in this reply statement, as if the same were specifically traversed.
5. That the instant Reply Statement is being filed in order to bring out the true and correct factual position and to specifically

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deal with the averments and allegations made by the Applicant in the instant Application. The answering Respondent reserves liberty to file an additional Statement/Affidavit and additional documents if the situation so necessitates at a later stage.

6. That Kayalpattinam Municipality was a I Grade Town Panchayat in the year 1952 and was upgraded as Selection Grade Town Panchayat in the year 1982. Subsequently, the said Municipality was upgraded as III Grade Municipality from 14.06.2004 by the Government of Tamil Nadu, vide G.O. Ms. No. 270, Municipal Administration and Water Supply Department, dated 11.06.2004. Now it is a II Grade Municipality. The area of the Municipality is 12.50 Sq.Kms comprising of 18 Wards and the total population of the Municipality is 40,542 as per 2011 Census and now it is 47,840 approximately.

7. That earlier, since no proper disposal site was available to this Respondent, the solid waste which was being generated, was dumped at Paparapalli for the last 50 years. Hence it was just and necessary to establish a facility for the proper disposal of solid waste, pursuant to which, a Solid Waste processing facility was proposed to be established for treating the Solid Waste generated and convert it into useful manure by natural composting on pavements.

8. That further, the Bio-methanation Power Plant was also proposed to be established, to digest the degradable market waste in a digester and use the evolving gas to produce electricity. Both the projects were meant to treat the solid waste generated from the Municipal area, thereby ensuring better environment and health of the community. Pursuant to the above proposal, the land of an extent of 4.5 Acres in Survey No. 278/1B of Kayalpattinam South Village was allotted to this Respondent Municipality for setting up of Biomethanation Plant.

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9. That the Municipality has applied for the Authorization under the 2000 Rules which was notified under the Environment (Protection) Act 1986, to establish a Municipal Solid Waste processing facility on 24.03.2015. The Municipality has also applied for the establishment of a Bio-methanation power plant in the remaining area of 0.3 acres through online system on 10.04.2015. This apart, the proposal for implementation of Solid Waste Management has been submitted to the State Government under Swachh Bharat Mission Scheme and the said proposal was also accepted by the State Level Sanction Committee in its meeting held on 27.12.2017 and the administrative sanction accorded for the same.

10. That the Authorization for Municipal Solid Waste processing facility to convert the waste into manure under the 2000 Rules, was issued by the Joint Chief Environmental Engineer of the Tamil Nadu Pollution Control Board on 25.05.2015.

11. That Municipality as a Government body which is responsible for improving and maintaining a clean environment, had applied for the said project and the consent orders under Water (Prevention & Control of Pollution) Act 1974 and Air (Prevention & Control of Pollution) Act 1981 (as amended) were issued on 24.06.2015 after placing the subject before the Zonal Level Consent Clearance Committee (ZLCCC) which was held on 19.06.2015 for establishing the Bio-methanation Power Plant at S.F.No.278/1B of Kayalpattinam South Village, Tiruchendur Taluk of Thoothukudi District.

12. That in the meantime, an application in O.A. No. 100 of 2015 (SZ) was filed before this Hon'ble Tribunal by one Mr. Paul Raj & another against the aforesaid project which was proposed to be established at S.F.No.278/1B of Kayalpattinam South Village, Tiruchendur Taluk of Thoothukudi District and the same was dismissed on 25.01.2016 thereby permitting this Respondent

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Municipality to proceed with the work as per the Authorization and Consent Orders of the Tamil Nadu Pollution Control Board, with the following observations:-

"38. While parting with, we have to make mention about a fact that a public project like this is attempted to be scuttled due to private dispute even among the municipal members and its president and such activity ignoring the common interest of the people is to be discouraged. The sustainable development is not for the purpose of scuttling any of public projects but it must be balanced with the public interest of course by following the best technology available in respect of the scheme with intent to preserve environment. In any event the development for social benefit shall not be curtailed. On an analysis of the facts of this case we have to mention that no issues of great environmental importance have been raised by the applicants."

