

BEFORE THE NATIONAL GREEN TRIBUNAL
SOUTHERN ZONE BENCH AT CHENNAI
Original Application No. 131 of 2020 (SZ)

1. M. Jayachandran
 Son of Murugesan Naidu
 Gangaianman Kovil Street,
 Puliyan kannu- Navlock Village,
 Ranipet, Ranipet District – 632 401.
 9789052084; saisathyajith@gmail.com

2. B. GopiSathiyarajan
 Son of S. Balan,
 No. 4/36B, Bajanai Koil Street,
 Thandalam – Ranipet, Ranipet District – 632401
 9789052084; saisathyajith@gmail.com

...Applicants

Vs.

1. The Ministry of Environment
 Forest and Climate Change, Rep by its Secretary
 3rd Floor, Prithvi Wing
 Indira Parvayaran Bhawan
 JorBagh, New Delhi – 110003
 Phone. No. + 91 11 24695262, 24695265,
 24695132
 Email- secy-moef@nic.in

2. The State of Tamil Nadu
 Rep.by.its Secretary
 Environment and Forest Department
 Secretariat, Fort.St. George, Chennai 600 108
 Phone No:- 044 25671511
 Email Id:- forsec@tngov.in

3. The District Collector,
 District Collectorate
 District Institution of Education and Training
 (DIET) Campus,
 Kellys Road, Navalpur,
 Ranipet – 632401
 Email: collr-rpt@gov.in
 Phone No. – 8300310130

4. The Sub-Collector
 Cum Revenue Divisional Officer,
 Office of the Revenue Divisional Officer
 Ranipet – 632 401.
 Email : rdorpt.tnvlr@gmail.com
 Phone No. – 9445000416

5. The Member Secretary
 Tamil Nadu Pollution Control Board
 No. 76, Mount Salai, Guindy, Chennai 600 032
 Phone No.- 04422353145
 E-mail- tnpcb-chn@gov.in

6. The District Environmental Engineer,
 Tamil Nadu Pollution Control Board,
 Ranipet, Tamil Nadu



Janya Bharathi

Phone Number:- 044-27174524
 Email ID:- deetnpcbv1r2018@gmail.com

7. The Chief Engineer,
 Public Works Department, WRO
 State Ground and Surface Water Resource Data
 Centre,
 Tharamani, Chennai – 600 113
 Phone No. 044 28410402
 Email- cegwchennai@gmail.com

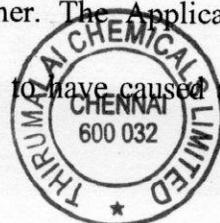
8. M/s. Thirumalai Chemicals Limited
 Rep. by its Chairman & Managing Director
 25-A, SIPCOT Industrial Complex,
 Ranipet, Tamil Nadu – 632 403
 Ph. No:- 91471 244441
 Email Id:- mail@thirumalaichemicals.com

...Respondents

**COUNTER AFFIDAVIT FILED ON BEHALF OF THE 8TH RESPONDENT TO THE
 REPLY FILED BY THE APPLICANTS DATED 05.11.2021**

I, Ramya Bharathram, aged about 49 years, representing the 8th Respondent, having office at 5th Floor, SPIC House, 88, Mount Road, Chennai - 600032, do hereby solemnly affirm and sincerely state as follows:-

1. I am the Executive Director of the 8th Respondent (the “**Answering Respondent**”) and as such well acquainted with the facts of the case and competent to swear to the present Affidavit.
2. The Answering Respondent is filing the present Counter-Affidavit to place on record its response/ objections to the Reply filed by the Applicants dated 05.11.2021 (“**the Reply**”). The Answering Respondent denies all the allegations, contentions and averments in the Reply and states that nothing should be deemed to be admitted by it, unless specifically admitted herein. The Answering Respondent has also filed its reply/ objections to the Joint Committee’s report dated 13.12.2021 regarding the allegations raised in the Reply and the Answering Respondent humbly submits that the contents of the same be read as part and parcel of the present affidavit.
3. At the outset, the Answering Respondent states that the averments raised in the Reply are completely false, baseless and the Reply has been filed as a calculated stratagem to prolong the proceedings in the matter further. The Applicants were aware that the Answering Respondent herein was not found to have caused any pollution whatsoever,



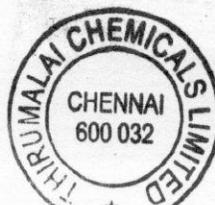
Ramya Bharathram

much less in the manner alleged by the Applicants, as would be evident from the various reports filed before this Hon'ble Tribunal. As the Answering Respondent had complied with the last of recommendations suggested by the Joint Committee in its Report dated 11.02.2021 and there was nothing further in the matter, the Applicants filed the Reply raising false and vexatious allegations, purely with an oblique motive to protract the proceedings and keep the Answering Respondent in a web of litigation. Since the Applicants have filed the Reply with a *malafide* motive, the same deserves to be dismissed *in limine* on this ground alone.

