

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,

ராஜேந்திரன்

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 6TH RESPONDENT

1. I, K.Rajendran S/o.Kandhasamy, Hindu aged about 60 years, residing at Thuthampatti Bye-pass, Desavillakku Vadakku, Omalur Taluk, Salem - 636 306, do hereby solemnly affirm and sincerely state as follows,
2. I submit that, I am a Farmer aged 60 years and I am the owner of the agricultural land in S.No.74/19A3 in Desavillakku North Village.
3. I submit that, during the monsoon failure seasons, I used to run a very small Brick Kiln in the lands mentioned in the afforesaid survey number and the same does not amount to the Commercial Brick Kiln, but is only a country brick kiln.
4. I further state that, the above said Original application has been filed by the Applicant herein with a malafide intent and of vengeance against me and adjacent brick kiln owners.
5. I humbly submit that, the applicant had approached me to purchase my patta lands and since I refused his offer, the applicant had filed the present application and he has no genuine concern over the environment. It is pertinent to note that the applicant had never made his appearance before the Hon'ble Tribunal after the first two hearings.

ராஜேந்திர கந்தசாமியார்

6. I submit that, I am an illiterate farmer and under the guidance of the Government Officials, I was legally running a small Brick Kiln in my survey number. I submit that, no quarrying activity is involved as the brick kiln activity is based on the country method process and the brick kiln is very small and only seasonal, the official respondents/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.
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 brick kiln nature of this respondent is 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.
8. I submit that, since I am illiterate and since no major monetary benefits accrue from operating the small brick kiln, I had used the assistance of nearby daily wages coolies and poor labourers around our village only during the off-season of agri-activities, which is only a prime source of my village.
9. The Brick Kiln activity is very small, such that no environmental issue arise during the brick processing activity. The Government authorities knows this

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fact very well and it can be seen that no licenses or certificate were insisted by the Government officials.

10. It is most humbly submitted that, no notice was ever served upon me by the Applicant till date with regard to the pendency of the Application before this Hon'ble Tribunal and I had no knowledge about the said case till the issuance of the show cause notice dated 24.07.2023 by the TNPCB.

11. 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 nor 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.*

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- 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 department and even the officials of the TNPCB had never insisted for obtaining consent order, as there was no major quarrying activity or activities against environment had occurred. I further submit that, since it is a very small unit and as mentioned in the joint committee report it is a 'tiny sector' which rarely invested Approx. Rs.1,00,000/- (Approx. Rupees One Lakhs Only) i had no knowledge regarding the permission from the TNPCB.
- 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 or earlier before the inspection, there was no quarrying or brick burning activity being carried out in the unit as it was seasonal activity. 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

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does not arise. Hence the allegation of the joint committee 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.

12.I submit that, unfortunately, without verifying the fact that no pollution is caused due to the brick kiln activities, the EB officials had disconnected my electricity supply on 30.12.2021 and 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.

13.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.

14.I submit that, the Joint Committee have not observed that the unit had done environmental degradation or damage. The calculation derived in the

11/11/2023

show cause notice is factually wrong, illegal and contrary to the earlier statements in the report filed by the officials. Even the report of the Joint committee reveals the fact that, no environmental damage has caused and no restoration process is required. I submit that, I had asserted all the above aspects by way of reply dated 11.08.2023 to the show cause notice of the TNPCB and the same is pending before the Chairperson, TNPCB.

15. 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 on the off-season of the agricultural activities or at the time of failure of monsoon i.e., the brick kiln activities are done only for a period of 3 months in a year and the smoke from the brick kiln was let out only a period of 12 days in a year. Since it is a country brick kiln practice, only a 'palm tree leaves', 'wooden sticks' are used for burning a kiln. Hence a question of effluent air or smoke does not arise.

16. I submit that, even the photograph annexed in the Joint Committee reveals that no brick kiln was functioning and only photographs of dry wooden blocks were captured and annexed with the report.

17. 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.*

11/08/2023

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

18. 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) is highly erroneous and arbitrary and the same has been suitably replied by this respondent to the show cause notice.

19. I submit that, the Environmental Compensation arrived using $PI \times N \times R \times S \times LF$ is wrong and error. I submit that the EB connection reveals the fact that no brick kiln activities were happening at the time of inspection or at the time of disconnection of power supply and hence the question of violation does not arise. I submit that, I do know that when and where the officials inspected as there was an empty land and no brick kiln activities were happened at that time and I was not present at the time of inspection.

20. I submit that, hardly 3 months the brick kiln activities are carried out in the unit in a year and only 3-4 days in such time very limited air smoke will emit from the unit and not a gaseous pollutant as mentioned in the show cause notice and it is put to the strict proof of the same.

21. I submit that, I had sent a representation on 01.08.2023 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, a

11/08/2023

show cause notice was issued and even the said show cause notice was suitably replied by me.

22.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.

23.I submit that, after filing of this original application the authorities mentioned that no consent was obtained and having mentioning that no 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.

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

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

26.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.

17 SEP 15 5 00 00

BEFORE ME

ADVOCATE, CHENNAI

Asst. Commr
[3373/18]
No: 128/257, 3rd Floor
A79/1/A Nilkottai
Ch-1

VERIFICATION

I, Rajendran, Son of Kandhasamy, do hereby verified and declare that what is stated in para-No.1 to 26 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

ரஜேந்திரன்

6TH 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 6TH RESPONDENT

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

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