13. That immediately after the dismissal of the above O.A. No. 100 of 2015 (SZ), Mr.Paulraj & another, had filed another application before this Hon'ble Tribunal in O.A. No. 50 of 2016 (SZ) thereby sought the following prayer:

a. *Injunct the 1st respondent from dumping wastes at the site comprised in Survey No.278/1B of Kayalpattinam South Village without complying with the mandatory requirements of the Municipal Solid Wastes (Management and Handling Rules, 2000 ("MSW Rules"), the Water (Prevention and Control of Pollution) Act, 1974 and Air (Prevention and Control of Pollution) Act, 1981.*

b. *Direct the 1st respondent to remove the waste illegally dumping at the site comprised in Survey No.278/1B of*

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Kayalpattinam South Village and restore the site to its pristine state.

c. Direct the 2nd respondent to initiate prosecution against the 1st respondent for violation of the Municipal Solid Wastes (Management and Handling) Rules, 2000 ("MSW Rules"), the Water (Prevention and Control of Pollution) Act, 1974 and Air (Prevention and Control of Pollution) Act, 1981.

14. That this Hon'ble Tribunal had granted an Order of Interim Injunction restraining this Respondent Municipality from dumping the Municipal Solid Waste in an haphazard manner in the aforesaid site on 07.03.2016.

15. That, in 2016, in exercise of the powers conferred under Sections 3, 6 and 25 of the Environment Protection Act, 1986, the Ministry of Environment and Forest and Climate Change notified the Solid Waste Management Rules, 2016, introduced in supersession of the 2000 Rules. As per Rule 22 of the Rules 2016, time frame for implementation has been given for the local bodies to be complied with.

16. That in compliance of the above Rules 2016, the Municipality had framed byelaws as per new Solid waste Management Rules 2016 and Gazette notification published on 08.07.2019. New Byelaws came into force from the date of its publication.

17. That the Consent Orders of the Tamil Nadu Pollution Control Board had expired in the meantime which were issued under Rule 2000 for the disposal of municipal solid waste, however, as per Rule 15(y) of the New Rules 2016, the Consents from the Tamil Nadu Pollution Control Board were deemed to be not necessary since the proposed treatment plant i.e., Bio-methanation plan is

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only for handling waste upto 5 Metric Tonnes. This Respondent Municipality is on process of setting up of bio-methanation plant and has proper hedging, vegetation cover processing facilities in the proposed site.

18. That at present the Solid Waste generated is around 14 Metric Tonnes per day in 18 wards of the Municipality, in which 9.5 Tonnes is Biodegradable and 4.5 Tonnes is Non-degradable. In the Municipality, about 90 Sanitary workers, 18 staffs are being engaged for the disposal of Municipal Solid Waste. Apart from the said manpower, 3 tipper lorries, 5 Tata ACE vehicles, 20 Pushcarts and sufficient Battery Operated Vehicles are being involved in the Solid Waste disposal.

19. That in compliance of the Rules 2016, the field staffs of the Municipality segregate the Solid Wastes at the source by door to door collection through different colored bins.

20. That this Respondent has taken all precautionary measures as mandated under the Rules 2016 and also under the Water (Prevention and Control of Pollution) Act, 1974 and Air (Prevention and Control of Pollution) Act, 1981, to dispose the wastes which are being generated everyday.

21. That as mandated under the Rules 2016 and as per the sanction under the Swachh Bharat Mission, the Municipality has established composting centres to treat and dispose the wastes that are being generated everyday by complying all environment and pollution control norms and the 2nd Respondent has also issued Authorization vide Authorization No. SWM/001-TTN/2019 dated 22.04.2019. The details of composting centres are as follows:-

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a. Micro Composting Centre 1 is established at SF No. 278/1B of Kadayakudi, Kayalpattinam Municipality, with a capacity of 3 Metric Tonnes.

b. Micro Composting Centre 2 is established at SF No. 392/5, Sivan Koil Street, Kayalpattinam Municipality with a capacity of 3 Metric Tonnes.

c. On-site Composting Centre is established at SF No. 437, Kayalpattinam Municipality with a capacity of 0.50 Metric Tonnes.

