

BEFORE THE NATIONAL GREEN TRIBUNAL (SZ)

CHENNAI

Appeal No.16 & 17 of 2020

M/s. Valarmathi Hatchery,

Coimbatore

...Appellant

-Vs-

Tamil Nadu Pollution

Control Board, rep. by its

Member Secretary, Chennai

and others

...Respondents

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Certified to be true copies of the Original

Dated at Madras this the 19th day of January 2020


Counsel for 3rd Respondent



TAMILNADU POLLUTION CONTROL BOARD

①

CONSENT ORDER NO. 1901120418759 DATED: 27/02/2019.

PROCEEDINGS NO.F.2062CBS/OS/DEE/TNPCB/CBS/W/2019 DATED: 27/02/2019

SUB: TNPC Board-Consent for Establishment-M/S SHRI VEERAKKUMAR BLUE METALSS S.F No. 297/3 & 318, BOGAMPATTY Village, Sular Taluk, Coimbatore District - for the establishment or take steps to establish the industry under Section 25 of the Water (Prevention and control of Pollution) Act, 1974, as amended in 1988(Central Act 6 of 1974)- Issued- Reg.

**REF: 1. Unit's CTE-new application No. 20418759 dated:28/01/2019.
2. IR.No. F.2062CBS/OS/AEE/CBS/2019 dated 22/02/2019.
3. Minutes of the 179th DLCCC meeting held on 26.02.2019.**

Consent to establish or take steps to establish is hereby granted under Section 25 of the Water (Prevention and control of Pollution) Act, 1974, as amended in 1988(Central Act 6 of 1974) (hereinafter referred to as 'The Act') and the Rules and Orders made there under to

The Proprietor,
SHRI VEERAKKUMAR BLUE METALSS

Authorizing occupier to establish or take steps to establish the industry in the site mentioned below:

S.F. No.297/3 & 318,
BOGAMPATTY Village,
Sular Taluk,
Coimbatore District.

This Consent to establish is valid upto March 31, 2023, or till the industry obtains consent to operate under Section 25 of the Water (Prevention and control of Pollution) Act, 1974, as amended in 1988 whichever is earlier subject to special and general conditions enclosed.

P. MANIMARAN

Digitally signed by P. MANIMARAN
DN: c=IN, o=TAMILNADU POLLUTION CONTROL BOARD,
ou=ENGINEERING DEPARTMENT, postalCode=638001,
st=Tamil Nadu,
2.5.4.20=40e0234c37595d06db7ae5e87ccb69a676cd73
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Date: 2019.02.27 18:04:30 +05'30'

District Environmental Engineer,
Tamil Nadu Pollution Control Board,
COIMBATORE SOUTH

To
The Proprietor,
M/s.SHRI VEERAKKUMAR BLUE METALSS,
SF.No. 297/3 & 318, Bogampatty Village, Sular Taluk, Coimbatore District,
Pin: 641658

Copy to:

1. The Commissioner, SULTHANPETTAI-Panchayat Union, Sular Taluk, Coimbatore District.
2. Copy submitted to the Member Secretary, Tamil Nadu Pollution Control Board, Chennai for favour of kind information.
3. Copy submitted to the JCEE-Monitoring, Tamil Nadu Pollution Control Board, Coimbatore for favour of kind information.
4. File



TAMILNADU POLLUTION CONTROL BOARD

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SPECIAL CONDITIONS

1. This consent to establish is valid for establishing the facility for the manufacture of products/byproducts (Col. 2) at the rate (Col 3) mentioned below. Any change in the product/byproduct and its quantity has to be brought to the notice of the Board and fresh consent has to be obtained.

SL No.	Description	Quantity	Unit
Product Details			
1.	Blue Metal Jelly of Various Sizes	10000	Tons/Month
2.	Manufactured Sand	15000	Tons/Month

2. The unit shall provide Sewage Treatment Plant and /or Effluent Treatment Plant as indicated below.

a Sewage Treatment Plant:			
Treatment status: Septic Tank and SP/DT			
SL. No.	Name of the Treatment Unit	No. of Units	Dimensions in metres
1.	Septic Tank	1	3.0X2.5X3.0
2.	Dispersion Trench	1	5.0X2.5X3.0
b Effluent Treatment Plant:			
Treatment status: Individual ETP			
SL. No.	Name of the Treatment Unit	No. of Units	Dimensions in metres
1.	Settling Tanks	4	3.0X5.0X3.0 (Each)

3. This consent to establish is valid for establishing the facility with the below mentioned outlets for the discharge of sewage/trade effluent. Any change in the outlets and the quantity has to be brought to the notice of the Board and fresh consent has to be obtained.

Outlet No.	Description of Outlet	Maximum daily discharge in KLD	Point of disposal
Effluent Type : Sewage			
1.	Sewage	0.8	On Industrys own land
Effluent Type : Trade Effluent			
1.	Trade Effluent	72.0	Recycling to process

4. Additional Conditions:



TAMILNADU POLLUTION CONTROL BOARD

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1. so as to satisfy the sewage standards prescribed by the Board.
2. The unit shall treat the trade effluent through series of settling tanks as reported.
3. The treated trade effluent shall be recycled back into the process as reported.
4. The drop height of the proposed material should be kept at a minimum during loading and unloading.
5. Telescopic chute shall be provided at the product unloading conveyor so as to adjust according to size of the heap to avoid dust emission.
6. Dust containment enclosure should be provided and supported on angles so that it can with stand strong wind and the roof should be given a gradual slope/curvature so as to prevent accumulation of water.
7. Material transfer point such as hopper such as bottom/product unloading conveyors to be provided suitably to prevent dust release in to the atmosphere.
8. Opening in the enclosures Shafter motor driver, conveyor belts, etc., are to be provided with rubber flaps (wherever possible) to prevent release of dust.
9. Periodical cleaning of water spray nozzles should be carried out to avoid choking.
10. The unit shall provide the compound wall/wind net arrester of 10 feet height all around the unit premises.
11. Green belt of ever green high foliage type like neem, tamarind, gold mohar shall be developed within/outside the boundary of the unit with adequate width.
12. The industry shall provide metal road with in the premises to avoid fugitive emission.
13. The unit shall comply with any further directions to be given by the Hon'ble Supreme Court of India in the court case relevant to stone crushing units and shall comply with all the suggestions given by NEERI and NPC.
14. In case of revision of consent fee by the Government, the unit shall remit the difference in amount within one month from the date of notification. Failing to remit the consent fee, this consent order will be withdrawn without any notice and further action will be initiated against the unit as per law.
15. The unit shall establish the stone crusher as per the latitude & longitude furnished in the GPS certificate without any deviation.
16. The unit shall comply the Board's Guidelines for M-Sand Units B.P.No.26 dated:30.07.2018.
17. The unit shall provide rain water harvesting facilities in the premise so as to recharge the ground water.
18. The unit shall not "Use and throw plastic" such as plastic sheets used for food wrapping, spreading on dining table etc., Plastic plates, plastic coated tea cups, plastic tumbler, water pooches and packets, plastic straw, plastic carry bag and plastic flags irrespectively of thickness, within the industry premises. Instead unit shall encourage use of eco friendly alternatives such as banana leaf, arecanut palm plate, stainless steel, glass, porcelain plates/cups, cloth bag, jute bag etc.

P. MANIMARAN

District Environmental Engineer,
Tamil Nadu Pollution Control Board,
COIMBATORE SOUTH

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ou=ENGINEERING DEPARTMENT, postalCode=638001, st=Tamil
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TAMILNADU POLLUTION CONTROL BOARD

CONSENT ORDER NO. 1901220418759

DATED: 27/02/2019.

PROCEEDINGS NO. F.2062CBS/OS/DEE/TNPCB/CBS/A/2019 DATED: 27/02/2019

SUB: TNPC Board-Consent for Establishment-M/s. SHRI VEERAKKUMAR BLUE METALSS , S.F. No. 297/3 & 318, BOGAMPATTY village, Sulur Taluk and Coimbatore District - for the establishment or take steps to establish the industry under Section 21 of the Air(Prevention and control of Pollution)Act,1981, as amended in 1987(Central Act. 14 of 1981)-Issued -Reg.

REF: 1. Unit's CTE-new application No. 20418759 dated:28/01/2019.
2. IR No. F.2062CBS/OS/AEE/CBS/2019 dated 22/02/2019.
3. Minutes of the 179th DLCCC meeting held on 26.02.2019.

Consent to establish or take steps to establish is hereby granted under Section 21 of the Air (Prevention and control of Pollution) Act,1981, as amended in 1987 and the Rules and Orders made there under to

The Proprietor,
M/s . SHRI VEERAKKUMAR BLUE METALSS
S.F No.297/3 & 318,
BOGAMPATTY Village,
Sulur Taluk,
Coimbatore District.

Authorizing occupier to establish or take steps to establish the industry in the site mentioned below:

S.F No. 297/3 & 318,
BOGAMPATTY Village,
Sulur Taluk,
Coimbatore District.

This Consent to establish is valid upto March 31, 2023, or till the industry obtains consent to operate under Section 21 of the Air (Prevention and control of Pollution) Act, 1981, as amended in 1987 whichever is earlier subject to special and general conditions enclosed.