4. Without prejudice to the above submission and before proceeding to deal with the contents of the Reply in a paragraph wise manner, the Answering Respondent wishes to set forth the true and correct facts in the matter, which facts have been deliberately suppressed or intentionally presented in a distorted manner for reasons best known to the Applicant. The Applicant states that:

a. During the monsoon season, especially during severe bouts of rainfall, the Answering Respondent's Unit habitually receives and accumulates rainwater, both directly into the Answering Respondent's Unit and as run off from other industries. In order to meet the problem of accumulation of water during monsoon season, the Unit has a rainwater run off pit admeasuring 300 KL capacity for the purpose of collecting rainwater. The excess rainwater is let out off the Answering Respondent's Unit only after parameters are analysed by the Unit and after ensuring that the same meets the discharge norms. If parameters do not meet the prescribed norms, the Unit treats such rainwater in its ETP. This practice of the Unit has in fact been observed by the JCEE during his inspection on 25.10.2021.

b. On 24.10.2021, the Answering Respondent's Unit was in receipt of severe and intense rains as there was a cloud burst resulting in about 3 cms rainfall. All the rainwater received by the Answering Respondent's Unit would naturally have to expelled from the premises. As per the existing arrangement, the rainwater on the open ground enters the storm water drains and flows out through designated outlets. One such outlet was present at the rear of the SBI ATM.



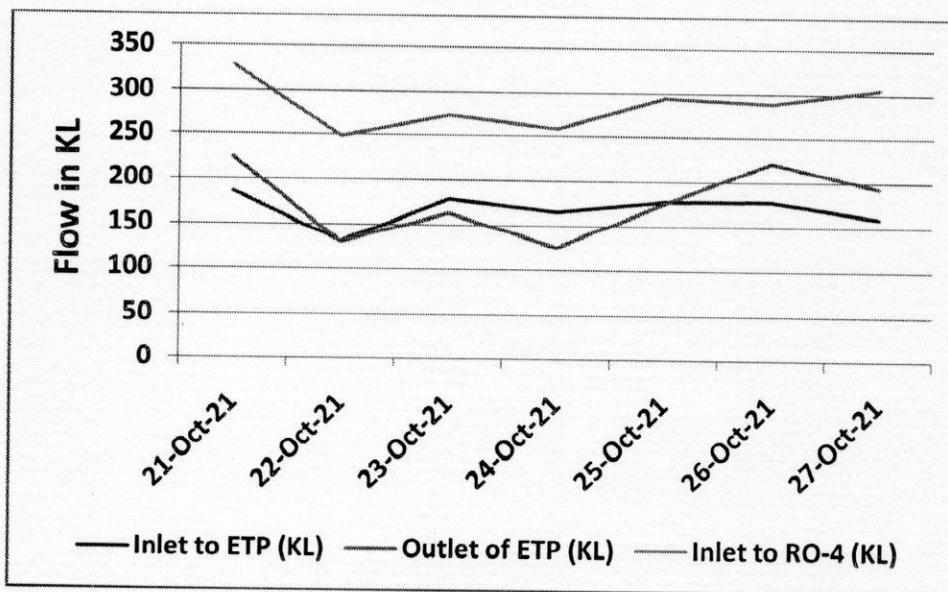
Ranjit Bhattacharya

- c. Knowing fully well that this expulsion of rainwater is a routine phenomenon during the monsoon season, a group of people stood outside the Answering Unit's premises with a premeditated motive to cause trouble. They staged a 'road roko' protest outside the Answering Respondent's Unit and made false allegations that the rainwater was in fact effluent.
- d. This compelled the Deputy Superintendent of Police to visit the Answering Respondent's Unit, in order to pacify the crowd. The Answering Respondent was given to understand that the officials also collected some samples on the said date. However, no notice of such collection was provided to the Answering Respondent's owner/ occupier and/ or their agent. They were also not present during such collection and as such, are not aware of the location from where the sample was collected.
- e. Immediately after this incident, at about 20.00 hours on 24.10.2021 and on 25.10.2021, the District Environmental Engineer, TNPCB, Vellore visited the Answering Respondent's Unit, examined the ZLD system and found that it was operating satisfactorily and without any deviations. At this juncture it is not out of place to mention that even though the Answering Respondent's Unit was always ZLD, pursuant to the directions issued by the TNPCB and the recommendations of the Joint Committee, the Answering Respondent revamped its Effluent Treatment Plant to a state of the art technology. The effective functioning of the upgraded system has been certified by an independent team from IIT, Madras vide its report issued in October, 2021. The upgraded ETP had been examined by the officials from TNPCB from time to time, including 24.10.2021, 25.10.2021, 11.11.2021, 18.11.2021, 01.12.2021 and the officials did not find any fault with the system. Therefore, when the Answering Respondent had in place a state of the art technology for effluent treatment and the same was found to be functioning normally, there arises no question of any expulsion of effluent and this clearly brings out the falsity of the allegations in the Reply.
- f. Further, the Answering Respondent had sufficient capacity to treat the effluent generated as would be evident from the ZLD systems that were running to