22. That the above facilities cover the entire area of this Respondent municipality except for the area nearer to the beach and its surrounding. Further, since the nearest composting centre from the beach is at a distance of 5 KM, it was proposed to establish the subject Composting Centre with a capacity of 0.50 Metric Tonnes, to segregate and dispose the huge amount of waste which is being generated by the general public during their visit to the beach.

23. That further the subject facility is not a land fill site and has not been proposed to be used for dumping waste, it is only a facility to treat the solid waste generated and as such, does not cause any pollution or damage to the environment and only seeks prevent such damage being caused from the waste being generated at the beach.

24. That this Respondent has constructed a small shed for the proposed composting centre, on the existing compound wall which was constructed under Tourism development scheme in the year 2005-2006. The existing compound wall has been converted and modified as a shed.

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25. That there is neither any blockage nor any obstruction of natural drainage outlet by the construction of subject composting centre as alleged by the applicant in the present application. There is no natural drainage in the subject area and no revenue records were also registered in the name of Keerikulam. The area is classified as un-surveyed poramboke land. As the subject area is low lying area, only during rainy season, water used to stagnate in the subject place. Further, the subject centre distance is approximately away from the sea.

26. That as alleged in the application, there is no prohibition for setting up of solid waste disposal facility under the Coastal Zone Regulation Zone, 2011 or under the Coastal Zone Regulation Zone, 2019. Further this respondent has not proposed to dump the solid waste in the subject site and it was proposed to dispose the waste as per the Rules 2016.

27. That the subject centre is only to treat 0.5 Metric Tonnes per day which is below 5 Metric Tonnes, hence it is not required to obtain permission from the State Pollution Control Board under 2016 Rules. However, this Respondent municipality is ready to comply with any directions issued by the statutory authorities for the operation of the subject facility. Further, the subject facility has not commenced its operation at present and will be put into operation only after appropriate permissions are obtained from the competent authorities.

28. That apart from the subject facility, a public toilet the scheme of namma toilet in the year 2014-2015 was also constructed by this Respondent Municipality. The OCC was constructed beyond away from the existing public toilet. However, the applicant who claimed to be the protector of environment has not raised any objection for the same, which itself shows the malafide intention of the applicant and the said interest is not bonafide.

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29. That after knowing of all the above, the applicant has approached this Hon'ble Tribunal for its vested interest and there is no public or environment interest is involved in the present issue, which is an abuse of process of law, hence the present application is liable to be dismissed with huge cost. Further, the applicant is not entitled to any relief as claimed in the present application.

For the reasons stated above, it is therefore humbly prayed that this Hon'ble Tribunal may be pleased to dismiss the above application with heavy cost and pass such further or other orders as this Hon'ble Tribunal may deem fit and proper in the circumstances of the case and thus render justice.

Dated at Kayalpattinam on this 24th day of August, 2021

Jon. Air.
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1ST RESPONDENT
COMMISSIONER
KAYALPATTINAM MUNICIPALITY

VERIFICATION

I, M.Sugandhi, Daughter of Mr.K.Masanamuthu, aged about 25 years, the Commissioner of Kayalpattinam Municipality, having office at Municipal Office, Kayalpattinam Municipality, 49, Mutharamman Kovil Street, Kayalpattinam, Tiruchendur Taluk, Thoothukudi District - 628 204, do hereby verify that the contents of the above paragraphs are true to the best of my personal knowledge and grounds are based on legal advice and that I have not suppressed any material fact.

Verified at Kayalpattinam on this the 24th day of August, 2021

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1ST RESPONDENT

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