P. MANIMARAN

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ou=ENGINEERING DEPARTMENT, postalCode=638001,
st=Tamil Nadu,
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Date: 2019.02.27 18:00:19 +05'30'

**District Environmental Engineer,
Tamil Nadu Pollution Control Board,
COIMBATORE SOUTH**

To
The Proprietor,
M/s.SHRI VEERAKKUMAR BLUE METALSS,
SF No. 297/3 & 318, Bogampatty Village, Sulur Taluk, Coimbatore District,
Pin: 641658

Copy to:

- 1.The Commissioner, SULTHANPETTAI-Panchayat Union, Sulur Taluk, Coimbatore District .
2. Copy submitted to the Member Secretary, Tamil Nadu Pollution Control Board, Chennai for favour of kind information.
3. Copy submitted to the JCEE-Monitoring, Tamil Nadu Pollution Control Board, Coimbatore for favour of kind information.



(B)

TAMILNADU POLLUTION CONTROL BOARD

SPECIAL CONDITIONS

1. This consent to establish is valid for establishing the facility for the manufacture of products/byproducts (Col. 2) at the rate (Col 3) mentioned below. Any change in the product/byproduct and its quantity has to be brought to the notice of the Board and fresh consent has to be obtained.

Sl. No.	Description	Quantity	Unit
Product Details			
1.	Blue Metal Jelly of Various Sizes	10000	Tons/Month
2.	Manufactured Sand	15000	Tons/Month

2. This consent to establish is valid for establishing the facility with the below mentioned emission/noise sources along with the control measures and/or stack. Any change in the emission source/control measures/change in stack height has to be brought to the notice of the Board and fresh consent has to be obtained if necessary.

I Point source emission with stack :				
Stack No.	Point Emission Source	Air pollution Control measures	Stack height from Ground Level in m	Gaseous Discharge in Nm ³ /hr
00	Primary Crusher (Jaw Crusher) - 1 No	Water Sprinkler Arrangement with GI Sheet Enclosure	0	-
00	Secondary Crushers - 2 Nos	Water Sprinkler Arrangements with GI Sheet Enclosures	0	-
00	VSI Crusher - 1 No	Water Sprinkler Arrangement with GI Sheet Enclosure	0	-
00	Vibrators - 3 Nos	Water Sprinkler Arrangements with GI Sheet Enclosures	0	-
00	Conveyors	GI Sheet Enclosures	0	-
00	Dust Collection Chamber	Water Sprinkler Arrangement with GI Sheet Enclosure	0	-
II Fugitive/Noise emission :				
Sl. No.	Fugitive or Noise Emission sources	Type of emission	Control measures	

3. Additional Conditions:



(J)

TAMILNADU POLLUTION CONTROL BOARD

- 1) The unit shall provide adequate Air pollution control measures such as enclosures with water sprinkler arrangements to the Primary Crusher (Jaw crusher)- 1 No., Secondary Crushers-2 Nos, VSI crusher - 1 No and Vibrator- 3 Nos and GI covered with water sprinkler arrangement to the conveyors, dust collection chamber to the dust collection point. So as to achieve AAQ/Emission/ANL standards prescribed by the Board.
- 2) The unit shall provide water sprinkling system to control the fugitive dust emissions at various points/ dust emission sources
- 3) The drop height of the proposed material should be kept at a minimum during loading and unloading.
- 4) The entire conveyor belt shall be covered with GI sheet.
- 5) Telescopic chute shall be provided at the product unloading conveyor so as to adjust according to size of the heap to avoid dust emission.
- 6) Dust containment enclosure should be provided and supported on angles so that it can withstand strong wind and the roof should be given a gradual slope/curvature so as to prevent accumulation of water.
- 7) Material transfer point such as hopper such as bottom/product unloading conveyors to be provided suitably to prevent dust release in to the atmosphere.
- 8) Opening in the enclosures Shafter motor driver, conveyor belts, etc., are to be provided with rubber flaps (wherever possible) to prevent release of dust.
- 9) Periodical cleaning of water spray nozzles should be carried out to avoid choking.
- 10) The unit shall provide the compound wall/wind net arrester of 10 feet height all around the unit premises.
- 11) Green belt of ever green high foliage type like neem, tamarind, gold mohar shall be developed within/outside the boundary of the unit with adequate width.
- 12) The industry shall provide metal road within the premises to avoid fugitive emission.
- 13) The unit shall comply with any further directions to be given by the Hon'ble Supreme Court of India in the court case relevant to stone crushing units and shall comply with all the suggestions given by NEERI and NPC.
- 14) In case of revision of consent fee by the Government, the unit shall remit the difference in amount within one month from the date of notification. Failing to remit the consent fee, this consent order will be withdrawn without any notice and further action will be initiated against the unit as per law.
- 15) The unit shall establish the stone crusher as per the latitude & longitude furnished in the GPS certificate without any deviation.
- 16) The unit shall not "Use and throw plastic" such as plastic sheets used for food wrapping, spreading on dining table etc., Plastic plates, plastic coated tea cups, plastic tumbler, water pouches and packets, plastic straw, plastic carry bag and plastic flags irrespectively of thickness, within the industry premises. Instead unit shall encourage use of eco friendly alternatives such as banana leaf, arecanut palm plate, stainless steel, glass, porcelain plates/cups, cloth bag, jute bag etc.
- 17) The unit shall comply the Board's Guidelines for M-Sand Units B.P.No.26 dated:30.07.2018.

P. MANIMARAN

District Environmental Engineer,
Tamil Nadu Pollution Control Board,
COIMBATORE SOUTH

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ou=ENGINEERING DEPARTMENT, postalCode=635001, st=Tamil
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Date: 2018.02.27 18:06:47 +05'30'



TAMILNADU POLLUTION CONTROL BOARD

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GENERAL CONDITIONS

1. This consent to establish cannot be construed as consent to operate and the unit shall not commence the operation without obtaining the Consent to operate.
2. The applicant shall make a request for grant of consent to operate at least thirty days, before the commissioning of trial production.
3. Any Change in the details furnished in the conditions has to be brought to the notice of the Board and got approved by the Board, before obtaining consent to operate under the said Act.
4. The unit has to comply with the provisions of Public Liability Insurance Act, 1991 to provide immediate relief in the event of any hazard to human beings, other living creatures/plants and properties while handling and storage of hazardous substances (wherever applicable).
5. Consent to operate will not be issued unless the unit complies with the conditions of consent to establish.
6. The unit shall provide adequate water sprinklers for the control of dust emission during the loading and unloading of construction material so as to minimize the dust emission.
7. The unit shall provide water sprinklers along the temporary roads inside the premises to avoid fugitive dust emission during the vehicle movements.
8. The unit shall develop green belt of adequate width around the premises.
9. In case there is any change in the management, the unit shall inform the change with relevant documents immediately.

P. MANIMARAN

Digitally signed by P. MANIMARAN
DN: cn=P. MANIMARAN, o=TAMILNADU POLLUTION CONTROL BOARD,
ou=ENGINEERING DEPARTMENT, postalCode=638001,
st=Tamil Nadu,
2.5.4.20=40e0234c57595006db7ae5e87ccbe69a876c873e
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Date: 2019.02.27 18:07:20 +05'30'

District Environmental Engineer,
Tamil Nadu Pollution Control Board,
COIMBATORE SOUTH



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TAMIL NADU POLLUTION CONTROL BOARD

Proc No. F.CBS2182/DEE/TNPCB/CBS/OS/A/2019 dated.12.12.2019

Sub: TNPCBD - Industries - M/s Shri Veerakkumar Blue Metals - SF No. 297/3 & 318, Bogampatty Village, Sulur Taluk, Coimbatore District - violations under Section 21 of Air (Prevention and Control of Pollution) Act, 1981 as amended 1987- Show Cause Notice - Issued - Reg.

- Ref:**
1. CTE Proceeding No. F.2062CBS/OS/DEE/TNPCB/CBS/W&A/2019 dated 27/02/2019.
 2. Appeal filed by M/s Valarmathi Hatchery, represented by its Managing Partner Mr S.K.Shanmugam is before Honourable Appellate authority
 3. Writ Petition No 29018 of 2019 dated 10.10.2019 filed by Mr Umakanthan S/o Mr.Maruthasalam is before Honourable High court
 4. Telephonic Complaint dated 11.12.2019
 5. Inspection of your unit by the TNPCB officials on 11.12.2019.

The Air (Prevention and Control of Pollution) Act, 1981 as amended in 1987 is in force in Tamil Nadu. Tamil Nadu Pollution Control Board enforces the above central Act. The TNPCB is implementing the Air (P & CP) Act, 1974, as amended thereon. As per the Section 21 of the said Act no person shall, without the previous consent of the State Board shall establish or operate an industrial plant in an Air Pollution Control Area.

Tamil Nadu Pollution Control Board serves this notice on you as occupier for contravening the conditions imposed in the First Consent Order in the references 1st cited under Section 21 of the Air (Prevention and Control of Pollution) Act, 1981 as amended 1987.

