

**BEFORE THE NATIONAL GREEN TRIBUNAL
SOUTHERN ZONE, CHENNAI
IN**

O.A. NO. 16 OF 2019 (SZ)

K. Gemini (Deceased)
Represented by his legal heirs as per Order
passed in I.A. No. 204 of 2021 dated 23.12.2021
Son of Kannupaiyan
5/1-34 Rettaipuliyamaram
Raman Nagar Post
Mettur Dam, Salem District 636 403 ... Applicant

Union of India represented by
The Secretary to Government
Ministry of Environment, Forests & Climate change
III Floor, Pritvi Wing
India Paryavaran Bhavan
Jor Bagh, New Delhi 110003
Email: Secy-moef@nic.in
Phone No.011 2695262 & 24695265 & 3 Ors Respondent (s)

WRITTEN SUBMISSIONS FILED BY THE 4TH RESPONDENT

**ADVOCATE FOR THE 4TH RESPONDENT
T.Ravichandran, Devdakshan K,
2A, Krsnika Apartments,
No.1 Avenue Road, Off Jegannathan Road
Chennai – 600034
9003059732**

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Dated at Chennai on this 30th December 2021



Counsel for the 4th Respondent

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III Floor, Pritvi Wing
India Paryavaran Bhavan
Jor Bagh, New Delhi 110003
Email: Secy-moef@nic.in
Phone No.011 2695262 & 24695265
2. The State of Tamil Nadu represented
By the Secretary to Government
Environment and Forests Department
Fort St. George, Chennai 600 009
Email: forsec@tn.gov.in
Phone No. 044 25671511
3. The District Environment Engineer
Tamil Nadu Pollution Control Board
Siva Tower, Post Box No. 457
No.1/276 Meyyanur Main Road
Salem 636 004
Email: deetnpcbslm@gmail.com
Phone No: 04257 2448526
4. M/s. Chemplast Sanmar Limited
Represented by its Director S Ramkumar
Veerakalpudur Village
Raman Nagar Post
Mettur Dam, Salem District 636 403
[Email: snnl@sanmargroup.com](mailto:snnl@sanmargroup.com)
Phone No. 04298 230381 ...
Respondents.

WRITTEN SUBMISSIONS FILED ON BEHALF OF THE
4TH RESPONDENT.

1. The present original application was filed by one K. Gemini, levelling various allegations against this Respondent including (refer Report of Joint Committee filed as per direction of this Tribunal Order dated 25/9/2019):
 - (a) The 4th Respondent draws huge amount of water by maintaining false meters and calculations.
 - (b) The 4th Respondent discharges most poisonous effluents into the downstream river of Cauvery by pass using PVC pipes though it is stated to be a zero discharge industry and emitting poisonous gases and by-products in the air causing grave air pollution also.
 - (c) The people in the locality namely Gonur and Veerakalpudur villages are completely depending on river Cauvery for their drinking water and due to the pollution of the river serious skin diseases have been spread in that area, fishes are dying and incidents of cancer is high in that locality. and

(d) Unit 4 of the 4th Respondent is being run without obtaining any prior Environmental clearance and it is a new factory for producing another environmentally dangerous chemical - Hydrogen Peroxide.

(e) The Respondents 2 & 3 have wrongly issued G.O.(3D).No.50 dated 12/9/2017 permitting the new industry.

2. When the matter came up for admission on 25.09.2019, this Hon'ble Tribunal was pleased to pass the following order:

“However, considering the allegation in this application, we feel it is appropriate to get a Joint Committee Report, before proceeding in the matter, consisting of senior officer from the SEIAA; Tamil Nadu; Senior Scientist from the CPCB and Senior Scientist from SPCB to go into the allegation contained in this application and submit a factual report and if there is any violation the action if any taken in this regard. They also mention in the report whether any environmental clearance is required for starting the Unit-IV of the Respondent no.4 project for manufacturing of Hydrogen Peroxide in that location”.

