

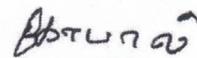
BEFORE THE NATIONAL GREEN TRIBUNAL SOUTHERN ZONE, CHENNAI**Original Application No.135 of 2021**

K.Palaniyappan,
S/o.Kandasamy Gounder,
Byepass road, Tuthampatti post,
Omalur Taluk, Salem,
Dasavailakku Tamilnadu - 636 606

.....Applicant

VS

1. The District Collector,
Salem District Collectorate
Fort Main Road, Salem
Tamilnadu - 636 001
2. The Revenue Divisional Officer,
Office of Revenue Divisional Officer,
Omalur Taluk, Salem
3. Member Secretary,
Tamilnadu State Environment Impact Assessment Authority,
Panagal Maligai, Jennis Road,
Saidapet, Chennai - 600 015
4. The Member Secretary
Tamilnadu Pollution Control Board,
No.76, Mount Salai,
Chennai - 600 032
5. The District Environmental Engineer,
Tamilnadu Pollution Control Board,
Siva Tower, Post Box No.457 No.1/276
Meyyanur Main Road, Salem - 636 004
6. K.Rajendran,
S/o.Kandasamy,
Byepass Road, Opp SMT Marriage Hall,
Tuthampatti Post,



Omalur Taluk,
Salem District, Tamilnadu - 636 606

7. Gopal

Byepass Road, Opp SMT Marriage Hall,
Tuthampatti Post,
Omalur Taluk,
Salem District, Tamilnadu - 636 606

....Respondents.

REPLY FILED BY THE 7TH RESPONDENT

I, P.Gopal S/o.Planappa Gounder, Hindu aged 66 years, residing at Thuthampatti Bye-pass, Desavillakku Vadakku, Omalur Taluk, Salem - 636 306, do hereby solemnly affirm and sincerely state as follows,

1. I submit that, I am a Farmer aged about 65 years and I am the owner of the agricultural land in S.No.75/1B in Desavillakku South Village.
2. I submit that, during the monsoon failure seasons, I used to run a very small Brick Kiln in the lands belonging to me mentioned in the afforesaid survey number. I humbly submit that I have obtained a valid certificate viz., BRICK KILN REGISTRATION CERTIFICATE from the Department of Geology and Mining for the purpose of running the Brick-Kilns.
3. I submit that, I had obtained permission from the Government of Tamilnadu Geology and Mining Department and Registration Certificate was issued to me vide proceedings in Roc.129-2/2018/Mines-A/ dated 14.04.2018 for quarrying a brick earth from my patta lands for a period of 3 years ie., till March 2021 and have been running a brick kiln with all valid legal licenses.

P. Gopal

4. I submit that, I am an illiterate and under the guidance of the Government Officials, I had been legally running a small Brick Kiln in my survey number with the above said license from the Geology and Mining Department. I submit that, since the quarrying activity and the brick kiln activity is very small and seasonal, the Government officials never insisted or never demanded or never instructed me to get the license from the Tamilnadu Pollution Control Board or any other Environment related department.
5. I further state that, the above said original application was filed by the applicant out of vengeance against me and adjacent brick kiln owners.
6. I further submit that, the applicant had approached me to purchase my patta lands and since I refused his offer, the applicant had filed this application and he has no genuine environmental concern. It can be seen that the applicant had never made his appearance before the Hon'ble Tribunal after the first two hearings.
7. I submit that, as per G.O.Ms.No.19 of (Industries MMC.2) department dated 04.04.2017 the chamber brick kilns registration fee goes upto Rs. 90,000/- and whereas the nature of this respondent's Brick-kiln is only a country brick kiln which registration fee is Rs.300/- hence, it shows that the country brick kiln practice with seasonal nature no way affects the environment and moreover this respondent had stopped the brick kiln activities long before filing of this original application. Hence no cause of action arise.

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8. I submit that, since I am illiterate and since no major money investment arise in the small brick kiln, I had involved in the Brick Kiln activity with the daily wages coolies and poor labourers around our village on the off-season of agri-activities, which is only a prime source of my village. The Brick Kiln activity is very small, such that no environmental issue arise during the brick processing activity. The Government authorities knows this fact very well and it can be seen that no licenses or certificate were insisted by the Government officials.
9. It is most humbly submitted that, no notice was given to me regarding the above said Original Application by the Applicant herein and I had no knowledge about the said case till the issuance of the show cause notice by the TNPCB dated 24.07.2023. I humbly reiterate that, the said original application was filed out of vengeance against me and the said applicant had no intention of environmental concern.
10. It is seen that, based on the above said original application, Joint committee was constituted and it is seen that, the Joint Committee had filed its report on 25.11.2021 before the Hon'ble Tribunal. In page 4, para 4, the Joint Committee made following observation which suitable to mention here as a reply.,
- i. *The units were in operation*
- It is submitted that, the units were not in operation nor air pollution was caused at the time of inspection on 30.07.2021

BB TURAO

nor earlier or at any point of time and the observation of the Joint Committee will reveal the same.

ii. *There is no trade effluent generation from the units.*

➤ As stated in the Joint Committee report, no trade effluent is released from the site units. Hence the question of environmental degradation does not arise.

iii. *There is no possibility to affect the ground water since no chemical is used and also no waste water is generated in the unit.*

➤ As stated in the Joint Committee report, no ground water resource is harmed and no waste water is generated at the time of process of brick kiln. Hence the question of environmental restoration does not arise.

iv. *The unit has been established without obtaining consent order of the Board under the Air unit.*

➤ As stated in earlier paragraphs of the reply, I had no knowledge about obtaining permission from the TNPCB depart and even the officials of the TNPCB had never insisted for obtaining consent order. I further submit that, since it is a very small unit which rarely invested Approx. Rs.1,00,000/- (Approx. Rupees One Lakhs Only) i had no knowledge regarding the permission from the TNPCB.