Further the appeal in the reference 2nd cited above filed by M/s Valarmathi Hatchery, represented by its Managing Partner Mr S.K.Shanmugam is before Honourable Appellate authority & Writ Petition No 29018 of 2019 dated 10.10.2019 in the reference 3rd cited above filed by Mr Umakanthan S/o Mr.Maruthasalam is pending before Honourable High court .

Based on the telephonic complaint vide reference 4th cited above the unit of M/s Shri Veerakkumar Blue Metals located at SF No. 297/3 & 318, Bogampatty Village, Sulur Taluk, Coimbatore District by TNPCB Officials on 11.12.2019 and the following were observed that:

1. The unit was under operation without adhering to the stipulated condition mentioned in the Consent for Establishment order in the reference 1st cited above and without obtaining valid consent of the Board for its operation.
2. The existing point sources of emission were operated without providing adequate air pollution control measures and thereby creating nuisance in the vicinity.
3. The Point sources of emission and Air Pollution Control Measures provided

Sl. No.	Source of Emission	APC measures provided	Stack top dimension (In metres)	Stack ht. above ground (In metres)	Status of functioning
1.	Primary Crusher	All the existing Point sources of emission are under operation without providing adequate air pollution control measures and			

20 18



2. Secondary Crusher operating without valid Consent of the Board.
3. VSI Crusher
4. Vibrators
5. Conveyors

4. Further a sizable quantum of silt from the process were seen accumulated inside the premises

and as such the provisions of Section 21 of the Act have been contravened which is punishable under Section 37 of Act with Imprisonment for a term which shall not be less than one year and Six months, but which may extend to six years and with fine.

Hence, you are directed to show cause within 7 days from the date of receipt of this notice as to why penal action should not be Initiated against you for operating the unit without any air pollution control measures and for having not obtained the valid consent of the Board under Section 21 of the said Act and to issue directions under Section 31A of the Act for closure of the unit and for the stoppage of electricity etc.,

It is informed that non-receipt of reply within the prescribed period will be construed that you have no satisfactory explanation to offer for the above contravention and action will be taken accordingly.

District Environmental Engineer,
Tamil Nadu Pollution Control Board,
Coimbatore South

12/12

To
Mr Magudeshwaran M
Proprietor
M/s Shri Veerakkumar Blue Metals
SF No. 297/3 & 318, Bogampatty Village,
Sulur Taluk,
Coimbatore District - 641658

Copy

To
Mr Magudeshwaran M
Proprietor
M/s Shri Veerakkumar Blue Metals
51-A Block Adithya Apartments,
Trichy Road, Ramanthapuram
Coimbatore-641045

(11)

SHRI VEERAKKUMAR BLUE METALSS

No.104-A, Sri Nagar Hind Street, Ramanathapuram, Coimbatore - 45.

Phone: 0422 - 2323235

Email: vmsand2017@gmail.com

27-12-2019

To

The District Environmental Engineer,
Tamil Nadu Pollution Control Board,
Coimbatore South.

Sir,

Sub: TNPCBD - Industries - M/s. Shri Veerakkumar Blue Metals -
S.F.No.297/3 and 31B, Bogampatty Village, Sulur Taluk,
Coimbatore - violations under Section 21 of Air Act (Prevention
and Control of Pollution) Act, 1981 as amended 1987 - Show
cause notice - Issued Reg.

Ref: Proc. No.F/CBS2182/DEE/TNPCB/CBS/OS/A/2019 dt.
12.12.2019

I am in receipt of your show cause notice dated referred to above and I state the following for your kind consideration:-

In the show cause notice under reply, it has been stated that the Unit was under operation without adhering to the conditioned in the Consent for Establishment in the proceedings dated 27.02.2019 and without obtaining valid consent of the Board for its operations. It was also stated therein that existing point sources of emission were operated without providing adequate air pollution control measures and thereby creating nuisance in the vicinity. On that basis, the Unit was called upon to show cause as to why penal action should not be initiated against it.

Plant: S.F No.: 297/3-318, Bogam Patty Village, Sulur, Coimbatore.

Page 1 of 2

12

SHRI VEERAKKUMAR BLUE METALSS

No.104-A, Sri Nagar Hind Street, Ramanathapuram, Coimbatore - 45.

Phone: 0422 - 2323235

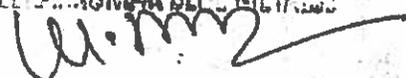
Email: vmsand2017@gmail.com

In this regard, I submit that there was no full fledged operation of the Unit as stated in the show cause notice. The unit carried out the trial run of the machineries for 2 days for 2 hours each to check the same. During the trial run, the machineries were not covered by GI sheeting roof and sprinkler spray for outlet air pollutary path. Subsequently, the defects were rectified by covering the machineries by GI sheeting roof and have also installed sprinkler spray for outlet air pollutary path. I undertake that the unit will be put into operation after being inspected by the Board and upon the Board being satisfied with the same. I also unconditionally undertake to comply with the norms prescribed by the Board for running the Unit.

Under the above circumstances, I request your good self to drop further action in terms of the show cause notice dated 12.12.2019 and oblige.

Yours faithfully,

SHRI VEERAKKUMAR BLUE METALSS



PROPRIETOR

Plant: S.F No.: 297/3-318, Bogam Patty Village, Sular, Coimbatore.

Page 2 of 2



TAMILNADU POLLUTION CONTROL BOARD

Proceeding No.:T1 / TNPCB / F.033284/OS /Closure/ W&A/ 2020, dated: 06/01/2020

Sub.: TNPC Board – Industries – M/s Shri Veerakkumar Blue Metals., located at SF No. 297/3 & 318, Bogampatty Village, Sulur Taluk, Coimbatore District – Directions for closure and disconnection of power supply under Section 31A of Air (Prevention and Control of Pollution) Act, 1981 as amended– Orders issued – Regarding.

Ref.: 1.DEE Proc.No.F.CBS2182/DEE/TNPCB/CBS/OS/A/2019 dated 12.12.2019
2. DEE Letter No.DEE/TNPCB/FCBS2182/2019 dated 20/12/2019

Whereas, the unit of M/s.Shri Veerakumar., located at SF No. 297/3 & 318, Bogampatty Village, Sulur Taluk, Coimbatore District was issued with Consent for its Establishment for the production of Blue Metal Jelly of Various Sizes of quantity 10000 Tons per month & Manufactured Sand of quantity 15000 Tons per month, vide DEE office Proceedings No.F.2062CBS/OS/DEE/TNPCB/CBS/W7A/2019 dated 27/02/2019.

Based on the public complaint dated 11.12.2019, the unit of M/s Shri Veerakkumar Blue Metals located at SF No. 297/3 & 318, Bogampatty Village, Sulur Taluk, Coimbatore District inspected by District Environmental Engineer, Coimbatore South on 11.12.2019 and the observations were reported as follows:-

- i. The unit was commissioned and under operation without adhering to the CTE conditions and without valid consent of the Board for its operation.
- ii. The air pollution measures as stipulated in the consent order has not been provided by the unit to the existing point source of emission ,which is in violation of CTE Conditions as issued and thereby creating the nuisance in the vicinity.
- iii. The Writ petitioner and the complainant Mr.Umakanthan S/o.Mr.Maruthasalam at the time of inspection arrived at the unit and briefed particulate matters emanated from the unit are settled down on the roof top of his poultry farm and further his poultry farm was inspected by the DEE, Coimbatore (South).

The unit of M/s Shri Veerakkumar Blue Metals was served with a show cause notice under Section 21 of Air (Prevention and Control of Pollution) Act, 1981 as amended for the violations there in, vide DEE, CBS office Proceedings dated 12/12/2019 under reference first cited. The unit in its reply to the show cause notice vide letter dated 19/12/2019, has informed that a trial operation of the unit had been undertaken.

DEE, Coimbatore (South) vide reference second cited has recommended that to issue further necessary direction for closure, stoppage of electricity to the unit under 31A of Air (Prevention and Control of Pollution) Act 1981 as amended in 1987 to the Board.

POLLUTION PREVENTION PAYS



TAMILNADU POLLUTION CONTROL BOARD

In the light of the above said facts it is decided, that in exercise of the powers conferred under Section 31 A of Air (Prevention and Control of Pollution) Act, 1981 as amended, to issue Directions for closure and disconnection of power supply to the Unit.

Now, therefore, in exercise of the powers conferred under Section 31 A of the Air (Prevention and Control of Pollution) Act, 1981 as amended, it is hereby directed that the unit of **M/s Shri Veerakkumar Blue Metals** located at SF No. 297/3 & 318, **Bogampatty Village, Sulur Taluk, Coimbatore District** shall be disconnected with power supply and closed with immediate effect.

This Order of closure and disconnection of power supply is issued by Chairman as per the delegation of powers issued by the Board vide B. P. No.9, dated 11.03.1994.

The receipt of this proceeding shall be acknowledged.