3. Consequent to the directions, the Joint Committee inspected the Plants of this Respondent and submitted a Report. The said Report was duly taken on record by the Hon'ble Tribunal and the findings as regards the allegations of the Applicant and extracted in our Reply/Objections filed in May 2020 is described herein below:

S. No.	Allegation made by the Applicant	Findings of the Joint Committee at para 4.0
1	Drawing huge amounts of water by maintaining false meters and calculations	At pages 7 & 8, they have physically verified the quantities and confirmed the same with PWD officials. Upon verification and confirmation, they have come to the conclusion that the units have not made any false calculations on water-drawal quantity
2	Discharging most poisonous effluents into the downstream of river Cauvery using PVC pipes though it is stated to be a ZLD Unit. The Unit also emits poisonous gases in the air causing grave air pollution.	At Pages 8 & 9 they have categorically given a finding that this allegation is incorrect in as much as the ZLD system was in operation and connected to the TNPCB on line and that there is no treated or untreated effluents discharged from the units into the water bodies through any pipeline. The Committee has also further opined that there is no air pollution and the quality of air is well within the National Ambient Air Quality Standards.
3	Gonur and Veerakalpudur Villages are completely dependent on river Cauvery for drinking water and due to pollution, there are skin diseases and high incidence of cancer.	The Joint Committee at Page 9, has negated this contention and has come to the conclusion that there is no discharge of effluents into Mettur Dam or river Cauvery. The Committee has also taken the assistance of Block Medical Officers and has gone through the reports submitted by the Block Medical Officers on health statistics from 2012 to 2019 and there are no reports of cancer in that area. The Deputy Director (Health) met the Joint Committee representatives and informed that there is no evidence available to the Committee regarding any serious health issue.
4	No prior environmental clearance obtained by Unit-IV and it is a new factory for producing environmentally dangerous Chemical - Hydrogen Peroxide.	The Joint Committee in its report at page 9 & 10 has extensively dealt with this aspect in the light of the Environment Protection Act and has come to the conclusion that no environmental clearance is required. The

		Committee has further observed that Hydrogen Peroxide being an inorganic chemical does not attract environmental clearance and only organic chemicals as per EIA Notification 2006 in 5 (A) of the Schedule require environmental clearance.
5	Respondents 2 & 3 have wrongly issued GO No 50 dated 12.09.2017 permitting the new industry.	This aspect is also gone through by the Committee at Page 10 and the Committee has come to the conclusion after going through the relevant document that this 4 th Respondent has applied for permission for expansion activity and upon obtaining the G.O. relaxation, Consent to Establish was given by the 3 rd Respondent to Unit – IV for manufacturing Hydrogen Peroxide.

4. The Report, based on the field observation and monitoring, made various recommendations for compliance by this Respondent. This Hon'ble Tribunal passed the following Order on 25.11.2019 as extracted below:

“Para 5: Respondents who entered appearance are directed to submit their response to the allegations and also objections to the Report.

Para 6: In the meantime consider the observations made by the Joint Committee we feel it appropriate to appoint a Joint Committee consisting of a member from NEERI, IIT Engineering Department, Chennai, the Director of safety and Occupational Health from Govt. of Tamil Nadu, a Senior Official from CPCB, Senior Official from Tamil Nadu Pollution Control Board and a member from National Geophysical Research Institute to consider the question whether the safety measures taken by the Respondent no. 04 in the Secured Land Fill (SLF) are sufficient. A member from National Geophysical Research Institute, Hyderabad and also regarding the ground water contamination caused on account of the

activities of the Respondent no. 04 industrial group and also the land fill measures taken by the industry to dispose of the hazardous substance, scientifically dumped in the land fill as per rules and whether it is likely to cause any further degradation of the soil for ground water and if there is any possibility and then further remedial measures which are to be taken and also suggest the same and the expenses incurred for the purpose has to be met by the Respondent no.04 industry.”

5. Pursuant to the constitution of the Joint Committee vide Order dated 25.11.2019, the members visited the Plant of this Respondent on various dates and filed a detailed Report in the end of May, 2020. On 01.06.2020 this Hon’ble Tribunal had recorded the recommendations of the Joint Committee in paragraph 6.0 of the Daily Order and bifurcated the various observations in the Report into four categories as under:

Table 1: Status of action taken against the last visit of the Committee comprising of nine (9) recommendations out of which except for S. No 1, few being S. No.s 2, 3 & 4 were categorized as partially complied and rest as not complied.

Table 2 recorded the details of SLFs, Hazardous waste disposed and no. of Peizometers installed and

Table 3 related to Compliance w.r.t CPCB Criteria demarcated into nine (9) parts.