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v. *The unit has not provided Air Pollution Control measures to control the smoke emanating from brick kiln.*

- It is submitted that, on the date of inspection, there was no quarrying or brick burning activity being carried out in the unit. Since it is a small unit, a country brick kiln method is followed for burning bricks and hence the scope of emission of air smoke does not arise. Hence the allegation of the joint committee report is put to the strict proof of the same.

ix. *During burning time of brick, smoke will be emitted from the brick kiln and it will engulf the surrounding area and it affects the people of the nearby area.*

- As stated earlier, the Joint Committee had revealed that, **"during burning time of brick, smoke 'will be' emitted from the brick kiln"**, hence the statement of the Joint Committee prove the fact that, no brick burning activity was carried on or no air pollution had occurred in the unit.

11.I submit that, unfortunately, the EB officials had disconnected my agricultural-electricity supply on 30.12.2021 on the assumption that the brick kiln unit had power supply for its production. I further submit that, **I had never used the agri-electricity connection for the brick kiln activities and only a small diesel-oil engine is utilised for the power supply** (the EB service reading reveals the said fact as a proof) and

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moreover I had sent a representation to the office of Chairman TNPCB on 27.04.2023 and till today no action was taken on such representation. Hence, I was made to suffer for the error committed on the part of the officials.

12. I submit that, to the shock and surprise I had received the show cause notice from the TNPCB, demanding me to pay Rs.3,85,000/- (Rupees Three Lakhs Eighty-Five Thousand Rupees Only) for the no fault committed by me. I submit that, the Joint Committee have not observed that the unit had done environmental degradation or damage. The calculation derived in the show cause notice is factually wrong, illegal and contrary to the earlier statements in the report filed by the officials. I had also sent my reply to the show cause notice on 11.08.2023 and the consideration on the said reply is pending before the TNPCB.

13. I submit that, as portrayed by the officials, it is not a large size commercial brick kiln unit. Moreover, the brick kiln unit was functioning only on the off-season of the agricultural activities or at the time of failure of monsoon.

14. I reiterate that, as stated in the Joint Committee report dated 25.08.2021,

- *This is the tine sector unit with an investment of one or two lakh rupees. This is a country brick kiln.*
- *Restoration of the environmental damage is not required in that area.*

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- *The result of analysis indicated that there is no ground water pollution in that area. Hence remedial measure is not required in that area.*

15. I submit that, even as per the report of the Joint Committee, no environmental damage had occurred in the unit or environmental degradation had occurred. In that case, imposing a penalty of Rs.3,85,000/- (Rupees Three Lakhs Eighty-Five Thousand Rupees Only) for the unit which was closed on 13.04.2021 is highly erroneous and arbitrary.
16. I submit that, the Environmental Compensation arrived using $PI \times N \times R \times S \times LF$ is wrong and error. I further state that, the unit was closed on 13.04.2021 ie., on the last day of license of Geology and Mining and hence the question of violation does not arise.
17. I submit that, I had sent a representation to the DEIAA by asserting all the above statements and all these factual aspects had been reiterated well by way of affidavit and without verifying the above facts, the TNPCB had issued a show cause notice for the no-wrong on part on me attracts multiplicity of litigations and proceedings.
18. I submit that, for the no-wrong on part on me attracts multiplicity of litigations and this Respondent submits that, the brick kiln activities are rare and seasonal and was operating considering the Environmental concerns.
19. I submit that, after filing of this original application the authorities mentioned that no consent was obtained and having mentioning that no

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consent was obtained, the authorities ought to have stopped the brick kiln activities if that had happened. Since there is no violation whatsoever regarding the same, if there is any violation or illegal quarry operation, the authorities ought to have not permitted the same and ought to have stopped the brick kiln operations.

20. This Respondent re-assures that he has never operated the brick kiln illegally.

21. This Respondent craves leave of this Hon'ble Tribunal to raise additional affidavit at the time of hearing, if required.

22. Therefore, it is most humbly requested before this Hon'ble Tribunal to consider above said submissions and may be pleased to dismiss the above said Original Application with cost or pass such orders deem fit and render justice.

The Contents are read out in Tamil
And having understood the same,
Solemnly affirmed at Chennai
On this 5th day of September 2022
In my presence.

BBTW72
BEFORE ME,
A. K. U.
Adv. (3393/18)
ADVOCATE, CHENNAI
No. 125/257, 3rd floor
P. Palaniappa Gounder St
Chennai

VERIFICATION

I, P. Gopal, Son of Palaniappa Gounder, do hereby verified and declare that what is stated in para-No.1 to 2 are true to the best of my

knowledge and belief and I have not suppressed any material facts before this Hon'ble Tribunal.

Dated at Chennai on this the 5th of September 2023

889470

7TH RESPONDENT

**BEFORE THE HON'BLE
NATIONAL GREEN TRIBUNAL
SOUTH ZONE
CHENNAI**

O.A.No. 135 of 2021

K.Palaniyappan

...Applicant

Vs

The District Collector
And 6 ors.

... Respondents

REPLY FILED BY 7TH RESPONDENT

M/S. H.LUCIA PRIYADHARSHINI (1836/2016)

**COUNSEL FOR 6TH RESPONDENT
Ph: 88255 10662**