Sd/-
Chairman

To

The Proprietor,
M/s Shri Veerakkumar Blue Metals
SF No. 297/3 & 318,
Bogampatty Village, Sulur Taluk,
Coimbatore District-641658

For Chairman 2/1/2020

7/1/20



TAMILNADU POLLUTION CONTROL BOARD

15

Proceeding No.:T1/TNPCB / F.033284/CBS/OS/Closure/EB/2020, dated: 06/01/2020

Sub.: TNPC Board – Industries – M/s Shri Veerakkumar Blue Metals located at SF No. 297/3 & 318, Bogampatty Village, Sulur Taluk, Coimbatore District – Direction for disconnection of power supply to the Unit under Section 31 A of the Air (Prevention and Control of Pollution) Act, 1981 as amended – Orders issued – Regarding.

Ref.: 1. Board Proceeding No.:T1 / TNPCB / F.033284/OS /Closure/ W&A / 2020, dated: 06/01/2020 (Copy enclosed)
2. Memo No.: SE / Comm. / EE 3 / Assistant Environmental Engineer – 1 / TNPC Bd. / D 320 / 2002, dated: 04.12.2002 from the Chairman, TNEB to Superintending Engineers of all electricity Distribution Circles, TNEB.

Tamil Nadu Pollution Control Board enforces the provisions of Water (Prevention and Control of Pollution) Act, 1974 and Air (Prevention and Control of Pollution) Act, 1981. As per Section 33 A of Water (Prevention and Control of Pollution) Act, 1974 as amended in 1988 and as per Section 31 A of Air (Prevention and Control of Pollution) Act, 1981 as amended in 1987 the Board is empowered to issue Directions for closure, prohibition or regulation of any industry and stoppage of electricity or any other services. Instructions have been issued by Tamil Nadu Electricity Board in this regard vide reference second cited.

In this connection, a copy of Board's Proceeding first cited is also enclosed in which Directions have been issued under Section 31 A of Air (Prevention and Control of Pollution) Act, 1981 as amended for closure of and disconnection of power supply to M/s Shri Veerakkumar Blue Metals located at SF No. 297/3 & 318, Bogampatty Village, Sulur Taluk, Coimbatore District in view of the reasons stated therein.

It is hereby further directed in exercise of the powers conferred under Section 31 A of Air (Prevention and Control of Pollution) Act, 1981 as amended that, the power supply to the said Unit shall be stopped with immediate effect.

The receipt of the proceeding shall be acknowledged and the action taken in this regard shall also be intimated to this office at the earliest.

Enclosure: As above.

Sd/-
Chairman

To

1. The Superintending Engineer
TANGEDCO,
Coimbatore South, TANGEDCO,
Tatabad, Coimbatore-641012
Email id: secbes@tnebnet.org

POLLUTION PREVENTION PAYS



TAMILNADU POLLUTION CONTROL BOARD

2. The Assistant Engineer/(O/M)
TANGEDCO/Madachitthur, Kinathukadavu Taluk,
Coimbatore District-641201
Email id: cbu355ae@tnebn.org

Copy to:

1. The District Collector,
Coimbatore District.
2. The Joint Chief Environmental Engineer (M),
Tamilnadu Pollution Control Board,
Plot No.E-55A, SIDCO Industrial Estate,
Pollachi Main Road, Kurchi,
Coimbatore-641 021
3. The District Environmental Engineer,
Tamilnadu Pollution Control Board,
Coimbatore South, Plot No.E-55A,
SIDCO Industrial Estate, Pollachi Main Road,
Kurchi, Coimbatore-641 021.
4. The Proprietor,
M/s Shri Veerakkumar Blue Metals
SF No. 297/3 & 318,
Bogampatty Village, Sulur Taluk,
Coimbatore District-641658
5. File Copy

For Chairman

2/11/20

IN THE HIGH COURT OF JUDICATURE AT MADRAS
(Special Original Jurisdiction)

W.P.No. of 2019

M.Umakanthan,
S/o. Mantharachalam,
D.No.2/217A, Natha kaadu Thottam,
Bogampatti Village,
Sulur Taluk,
Coimbatore District.

.. Petitioner

-VS-

1. The District Collector,
Coimbatore District,
Coimbatore.

2. The Tasildhar,
Sulur Taluk,
Coimbatore District.

3. The District Environmental Engineer,
Tamil Nadu Pollution Control Board,
Coimbatore South,
Plot E-55A, SIDCO Industrial Estate,
Kurichi, Pollaci Main Road,
Coimbatore – 641 021.

4. Mrs.Jothimani,
W/o. Magudeeswaran,
No.E1 2A, Aadithya Apartment,
Ramanathapuram,
Coimbatore – 641 045.

.. Respondents

5. The Assistant Director of Geology & Mining
Coimbatore. AFFIDAVIT OF M.UMAKANTHAN

I, M.Umakanthan, Son of Mantharachalam, Hindu, aged about 35 years, residing at
D.No.2/217A, Natha kaadu Thottam, Bogampatti Village, Sulur Taluk, Coimbatore
District, do hereby solemnly affirm and sincerely state as follows:

1. I am the Petitioner herein and well acquainted with the facts of the case.

2. I state that the lands measuring 4.28 1/2 acres, situated in S.F.No.313/2.
Bogampatti village, Sulur Taluk, Coimbatore District, was allotted to my father,
Mantharachalam by virtue of the partition deed bearing document No.6453/2011. I state

Page No:
Corrections:

M. Umakanthan

98

that I have been authorized to manage the said lands. I further submit that I have established a poultry farm to an extent of 18,000 square feet of building.

3. I state that I have been running the said poultry farm by contributing my physical labor and skill. I have been running the said poultry farm ever since the year 2015. I further state I have been doing cultivation in the rest of the property by raising crops like Chilies, tomato and also there are standing coconut trees. I state that I have constructed a residential house in S.F.No.316/1.

4. I state that the 4th Respondent herein and her husband proposed to construct a Stone Crusher Unit and M-Sand Unit in the nearby lands in S.F.No.297/3 & 318 Bogampatty Village under the name and style of M/s Shri Veerakkumar Blue Metals and started to level the lands for putting up the Stone Crusher and M-Sand Unit. It is submitted that the proposed Stone Crusher and M-Sand Unit is within 500 meter from the Petitioner's poultry farm. Therefore in March, 2018 the Petitioner along with the villagers complained to the 3rd Respondent that the proposed Stone Crusher and M-Sand Unit of the 4th Respondent is blocking the water course in that area and also the surrounding lands are used for agriculture, poultry farming and for cattle grazing. The 3rd Respondent by reply dated 03.04.2018 informed the petitioner that no permission is granted to construct the Stone Crusher and M-Sand Unit.

5. I state that since the 3rd respondent categorically informed that no permission is granted to the 4th Respondent, the Petitioner and the villagers were under the impression that the Stone Crusher and M-Sand Unit are not going to be started near their farms. However, the 4th Respondent continued the works for putting up the Unit. Therefore the Petitioner made representation to the 3rd respondent on 18.03.2019 and to the 1st Respondent on 10.04.2019. The 1st Respondent by his proceedings dated 29.04.2019 informed that the representation of Petitioner is forwarded to the 3rd Respondent for necessary action. The 3rd Respondent by his communication dated 02.05.2019 informed

the Petitioner that consent to establish a Stone Crusher and M-Sand Unit in S.F.No.297/3 & 318 Bogampatty Village is granted to M/s Shri Veerakkumar Blue Metals on 27.02.2019.

6. I state that thereafter the Petitioner made enquiries and came to know that the 2nd Respondent by his impugned proceedings in Mu Mu 4265/2018/A3 dated 09.11.2018 has granted no objection certificate (NOC) to the 4th Respondent to put up a Stone Crusher and M-Sand Unit in in S.F.No.297/3 & 318 Bogampatty Village, Sular Taluk. I state that the impugned NOC issued by the 2nd Respondent is contrary to the guidelines issued for setting up a Stone Crusher and M-Sand Unit.

7. I state that the Tamil Nadu Pollution Control Board has categorically stated in its board proceedings dated 02.07.2004 that no new Stone Crusher Unit should be located within 500 meters of inhabited site. Now, recently on 05.03.2019 and on 31.07.2019 the Tamil Nadu Pollution Control Board reiterated that the same distance will apply for new Unit. Admittedly, the Stone Crusher and M-Sand Unit proposed by the 4th Respondent is a new unit and it is within 500 meters from the petitioner's poultry farm in S.F.No.313/2. But the 2nd respondent has granted the impugned NOC contrary to the regulations.

8. I state that the new Stone Crusher and M-Sand Unit of the 4th respondent is causing severe hardship to the villagers as it is affecting their agricultural activities, the grazing lands and also blocking the water course in that area. Therefore the villagers of Bogampatty have given representation to the 1st Respondent on 20.07.2019. Thus, the new Stone Crusher and M-Sand Unit of the 4th Respondent is affecting many people of Bogampatty village. Some of the villagers are taking steps to set aside the consent to establish granted by the 3rd respondent.

m. [Signature]

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9. I state that the Petitioner is personally aggrieved by the impugned order of the 2nd Respondent. Because of issuance of the impugned order dated 11.11.2018, no objection is given to establish the Stone Crusher and M-Sand Unit very close to the Petitioner's poultry farm and petitioner's livelihood will be affected by grant of the impugned NOC.

