

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

ORIGINAL APPLICATION NO. 138 of 2020 (SZ)

IN THE MATTER OF :

V.B.R. Menon, B.E (Mech), MBA (IIMA), LLB,
Chennai – 600 078

... Applicant

and

The Chief Secretary to Government of Tamilnadu,
Secretariat ,Chennai - 600 009 and 7 others

... Respondents.

WRITTEN SUBMISSIONS FILED BY THE APPLICANT

Place : Chennai

Date : 05.12.2021

FILED BY :



**V.B.R. MENON
APPLICANT**

Mobile : 9384762930
E-mail: vbrmenon@gmail.com

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

ORIGINAL APPLICATION NO. 138 of 2020 (SZ)

V.B.R. Menon, B.E (Mech), MBA (IIMA), LLB,
Advocate,
Flat No: 4B, Brook Dale Apartments,
No:12, P.T. Rajan Salai,
K.K. Nagar, Chennai – 600 078

... Applicant.

and

1. The Chief Secretary to Government of Tamilnadu,
Fort St. George, Secretariat,
Chennai - 600 009 and 7 others

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The Applicant wishes to submit the following Written Submissions in the above OA No. 138 of 2020 (SZ), as permitted by this Hon'ble Tribunal at the time of reserving it for Judgment on 03.12.2021 .

1. The Central Pollution Control Board (CPCB) has categorized the Petroleum Retail Outlets , where Vapour Recovery Systems (VRS) Stage-1B and Stage – 2 are to be installed , into following 3 groups and has issued separate directions under Sec. 5 of Environment (Protection) Act, 1986 as detailed below.

Sl. No	Category	Date of Direction U/s. 5	Target Date for completion	Present Status
1	Turnover >300 KLPM Population >1 Million (Ref: Page nos. 29 to 36 of Objections filed by the Applicant on 31.12.2020)	12.12.2016	December, 2017	Incomplete. Outlet-wise details are not given by the Respondents for physical verification.



2	Turnover > 100 KLPM Population > 1 Million (Ref: PP 16 to 30 of Reply filed by CPCB on 21.09.2020)	18.09.2020	(i) VRS-1B; 50% by Dec. 2021 and balance by June,2022 (ii) VRS-2 : 50% by June,, 2022 and balance by October, 2022	Extended by CPCB vide letter dated 04.06.2021 (Ref; Status Report dated 02.08.21 by the 6 th Respondent)
3	Turnover > 300 KLPM Population : 1L to 1 Million Ref: PP 16 to 30 of Reply filed by CPCB on 21.09.2020	18.09.2020	Same as above	Extended by CPCB vide letter dated 04.06.2021 (Ref; Status Report dated 02.08.21 by the 6 th Respondent)

Note: In respect of the 7th Respondent , the first direction dated 12.12.2016 is not applicable . Further, the 7th Respondent has been directed vide modified direction dated 12.07.2021 **to complete installation of VRS Stage-1B and 2 by January, 2022** in respect of all the Outlets coming under the categories 2 and 3 above i.e. above 100 KLPM and Population above 1 L (**Ref: Addl.T.S. filed by R-7 on 29.07.2021**).

2. Hence, as on date , compliance of the Direction dated 12.12.2016, issued by the CPCB, to instal VRS Stages 1B and 2 in all the Petroleum Outlets having turnover above 300 KLPM and situated in the 4 million population cities in Tamilnadu ie. Chennai, Coimbatore, Madurai and Trichy , alone have become overdue since December, 2017. For the remaining 2 categories of Petroleum Outlets , which are covered under the Direction dated 18.09.2020, the target dates for installation of VRS have been extended by CPCB as per the tabulation given above.

3. When the above position was pointed out by the Applicant during the hearing held on 14.06.2021, this Hon'ble Tribunal had directed CPCB and the Respondent OMC s (Ref; para nos.9 & 10 of the Order dated 14.06.2021 to submit separate status reports regarding the installation of VRS equipments in respect of the Direction dated 12.12.2016 by CPCB alone. Further, the CPCB was also directed to submit the Action Taken Report in respect of non-compliance of the Direction dated 12.12.2016 , for about 4 years ie. since December, 2017.

4. The CPCB has not submitted any Action Taken Report, as directed by this Hon'ble Court , regarding non-compliance of the Direction dated 12.12.2016 even though they have reported the status partially in Annexure -3 of their report dated 21.09.2020 which has been reproduced again as Annexure -III in their subsequent Report dated 10.01.2021. It is relevant to note that data has been provided in the above reports only in respect of Chennai and Coimbatore leaving out Madurai and Trichy. Moreover, the no. of outlets reported by CPCB does not tally with the no. of outlets submitted by the OMC s in their 2 status reports , prior to and subsequent to the Order dated 14.06.2021. It shall show that CPCB blindly accepts the periodical reports received from the OMC s without conducting any independent verification, wholly or on sample basis , which is resulting in submission of false data by the OMC s to CPCB about the true status of VRS installation in Tamilnadu.

5. The Respondent Oil Marketing Companies have not provided **separate status reports** showing compliance of the 2 Directions dated 12.12.2016 and 21.09.2020 separately , as though they are not aware of the earlier Direction dated 12.12.2016 by CPCB and it's target date of December, 2017. In other words, they are trying to hide and mislead this Hon'ble Tribunal about the non-compliance of the Direction dated 12.12.2016 by mischievously claiming that CPCB has extended the target dates for the installation of VRS in all outlets including those covered by the Direction dated 12.12.2016 . It is nothing but an open misrepresentation of fact and an attempt to escape from the levy of appropriate environmental compensation , which they are bound to pay now.