Table 4 related to Analysis report of TVOCs monitored from inlet and outlet adsorbent bed;

Table 5 recorded the summary of water quality report of individual plant SLFs and

Finally, the Order also recorded the visit by team of officials from NGRI for preparing the proposal for taking up detailed study of Ground water to ascertain ground water pollution in the area.

Based on the above, conclusions were drawn and submitted by the Joint Committee including in particular a set of Recommendations of the Joint Committee to comply with by this Respondent.

6. Vide Order dated 6.10.2020, the Hon'ble Tribunal recorded this Respondent's detailed Response/Objections to the said Joint Committee Report filed in August 2020. In the said Order, this Hon'ble Tribunal directed the 3rd Respondent to conduct an independent general study to assess the water quality in Mettur area and directed them to appropriate the expenses for the study from the environmental compensation lying with them and thereafter recover in proportion to the level of pollution contributed by the units in Mettur.
7. The daily Order also directed the Joint Committee to consider this Respondent's reply/objection and compliance which this Respondent is expected to carry out and if there is any deficiency, directed the Joint Committee to mention the same in their further report to be filed.
8. This Respondent further submits that the Joint Committee filed its further Report in February 2021. This Respondent filed its further Response/Objections in March 2021 complying with most of the recommendations which was also taken on record by this Hon'ble Tribunal vide its Order dated 17th March 2021. On the very same day, the Hon'ble Tribunal also noted the filing of the additional affidavit filed on behalf of the 1st Respondent in which the 1st Respondent clearly at

Para 5 stated “**no environmental clearance is needed for the manufacturing/production of Hydrogen Peroxide (H₂O₂)**”.

9. This Respondent further submits that ultimately, when the matter was taken up on 30th September, 2021 this Hon’ble Tribunal had recorded the fact of the Joint Committee Report of compliance dated Nil e-filed on 14.07.2021 and the same was recorded in detail. A perusal of this daily order would reveal that this Respondent has complied with item Nos.1,to 5,7 and 9 to 17 in paragraph 3.0 of the Report. In the said Order, the Hon’ble Tribunal requested further time to file a final report based on field visits conducted at this Respondent’s unit on 26th and 27th August, 2021. This Hon’ble Tribunal in respect of the larger study of ground water contamination, at paragraph 5 of the daily Order has recorded as under:-

“As regards the larger study is concerned, the committee can take its own time, but as regards the compliance of recommendation is concerned, the committee is directed to file an interim report regarding the compliance of the recommendations made by the committee on or before 22.10.2021 by e-filing in the form of searchable PDF/OCR Supportable PDF and not in the form of image PDF along with necessary hardcopies to be produced as per Rules.”

10. This Respondent further submits that on 15.11.21, this Hon’ble Tribunal had recorded the fact of the final Joint Committee Report of compliance dated Nil e-filed on 12.11.2021 and the same was recorded in detail. The

matter was adjourned to 17.12.2021. The Tribunal considered the report of Joint Committee e-filed on 12.11.2021. The only pending issue was the CAAQM installation more-fully described at page 8 of the daily Order. To this, this Respondent submits that it had filed a memo of compliance on 02.12.2021 thereby bringing to the attention of this Hon'ble Tribunal the fact that even this Recommendation No.6 was also complied with and photographs with regard to compliance of the same was also submitted.

11. For the records, this Respondent further submits that, after the last hearing on 23rd December 2021 when the matter was reserved for judgement, CAAQM installation is complete in all respects and now connected to the Care Air Centre of the 3rd Respondent viz., Tamilnadu Pollution Control Board thereby the last mile connectivity is also complied with as regards Unit - 4. A copy of the data in this regard is submitted herewith as **Annexure 1**.

In conclusion, this Respondent submits that the circumstances set out in the preceding paragraphs would therefore reveal that :-

- a) The allegations which were levelled by the deceased Applicant have been proved to be incorrect as observed by the Joint Committee Report referred to supra.
- b) There is no requirement for this Respondent to obtain the prior environmental clearance for manufacture of hydrogen peroxide, the affidavit of the MOEF dated 18th December 2020.
- c) All the recommendations of the Joint Committee, Expert Committee have been complied with and nothing remains to be complied.

In these circumstances, it is prayed that this Hon'ble Tribunal may be pleased to dismiss the present application and keep the larger issue of ground water contamination separately and pass such other orders which are deemed fit and necessary in the nature and circumstances of the case and thus render justice.

Dated at Chennai on this 30th day of December, 2021



Counsel for 4th Respondent.