10. I state the as against the impugned proceedings the Petitioner has no other effective alternative remedy except to approach this Hon'ble Court under Article 226 of the Constitution of India. The impugned order of the 2nd Respondent is liable to be set aside on the following amongst other

GROUNDS

- a) The impugned order of the 2nd Respondent is contrary to law and liable to be set aside.
- b) The 2nd Respondent ought to have seen that proposed Stone Crusher of the 4th Respondent in S.F.No.297/3 & 318 Bogampatty Village is situated 330 meters from the Petitioner's existing Poultry farm in S.F.No.313/2 Bogampatty Village. Therefore the new Stone Crusher Unit of the 4th Respondent is within the prohibited distance as prescribed by guideless of the Tamil Nadu Pollution Control Board in BP Ms no.4 dated 02.07.2004. Hence the impugned order is in violation of the guidelines for establishing a new Stone Crusher Unit and therefore arbitrary and violative of Article 14 of the Constitution of India and liable to be set aside.
- c) The 2nd Respondent ought to have seen that it is specifically recorded in the impugned proceedings that a house is situated at 480 meters and a poultry farm is situated at 250 meters from the new Stone Crusher Unit of the 4th Respondent. Under such circumstances the 2nd Respondent ought not to have granted NOC to the 4th Respondent. Therefore the impugned order of the 2nd Respondent is liable to be set aside.

- d) The 2nd Respondent ought to have seen that the Board by its board proceedings dated 05.03.2019 and on 31.07.2019 reiterated that no new stone crusher unit should be located within 500 meters of inhabited site.
- e) The 2nd Respondent ought to have seen that most of the villagers of Bogampatty village have objected to the establishment of new Stone Crusher and M-Sand Unit in S.F.No.297/3 & 318 Bogampatty Village since it will affect their agricultural activities, cattle grazing fields in that area and also it will block the water course.
- f) The 2nd Respondent ought to have seen that if Stone Crusher Unit of the 4th Respondent is established near his poultry farm, the livestock will not survive in the dust emanated from the industry. The Stone Crusher and M-Sand Unit are orange category industries and therefore locating them near the farm of the Petitioner will affect his livelihood.

The Petitioner may be permitted to raise additional grounds during oral submissions

11. I state that the Petitioner has a fair chance of success in the above writ petition and if the 4th respondent is allowed to proceed further and commence his operations pursuant to the impugned order, the Petitioner will be put to untold hardship and all the livestock in his poultry farm will be affected. Therefore it is just and necessary to stay the operation of the impugned order of the 2nd Respondent pending disposal of the above writ petition.

12. I state that the Petitioner is not served with the copy of the impugned order and therefore he is unable to produce the original before this Hon'ble Court. Hence it is just and necessary to dispense with production of the original impugned proceedings of 2nd Respondent in Mu.Mu 4265/2018/A3 dated 09.11.2018 for the present.

m. Venkatesh

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For the reasons stated above it is prayed that this Hon'ble Court may be pleased to dispense with production of the original impugned proceedings of 2nd Respondent in Mu.Mu 4265/2018/A3 dated 09.11.2018 and thus render justice.

For the reasons stated above it is prayed that this Hon'ble Court may be pleased to stay the operation of the impugned proceedings of 2nd Respondent in Mu.Mu 4265/2018/A3 dated 09.11.2018 pending disposal of the above writ petition and thus render justice.

For the reasons stated above it is prayed that this Hon'ble Court may be pleased to issue a WRIT OF CERTIORARI or any other Writ or Order or Direction in the nature of Writ of Certiorari calling for the records of the of 2nd respondent proceedings in Mu.Mu 4265/2018/A3 dated 09.11.2018 and quash the order dated 09.11.2018 and pass such or other orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case and thus render justice.

Solemnly affirmed at Coimbatore, on this]
31st day of August, 2019 and signed]
his name in my presence.]

M. Shankar

Before me.

P. Sivakumar
MS: 730/08
Advocate:

P. SIVAKUMAR, B.A.B.L.(Hons)
ADVOCATE (MS No 730/08)
No. 104, Aishwarya Complex,
Gopalapuram 1st Street,
Coimbatore - 641 013.
Cell No : 98401 57773

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IN THE HIGH COURT OF JUDICATURE AT MADRAS
(Special Original Jurisdiction)

W.P. No. 29018 of 2019

M. Umakanthan,
s/o. Mantharachalam,
D.No.2/217A, Natha Kaadu Thottam,
Bogampatti Village,
Sulur Taluk,
Coimbatore District

..Petitioner

Vs

1. The District Collector,
Coimbatore District,
Coimbatore

2. The Tahsildar,
Sulur Taluk,
Coimbatore District

3. The District Environmental Engineer,
Tamil Nadu Pollution Control Board,
Coimbatore South,
Plot E-55A, SIDCO Industrial Estate,
Kurichi, Pollachi Main Road,
Coimbatore – 641 021

4. Mrs. Jothimani,
w/o. Magudeeswaran,
No.E1 2A, Aadithya Apartment,
Ramanathapuram,
Coimbatore – 641 045

5. The Assistant Director of Geology & Mining,
Coimbatore

COUNTER AFFIDAVIT OF JOTHIMANI

I, Jothimani w/o. M. Magudeeswaran, aged about – years and residing at E1, A block, Aadithya Apartments, 1152 Trichy Road, Coimbatore – 641 045 now temporarily come down to Chennai do hereby solemnly affirm and sincerely state as follows

181.002
cum

M. Jothimani

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1. I am the 4th respondent herein and I am well acquainted with the facts of the case.
2. I submit that I have established the business in blue metals situated in SF No.297/3 & 318, Bogampatti village, Sulur Taluk, Coimbatore District for the proposed production of blue metal jelly of various sizes, quantity to the tune of 10000 tons/month and M-Sand of 15000 tons/ month and had applied consent to establish from the board on 27.02.2019, subject to various conditions. The petitioner has stated that he has poultry farm in SF No.313/2, Bogampatti Village, Sulur Taluk, Coimbatore District and has stated that he has been running the poultry farm since 2015.
3. It is pertinent to point out that the writ petitioner has never mentioned the name of the poultry farm. But one K.Shanmugam, partner of Valarmathi Hatchery has filed Appeal Nos. 34 & 35 of 2019 challenging the consent to establish given to this respondent by stating that he is having a hatchery in SF No.316/2, 316/3, 317/2 and the appeal is being heard and reserved for orders. Already the partner has challenged the order of consent by stating very same allegations that by establishing the crushing unit, it will affect the hatchery and the other activities. He has also alleged in his petition that they have given representation but however the petitioner's name is not found in the representation.
4. It is further submitted that when this respondent applied for consent for establishing proposed stone crushing unit, had applied to the Tahsildar -- the 2nd respondent herein to get 'No objection certificate'. The said

2nd respondent
am

M. J. J. J. J. J.

-3 ✓

there are no approved lay outs within the prohibitory distance. I had also furnished land use classification certificate from DTCP vide proceedings dated 30.7.2018 that the proposed unit site is located in the non planned area.

5. It is also relevant to point out that GO 1730 dated 24.7.1974 – Rural Development and Local Administration Department stipulates that the permissible use zone and restrictions are imposed for few major use zones in which agriculture use zone also forms part of the zone and certain activities are permitted in agricultural use zone in which stone crushing and quarrying activities are also permitted as per use zone classification. The petitioner herein alleged that BP MS No.4 dated 02.7.2004 states that no crushing unit should be located within 500 mts from any National or State Highway or Primary residential area or mixed residential area or Public or religious related areas. But as far as this petitioner is concerned, the proceedings will not be applicable as it states about approved layout. The certificate of Tahsildar dated 09.11.2018 and DTCP approval 30.7.2018 clearly stipulates that there are unapproved buildings near this respondent's proposed unit. Therefore the allegation that BP MS No.4 dated

02.7.2004 will be applicable is incorrect and legally unsustainable. As far as the grounds raised in the Writ Petition, they are not maintainable as the proposed unit does not attract Article 14 of the Constitution of India.

3rd day
cum

M. Jadhavi

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-A-

prima facie case for interference. The 2nd respondent has issued the certificate by going through the revenue records and only thereafter the same was issued. The petitioner's allegations are baseless and bereft of merits. This respondent reserves her right to file additional counter, if need be.

For the reasons stated above, it is prayed that this Hon'ble Court may be pleased to dismiss WP No.29018 of 2019 as not maintainable with exemplary costs and to pass appropriate orders in the circumstances of the case and thus render justice.