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capacity in the period around 24 – 29th October, 2021 as shown in the graph below:



- g. Once again, on 29.10.2021, the Answering Respondent's Unit was in receipt of torrential rainfall of about 5.2 cms and once again, the water that was expelled was the large quantity of rainwater. The Answering Respondent states that during the monsoon season, it is a normal phenomenon for industries to let out rainwater that accumulates in the premises. This has become a very natural phenomenon especially when the rainfall received is abnormally torrential, as has been happening over the past few years in Tamilnadu including in 2021.
- h. Accordingly, the allegations in the Reply are wholly false and have deliberately misrepresented the excess rainwater as if it were effluent discharge.
5. The Answering Respondent proceeds to deal with such of those paragraphs of the Reply that merits a response.
- a. As regards Paragraphs 2 and 3 of the Reply, the contents thereof are wholly denied. I deny that the Answering Respondent discharged any effluent let alone untreated, hazardous effluents. The Applicants have deliberately misrepresented the rainwater which was expelled from the industry as effluent, for the oblique motives outlined earlier. In any event, the Answering Respondent submits that it only discharges excess rainwater outside the factory after following the procedure set out hereinabove.



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- b. As regards Paragraph 4 of the Reply, the Answering Respondent is not aware of the contents of the said paragraph and accordingly denies the same and puts the Applicants to strict proof thereof. The Answering Respondent repeats and reiterates that it was not provided with any notice of sample collection and was not present during the sample collection.
- c. As regards Paragraph 5 of the Reply, the Answering Respondent vehemently denies the allegations pertaining to discharge of untreated effluents. The remaining contents pertain to the conduct of officials and the Answering Respondent is not in a position to respond to the same.
- d. As regards Paragraphs 6 and 8 of the Reply, the contents thereof are denied *in toto*. I deny that the Answering Respondent had not yet fully complied with the recommendations and directions, as will be borne out from the reports filed and the Answering Respondent's pleadings and replies to the same. In any event, I state that the Joint Committee's report dated 13.12.2021 categorically states that the partially complied actions have been fully complied with and nothing further remains to be done on the part of the Answering Respondent qua the earlier recommendations.
- e. As regards Paragraph 7 of the Reply, the contents thereof are wholly denied. For the reasons set out hereinabove, the Answering Respondent repeats and reiterates that it did not discharge any effluents. Further, the Answering Respondent states that the Report dated 22.10.2021 has rightly observed that there was no discharge of effluent outside the premises. In any event and without prejudice to the foregoing, the Report dated 22.10.2021 was issued prior to the incident and has no nexus with the purported incident on 24.10.2021. It is therefore illogical to question the veracity of the finding in the Report dated 22.10.2021 for this reason.
- f. As regards Paragraph 9 of the Reply, the contents thereof are denied as being false and baseless, for the reasons set out hereinabove.
- g. As regards Paragraph 10 of the Reply, the contents thereof are vehemently objected to by the Answering Respondent. The Answering Respondent states that the video footages only show a stream of water and the same does not



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demonstrate the discharge of effluent by any stretch of imagination. On the contrary, the Answering Respondent states that the same is nothing but rainwater, that was not only accumulated in the Answering Respondent's Unit but also the run off rainwater from other industries which are situated on a higher plane in the SIPCOT industry. The Applicants have filed these video footages with a view to merely sensationalize the matter and create false sympathies and fervour. The Answering Respondent submits that the Applicants have intentionally and deliberately misrepresented the rainwater as effluent. The Applicants are guilty of *suggestio falsi* and the contents of the Reply ought to be disregarded for this reason alone.

In the above circumstances, it is humbly submitted that this Hon'ble Tribunal be pleased to dismiss the contentions stated in the Reply as being false, baseless, filed with an oblique motive and as being vitiated by *malafides*.

Dated at Chennai on this 26th day of January, 2022.

Counsel for 8th Respondent



Ramya Bharathram
8th Respondent

VERIFICATION

I, Ramya Bharathram, wife of V. Bharathram, aged about 49 years and having office at 5th Floor, SPIC House, 88, Mount Road, Chennai - 600032, do affirm that I am the Authorised Signatory of the Answering Respondent and hereby verify that the contents of this reply are true and based on legal advice, and that I have not suppressed any material fact.

Date: 26th January, 2022

Place: Chennai



Ramya Bharathram
8th Respondent