6. Against similar non-compliance of the direction dated 12.12.2016 in respect of New Delhi area, CPCB , acting under the orders of this Hon'ble Tribunal, had imposed a penalty of Rs.1 Crore each on the Respondents 4 to 6 and a copy of the Order passed by CPCB in this regard is kept in Page Nos. 14 to 16 of the documents filed along with the common objections by the Applicant dated 31.12.2020. CPCB has surprisingly omitted to take similar actions against the Respondent OMC s in respect of Tamilnadu and that may be the reason for not submitting the Action Taken Report by CPCB in compliance of Order dated 14.06.2021 of this Hon'ble Tribunal .



7. Apart from failing to fully comply with the 2016 direction , even after 4 years , the Respondent Oil Marketing Companies have not submitted any action plan such as status of tendering , procurement , etc., which they should have initiated by now to meet the extended targets given by CPCB vide the Letter dated 04.06.2021 in respect of the Direction dated 18.09.2020. It is relevant to note that VRS Stage -1B and 2 are **not off-the-shelf items** which could be readily purchased and installed in a short period . The Applicant has submitted copies of some Tender notices of the Respondent OMC s in the Common objections filed on 31.12.2020 to show that even the extended target dates are unlikely to be met.

8. Hence, it is necessary that the Respondents 4 to 8 are directed to give **separate lists of** the names and addresses of all Petroleum Retail Outlets situated in Tamilnadu wherein VRS Stage-1B and 2 are to be installed to comply with the above 2 directions issued under Sec. 5 of Environment (Protection) Act, 1986 on 12.12.2016 and 18.09.2020 .

9. The Respondents 4 to 8 may be further directed to furnish the complete outlet-wise implementation schedule of VRS Stage 1-B & 2 and actions taken in this regard for meeting t the revised target dates as above . It would facilitate monitoring of the above directions issued by CPCB on 12.12.2016 and 18.09.2020.

10. It is also prayed that this Hon'ble Tribunal may order CPCB to levy appropriate compensation towards environmental damages already caused by the Respondent OMC s due to non-installation of VRS Stage 1B and 2 from December, 2017 onwards , as it was done in the case of Delhi Region by the Hon'ble Principal Bench. Such an action alone shall compel the Respondent OMC s to fall in line.

11. . The Applicant has collected relevant details pertaining to the Chennai region which shall show that the status reports and details provided by the Respondent OMC s are not factually correct as could be seen from Page Nos. 11 to 13 of the Common Objections filed by the Applicant on 31.12.2020 . CPCB has blindly accepted and recorded the same as true without conducting any verification.



12. Hence, an Independent verification of all the data furnished by the Respondent OMC s through site visits by the regulators has become unavoidable in order to find out and report , before this Hon'ble Tribunal, the true status regarding the progress of installation works and about the working conditions of all the VRS Stage-1B and 2 systems , which the Respondents have claimed to have been already installed. From the Order dated 12.12.2018 by CPCB levying Penalty of 1 Crore on the Respondent OMC s , it can be seen that inspections were carried out by joint teams of CPCB, MOEF and State government officials to ascertain the correctness of the status reports submitted by the Respondent OMC s regarding implementation of VRS equipments in Delhi region before ordering levy of the above amount towards penalty. Similar exercise needs to be undertaken in Tamilnadu also if the true status regarding installation of VRS in the above 4 Million Cities of Tamilnadu in compliance of the Direction dated 12.12.2016 has to be correctly ascertained .

13. It may be regrettable to note that the CPCB is doing only the job of a post office in collecting and reporting the data provided by the Respondent OMC s without conducting any independent verification of the same through site visits or otherwise. It has been misused by the Respondent OMC s by reporting false and inaccurate data to CPCB in the present matter as they are accustomed to do in almost all other similar matters where no cross verification of data or site inspections are being carried out by the respective Authorities.

14. Until and unless a suitable and effective mechanism for regular monitoring and verification of data from the OMC s are instituted, the very objective of the various orders and directions by this Hon'ble Tribunal, the various Courts and the Regulatory departments shall have very little impact on ground. The Applicant has found that most of the already VRS equipments are not in working condition and this is another major problem which needs to be resolved if the objectives and purposes of installing VRS equipments are to be achieved. Sample periodical field inspections by the regulatory departments to ascertain about the prompt installation and good working conditions of the VRS equipments alone shall be the solution to the above problems, especially in view of the insensitive and unreliable conduct and activities of the Respondent OMCs.in the matter of environmental issues..



15. The CPCB has issued directions so far to instal VRS systems only in respect of high polluting petroleum outlets based on the sales volumes . It does not mean that the outlets falling outside the purview of the 2 directions dated 12.12.2016 and 18.09.2020 are non-polluting. The above 2 directions dated 12.12.2016 and 18.09.2020 , pertaining to only the high polluting Petroleum outlets , are only the initial steps before ordering total coverage of all the Petroleum outlets to reduce the air pollution due to escape of petroleum vapour from the Petroleum retail outlets across the country . However, the hesitation and inordinate delays by the Respondent OMC s to comply with the above directions, pertaining to a small number of outlets only , shall be really appalling. The Applicant's prayer is aimed towards the above objective of reducing the environmental pollution due the escape of petroleum vapour from Petroleum Retail Outlets operating across the whole state of Tamilnadu..

It is therefore prayed that this Hon'ble Tribunal may be pleased to allow the Original Application as prayed for .and thus render justice .

Dated at Chennai on this the 05th Day of December, 2021



V.B.R. Menon
Applicant

**Reserved for Judgment on
03.12.2021**

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WRITTEN SUBMISSIONS

**V.B.R Menon, B.E, MBA(IIMA), LLB,
(Ms – 23 / 2012)
Applicant-in-Person
Ph: 9384762930**