Solemnly affirmed at Chennai
On this the ^{30th} day of October
2019 and signed her name
in my presence

Before Me

Advocate Chennai

Aith Rose
ce ml

M. Jotwani

(27)

IN THE HIGH COURT OF
JUDICATURE AT MADRAS
(Special Original Jurisdiction)

W.P.No. 29018 of 2019

COUNTER AFFIDAVIT OF
JOTHIMANI

M/s.AIYAR AND DOLIA
COUNSEL FOR 4TH RESPONDENT

**BEFORE THE APPELLATE AUTHORITY
TAMILNADU POLLUTION CONTROL, CHENNAI**

Appeal No.3 of 2020

M/s. Shri Veerakumar Blue Metals,
Rep. by its Proprietor,
Madugeeswaran,
S.F.No.293, 3 and 318,
Bogampatty Village, Sulur Taluk,
Coimbatore District - 641 658

...Appellant

-Vs-

1. Tamil Nadu Pollution Control Board,
rep. by its Chairman,
100, Anna Salai,
Guindy,
Chennai - 600 032.
2. The District Environmental Engineer,
Tamil Nadu Pollution Control Board,
Coimbatore South, Plot No.E-55A,
SIDCO Industrial Estate,
Pollachi Main Road, Kurichi,
Coimbatore - 641 021
3. The Superintendent Engineer,
TANGEDCO, Coimbatore South,
Tatabad,
Coimbatore - 641 012

...Respondents

**REJOINDER TO THE COUNTER AFFIDAVIT FILED ON BEHALF OF
TAMIL NADU POLLUTION CONTROL BOARD**

I, Madugeeswaran, son of Muthusamy, having the place of work at No.104-A, Sri Nagar II Street, Ramanathapuram, Coimbatore - 641 045, now temporarily come down to Chennai, do hereby solemnly affirm and sincerely state as follows:-

For SHRI VEERAKUMAR BLUE METALSS


PROPRIETOR

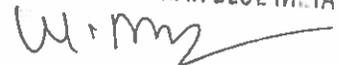
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1. I am the Appellant herein and am well acquainted with the facts of the case. I have gone through the counter affidavit filed on behalf of the Tamil Nadu Pollution Control Board and the outset, I deny the same and puts the Tamil Nadu Pollution Control Board to strict proof of the same. I crave leave of this Hon'ble Authority to treat and read the averments contained in the Appeal as part and parcel of this affidavit.

2. I submit that I submitted an application on 28.01.2019 to the Tamil Nadu Pollution Control Board seeking consent for establishment for manufacturing blue metal jelly of various sizes at the rate of 10000 tons per month and M-Sand at the rate of 15000 tons per month. The Unit was inspected by the office of the 2nd Respondent on 27.02.2019 and granted Consent for Establishment valid upto March 2023. I also obtained NOC from the Tahsildar, Sulur on 09.11.2018 giving no objection for setting up of the unit.

3. I submit that during the construction activities for the purpose of establishing the Unit, I installed the machineries, however did not commence the operations. I am aware of the fact that unless and until the conditions appended to the proceedings granting consent for establishment are complied with, the Board will not issue or grant consent to operate. I submit that the machineries were operated only on trial basis and the same was misconstrued by the complainant, namely, Valarmathi Hatchery that I had commenced the manufacturing activities without valid consent from the Board. Based on the alleged complaint, a show cause notice was issued for which a reply was sent by me to the

For SHRI VEERAKKUMAR BLUE META



PROPRIETOR

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Board bringing to their notice that only trial run was carried out and manufacturing activity is yet to commence.

4. As already stated, I am conscious of the fact that grant of consent for establishment cannot be construed as consent to operate. I had not submitted any application for grant of consent to operate the Unit. I submit that only at the behest of Valarmathi Hatchery, the show cause notice was issued and the consent for establishment was revoked.

5. The allegation contained in Para 12 of the counter affidavit is misconceived and the same is wholly incorrect. As already stated, I am aware of the fact consent for establishment was granted with conditions to be complied and till such conditions are not complied with, consent to operate cannot be granted. The Board while issuing consent for establishment had taken into consideration the existing of 9 poultry farms which are located within a radius of 800 meters and also the NOC issued by Tahsildar, Sular. At the risk of repetition, I submit that the machineries were operated only on trial run and no manufacturing activities as alleged was carried on by me. I submit that the counter affidavit of the Board proceeds on a premise that I had been running the unit without obtained consent to operate from the Board. As already stated, the same is factually incorrect. I submit that running of machineries on trial basis cannot be construed as commencement of manufacturing activity.

For SHRI VEERAKKUMAR BLUE METALSS



PROPRIETOR

SHRI VEERAKKUMAR BLUE METALSS


PROPRIETOR

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For all the foregoing reasons it is prayed that this Hon'ble Authority may be pleased to allow the Appeal as prayed for and thus render justice.

For SHRI VEERAKKUMAR BLUE METALSS



PROPRIETOR

Solemnly affirmed at Madras
this the day of March 2020
and signed his name in my
presence

BEFORE ME,

Advocate, Madras

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Before the Appellate Authority
Tamil Nadu Pollution Control
Chennai

Appeal No 3 of 2020

M/s Shri Veeraktumar
Blue Metals

App

- vs -

TNPCB and 2 others

Resp

Rejoinder

Mrs Rita Chandrasekar
Counsel for the Appellant

BEFORE THE HON'BLE APPELLATE AUTHORITY
TAMIL NADU POLLUTION CONTROL BOARD
APPEAL No 3 of 2020

33

M/s Sri Veerakkumar Blue Metals,
Rep by its Proprietor
M Magudeshwaran
Sl. No 293/3 and 318
Noyampally Village Sulu Taluk
Coimbatore District - 641 658

..... Appellant

vs

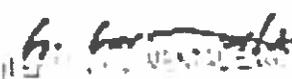
- 1 Tamil Nadu Pollution Control Board
Rep. by its Chairman
No 76 Mount Salai Gundy,
Chennai - 600 032
- 2 The District Environmental Engineer,
Tamil Nadu Pollution Control Board,
Coimbatore South
Plot E 55A, SIDCO Industrial Estate,
Kunchi, Pollachi Mam Road
Coimbatore - 641021
- 3 The Superintendent Engineer,
TANGEDCO
Coimbatore South,
Tataban Coimbatore-641012

Respondents

REPLY AFFIDAVIT FILED ON BEHALF OF THE RESPONDENTS
TAMIL NADU POLLUTION CONTROL BOARD

- 1 I, G Gopalakrishnan Son of Thiru V. Gandhi Hirudu, aged about 57 years, having office at No.76 Mount Salai, Gundy, Chennai 600 032 do hereby solemnly affirm and sincerely state as follows:
- 2 I am the Joint Chief Environmental Engineer Tamil Nadu Pollution Control Board Chennai and I am filing this Reply Affidavit on behalf of the Respondents 1 & 2, as such I am well acquainted with the facts of the case from the records

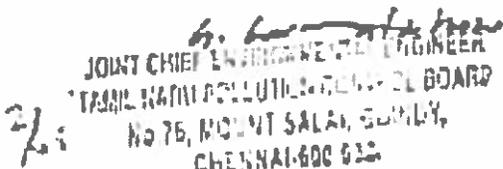

M KARUNANITHI M.Com, B.L.
MANAGER (LAW)
TAMIL NADU POLLUTION CONTROL BOARD
CHENNAI - 600 032


JOINT CHIEF ENVIRONMENTAL ENGINEER
TAMIL NADU POLLUTION CONTROL BOARD
NO.76 MOUNT SALAI GUNDY
CHENNAI-600 032

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3. It is respectfully submitted that the Appellant filed this Appeal under Section 11 of the Air (Prevention & Control of Pollution) Act, 1981 as amended in 1987 by challenging the Proceedings No T1/TNPCB/F033284/OS/Closure/V&V/2020 dated 06 01 2020 of the Chairman Tamilnadu Pollution Control Board the 1st Respondent and the consequential Proceedings No T1/ TNPCB / F033284 / OS / Closure / EB / 2020 dated 06 01 2020
4. It is respectfully submitted that the unit of M/s Sri Veerakumar Blue Metals SF No 297/3 & 318 Bogampatty Village Sullur Taluk and Coimbatore District is a stone crusher unit. The unit M/s Sri Veerakumar Blue Metals, has filed an application through OCMMS to establish a Stone Crusher unit in S.F No. 297/3 & 318 Bogampatty Village, Sullur Taluk and Coimbatore District and to produce Blue Metals Jelly of various sizes of quantity 10000 Tons per month, Manufactured Sand of quantity 15000 Tons per month and to generate Salable Solid wastes of quantity 3000 Tons/month along with following documents.
- I. The unit has submitted no objection certificate obtained from Tahsildar Sullur Taluk vide letter dated 09 11 2018 and from Block Development Officer Sulthanpettai Panchayat Union vide letter dated 07 01 2019, wherein it was certified interalia that
"M/s. Valarnathi Poultry Farm and ACC Shed Building are located on Southern side at a distance of 250 M, M/s, Somu Poultry farm shed is located Southwest side at a distance of 950 m, Mr. Maruthasalam tiled farm house & Poultry farm shed is located Western side at a distance of 800 m"
 - II. The above NOC issued by Tahsildar Sullur Taluk vide letter dated 09 11 2018 and Block Development Officer Sulthanpettai Panchayat Union vide letter dated 07 01 2019, states that an Odal owned by the Government is running at a distance of 400 meters from the proposed stone crusher site
 - III. Mr Umakanthan S/o Mr Maruthasalam tiled farm house & Chicken farm shed is located at a distance of 800 m on the Western side from the proposed unit as per the above no objection certificate issued by Tahsildar Sullur Taluk vide


UNANITHI, M Coll. B.L.
MANAGER (LAW)
POLLUTION CONTROL BOARD
CHENNAI - 600 032


JOINT CHIEF ENVIRONMENTAL ENGINEER
TAMIL NADU POLLUTION CONTROL BOARD
No 75, MOUNT SALAM, GUNBLY,
CHENNAI-600 032

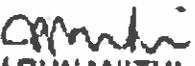
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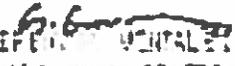
letter dated 09.11.2018 and Block Development Officer, Sulthanpettal Panchayat Union vide letter dated 07.01.2019

- IV The unit has furnished Global Positioning System Survey Report obtained from Head of the Department of Civil Engineering Government College of Technology Coimbatore regarding the shortest distance from the unit and to the nearby crusher vide letter dated 06.03.2018, wherein it was certified that M/s. Angalamman Blue Metals is located at a distance of 3.035 Km from this proposed stone crusher site
- V The unit has obtained the Land use classification certificate from the DTCP vide Proceedings dated 30.07.2018, and as per the Proceedings the proposed stone crusher site is located in a Non Planned Area

6 It is respectfully submitted that, further a Petition was received in the 2nd respondent office from villagers of Bogampatti village objecting the proposed stone crusher establishment vide letter dated 13.03.2018 and a letter has been addressed at that time that no consent had been issued for establishment of the stone crusher at said complaint area vide this office letter dated 03.04.2018. The Stone Crushing and quarry activities are permitted in Agriculture Use Zone as per the Use Zone Classification vide the Rural Development and Local Administration Department G.O.M.s 1730 dated 24.07.1974.

6. It is respectfully submitted that the proposed stone crusher unit has satisfied the siting criteria stipulated in the B.P.M.S No.4 dated 02.07.2004, the Consent to Establish under Section 25 of the Water (Prevention and Control of Pollution) Act 1974 & under Section 21 of the Air (Prevention and Control of Pollution) Act 1981 was issued to the unit of M/s Shri Veerakkumar Blue Metals to Establish a Stone Crusher at S.F No 297/3 & 318 Bogampatty Village, Sulur Taluk, Coimbatore District and to produce Blue Metal Jelly of Various Sizes of quantity 10000 Tons per month & Manufactured Sand of quantity 15000 Tons per month vide this office Proceedings dated 27.02.2019 subject to the conditions mentioned therein


M. KARUNANITHI, M.Com. B.L.,
MANAGER (LAW)
TAMIL NADU POLLUTION CONTROL BOARD
CHENNAI - 000 032


JOINT CHIEF OFFICER
TAMIL NADU POLLUTION CONTROL BOARD
No.75, Mount Road, CHENNAI
CHENNAI-000 012

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7. It is respectfully submitted that the unit of M/s Valarmathi Hatchery, represented by its Managing Partner Mr S K Shanmugam, had filed an appeal before the Hon'ble Appellate Authority with the prayer to quash the Consent order issued to the unit M/s Sri Veerakumar Blue Metals issued vide this office Proceeding dated 27.02.2019 and the appeal is pending before the Hon'ble Appellate Authority. And further a Writ Petition No 29018 of 2019 dated 10.10.2019 has been filed by Mr Umakanthan S/o Mr Maruthasalam is pending before Hon'ble High court of Madras.
8. It is respectfully submitted that based on the public telephonic complaint & telephonic complaint received from the petitioner Mr Umakanthan dated 11.12.2019 against the unit of M/s Sri Veerakumar Blue Metals located at SF No 297/3 & 318, Bogampatty Village, Suler Taluk, Coimbatore District regarding the operation of the unit without providing any air pollution control measures thereby creating nuisance in its vicinity. In this regard the unit was inspected on 11.12.2019 surprisingly, and the following were observed:
- i. The unit has commissioned and under operation without adhering the CTE conditions and without obtaining valid consent of the Board for its operation.
 - ii. The air pollution measures as stipulated in the consent order has not been provided by the unit to the existing point source of emission which is in violation of CTE Conditions as issued vide this office Proceeding No F.2062CBS / OS / DEE / TNPCB / CBS / W&A / 2019 dated 27/02/2019.
9. It is respectfully submitted that the petitioner Mr Umakanthan S/o Mr Maruthasalam tiled farm house & Chicken farm shed is located at a distance of 800 m from the unit on 11.12.2019 requested to inspect his poultry farm regarding the impact on the units operation and hence the Poultry farm was

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RUNANITHI, M Com, LL
MANAGER (LAW)
AIR POLLUTION CONTROL BOARD
CHENNAI - 600 032

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G. Suresh Kumar
JOINT CHIEF ENVIRONMENTAL ENGINEER
TAMIL NADU POLLUTION CONTROL BOARD
NO. 75, MOUNT SABA, LUDLOW,
CHENNAI-600 022

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inspected on 11.12.2020 and found that depositions of suspended particulate matter on the roof top of the poultry sheds were observed.

10 It is respectfully submitted that the unit was served with a show cause notice under Section 21 of Air (Prevention and Control of Pollution) Act, 1981 as amended for the violations there in vide the office Proceedings No F CBS2182/DCE/TNPCB/CBS-OS/A/2019 dated 12.12.2019. The unit in its reply to the show cause notice vide its letter dated 19.12.2019, has informed that a trial operation of the unit had been undertaken.

11 The unit of M/s. Shri Veerakumar Blue Metals, SF No. 207/3 & 318, Bognipally Village, Sullur Taluk and Coimbatore District commenced its operation by violating the following Consent for establishment order conditions

S No	Condition	Compliance
1	This consent to establish cannot be construed as consent to operate and the unit shall not commence the operation without obtaining the consent to operate	Not Complied. The unit was under operation without obtaining valid Consent for Operation of the Board
2	The applicant shall make a request before grant of consent to operate at least thirty days, before the commissioning of trial operation	Not Complied. The unit has not made any request / applied for grant of consent to operate
3	The unit shall provide adequate Air pollution control measures such as enclosures with water sprinkler arrangements to the Primary Crusher (Jaw crusher)- 1 Number, Secondary Crushers-2 Numbers, VSI crusher - 1 Number and Vibrator- 3 Numbers and GI covered with water sprinkler arrangement to the conveyors, dust collection chamber to the dust collection point, So as to achieve Ambient Air Quality /Emission/Ambient Noise Level standards prescribed by the Board.	Not Complied. The unit was under operation without providing adequate air pollution control measures


 KARUNANITHI, V. C. S. B. L.
 MANAGER (LAW)
 AIR POLLUTION CONTROL BOARD
 CHENNAI - 600 032


 JOINT CHIEF ENGINEER
 TAMIL NADU POLLUTION CONTROL BOARD
 No. 73, Mount Road, P. O.
 CHENNAI-600 032.

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4.	The unit shall provide water sprinkling system to control the fugitive dust emissions at various points/ dust emission sources	Not Complied, The water sprinkling system to control the fugitive dust emissions at various points/ dust emission sources not provided by the unit
5.	The entire conveyor belt shall be covered with GI sheet	Not Complied, The entire conveyor belt were under operation without providing GI sheet cover by the unit
6.	The unit shall provide the compound wall/wind net arrester of 10 feet height all around the unit premises	Not Complied. The unit has not provided compound wall/wind net arrester of 10 feet height all around the unit premises
7.	Green belt of ever green high foliage type like neem, tamarind, gold mohar shall be developed within/outside the boundary of the unit with adequate width	Not Complied. No green belt developed inside and outside its premises.

12 It is respectfully submitted that due to non compliance of the Consent condition by the unit and due to continuous public complaint as received against the units operation, the direction for closure, stoppage of electricity under Section 31A of Air (Prevention and Control of Pollution) Act 1981 as amended in 1987 to the unit was recommended to the Board vide this office letter dated 20 12 2019. Based on the above the TNPC Board vide its Proceedings No T1/ TNPCB / F033284 / OS/ Closure / W& A/ 2020 dated 06/01/2020 issued the direction for closure, stoppage of electricity was issued under Section 31A of Air (Prevention and Control of Pollution) Act 1981 as amended in 1987 to the unit and the consequential Proceedings No T1/ TNPCB / F033284 / OS / Closure / EB / 2020 dated 06 01 2020

RAWAR REMARKS

Facts of the case	Remarks
Para 1, Para 2 & Para 3	No remarks

M Karunanithi
M KARUNANITHI, M Com, B.L.
 MANAGER (LAW)
 TAMIL NADU POLLUTION CONTROL BOARD
 CHENNAI - 600 032

S. S. Srinivasan
JOINT CHIEF ENVIRONMENTAL ENGINEER
 TAMIL NADU POLLUTION CONTROL BOARD
 No.75, MOUNT SLEIGH, CHENNAI
 CHENNAI-600 032

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Para 4 Para 5,
Para 6, Para 7

I The unit M/s. Shri Veerakkumar Blue Metals, has filed an application through OCMMS to establish a Stone Crusher unit in SF No 297/3 & 318, Bogampatty Village, Sulur Taluk and Coimbatore District and to produce Blue Metals Jelly of various sizes of quantity 10000 Tons per month, Manufactured Sand of quantity 15000 Tons per month and to generate Salable Solid wastes of quantity 3000 Tons/month along with following documents

I The unit has submitted no objection certificate obtained from Tahsildar, Sulur Taluk vide letter dated 09 11 2018 and from Block Development Officer, Sulthanpettai Panchayat Union vide letter dated 07 01 2019, wherein it was certified interalia that (Copy enclosed for kind reference please)

"M/s. Valarmathi Poultry Farm and ACC Sheet Building are located on Southern side at a distance of 250 M, M/s. Somu Poultry farm tiled shed is located Southwest side at a distance of 950 m, Mr. Maruthasalam tiled farm house & Poultry farm shed is located Western side at a distance of 800 m"

II. The above NOC issued by Tahsildar, Sulur Taluk vide letter dated 09 11 2018 and Block Development Officer, Sulthanpettai Panchayat Union vide letter dated 07 01 2019, states that an Odai owned by the Government is running at a distance of 400 meters from the proposed stone crusher site

III. Mr. Umakanthan S/o Mr. Maruthasalam tiled farm house & Chicken farm shed is located at a distance of 800 m on the Western side from the proposed unit as per the above no objection certificate issued by Tahsildar, Sulur Taluk vide letter dated 09 11 2018 and Block Development Officer, Sulthanpettai Panchayat Union vide letter dated 07 01 2019


RUNANITHI, M Com, B L,
MANAGER (LAW)
TAMIL NADU POLLUTION CONTROL BOARD
CHENNAI - 600 032


JOINT CHIEF ENGINEER
TAMIL NADU POLLUTION CONTROL BOARD
No. 75, MOUNT SALAI
CHENNAI - 600 001

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- IV The unit has furnished Global Positioning System Survey Report obtained from Head of the Department of Civil Engineering Government College of Technology, Coimbatore regarding the shortest distance from the unit and to the nearby crusher vide letter dated 06 03 2018, wherein it was certified that M/s Angalamman Blue Metals is located at a distance of 3.035 Km from this proposed stone crusher site.
- V The unit has obtained the Land use classification certificate from the DTCP vide Proceedings dated 30 07 2018, and as per the Proceedings the proposed stone crusher site is located in a Non Planned Area
- 2 Further a Petition was received in this office from villagers of Bogampatti village objecting the proposed stone crusher establishment vide letter dated 13 03 2018 and a letter has been addressed at that time that no consent had been issued for establishment of the stone crusher at said complaint area vide this office letter dated 03 04 2018
- 3 The Stone Crushing and quarry activities are permitted in Agriculture Use Zone as per the Use Zone Classification vide the Rural Development and Local Administration Department G O M s.1730 dated 24 07 1974 I
- 4 The proposed stone crusher unit has satisfied the zoning criteria stipulated in the B P MS No 4 dated 02 07 2004, the Consent to Establish under Section 25 of the Water (Prevention and Control of Pollution) Act 1974 & under Section 21 of the Air (Prevention and Control of Pollution) Act 1981 was issued to the unit of M/s Sri Veerakkumar Blue Metals to Establish a Stone Crusher at S F No 297/3 & 318 Bogampatty Village Sulur Taluk Coimbatore District and to produce Blue Metal Jelly of Various Sizes of quantity 10000 Tons per month

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JNANITHI M.Com B.L.
 MANAGER (LAW)
 POLLUTION CONTROL BOARD
 CHENNAI - 600 032

S. Srinivasan
 JOINT CHIEF CIVIL ENGINEER
 TAMIL NADU POLLUTION CONTROL BOARD
 No.76, MOUNT ROAD, CHENNAI.
 CHENNAI-600 002.

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& Manufactured Sand of quantity 15000 Tons per month vide this office Proceedings dated 27 02 2019 subject to the conditions mentioned therein

- 5 The unit of M/s Valamathi Hatchery, represented by its Managing Partner Mr S K Shanmugam, had filed an appeal before the Hon'ble Appellate Authority, with the prayer to quash the Consent order issued to the unit M/s. Shri Veerakumar Blue Metals issued vide this office Proceeding dated 27 02 2019 and the appeal is pending before the Hon'ble Appellate Authority.
- 6 And further a Writ Petition No 29018 of 2019 dated 10 10 2019 has been filed by Mr Umakanthan S/o Mr Maruthasalam is pending before Hon'ble High court of Madras and the Writ Petition is pending before the Hon'ble High court of Madras
- 7 Based on the public telephonic complaint & telephonic complaint received from the petitioner Mr Umakanthan dated 11 12 2019 against the unit of M/s Shri Veerakkumar Blue Metals located at SF No 297/3 & 318, Bogampatty Village, Sular Taluk, Coimbatore District regarding the operation of the unit without providing any air pollution control measures thereby creating nuisance in its vicinity. In this regard the unit was inspected on 11.12.2019 surprisingly, and the following were observed
- i The unit has commissioned and under operation without adhering the CTE conditions and without obtaining valid consent of the Board for its operation
 - ii The air pollution measures as stipulated in the consent order has not been provided by the unit to the existing point source of emission, which is in violation of CTE Conditions as issued vide this office Proceeding No. F.2062CBS / OS / DEE / TNPCB / CBS / W&A / 2019 dated 27/02/2019
8. The petitioner Mr Umakanthan S/o Mr. Maruthasalam bled farm house & Chicken farm shed is located at a

THI, M.Com., B.L.
ER (LAW)
ION CONTROL BOARD
- 600 032

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JOINT CHIEF ENVIRONMENTAL ENGINEER
TAMIL NADU POLLUTION CONTROL BOARD
No.75, MOUNT SALIM, GURUKY,
CHENNAI-600 032.

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distance of 800 m from the unit on 11.12.2019 requested to inspect his poultry farm regarding the impact on the units operation and hence the Poultry farm was inspected on 11.12.2020 and found that depositions of suspended particulate matter on the roof top of the poultry sheds were observed.

9. The unit was served with a show cause notice under Section 21 of Air (Prevention and Control of Pollution) Act, 1981 as amended for the violations there in, vide this office Proceedings No F.CBS2182/DEE/TNPCB/CBS/OS/A/2019 dated.12.12.2019

10. The unit in its reply to the show cause notice vide its letter dated 19.12.2019, has informed that a trial operation of the unit had been undertaken and the copy of the unit's letter is hereby submitted for kind reference.

S No	Condition	Compliance
1.	This consent to establish cannot be construed as consent to operate and the unit shall not commence the operation without obtaining the consent to operate.	Not Complied, The unit was under operation without obtaining valid Consent for Operation of the Board.
2.	The applicant shall make a request before grant of consent to operate at least thirty days, before the commissioning of trial operation.	Not Complied, The unit has not made any request / applied for grant of consent to operate
3.	The unit shall provide adequate Air pollution control measures such as enclosures with water	Not Complied, The unit was under operation without providing adequate air pollution

[Signature]
 JANITHI, M.Com., B.L.,
 MANAGER (LAW)
 POLLUTION CONTROL BOARD
 CHENNAI - 600 032

[Signature]
 JOINT CHIEF ENVIRONMENTAL ENGINEER
 TAMIL NADU POLLUTION CONTROL BOARD
 No.79, MOUNT SALAI, CHENNAI,
 CHENNAI-600 022.

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	sprinkler arrangements to the Primary Crusher (Jaw crusher)- 1 Number .Secondary Crushers-2 Numbers, VSI crusher – 1 Number and Vibrator- 3 Numbers and GI covered with water sprinkler arrangement to the conveyors, dust collection chamber to the dust collection point. So as to achieve Ambient Air Quality /Emission/Ambient Noise Level standards prescribed by the Board.	control measures.
4.	The unit shall provide water sprinkling system to control the fugitive dust emissions at various points/ dust emission sources.	Not Complied, The unit has not provided any water sprinkling system to control the fugitive dust emissions at various points/ dust emission sources.
5.	The entire conveyor belt shall be covered with GI sheet.	Not Complied, The entire conveyor belt were under operation without providing GI sheet covered sheet by the unit.
6.	The unit shall provide the compound wall/wind net arrester of 10 feet height all around the unit premises.	Not Complied, The unit has not provided compound wall/wind net arrester of 10 feet height all around the unit premises.

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NANITHI, M.Com., B.L.,
MANAGER (LAW)
POLLUTION CONTROL BOARD
ENNAI - 600 032

G. Srinivasan
JOINT CHIEF ENVIRONMENTAL
TAMIL NADU POLLUTION CONTROL
No.75, MOORTHY STREET, GUINE
CHENNAI-600 032.

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7.	Green belt of ever green high foliage type like neem, lamrand, gold mohar shall be developed within/outside the boundary of the unit with adequate width.	Not Complied. No green belt developed inside and outside its premises.
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11. The unit of M/s. Shri Veerakumar Blue Metals. SF No. 297/3 & 318, Bogampatty Village, Suler Taluk and Coimbatore District commenced its operation by violating the following Consent for establishment order conditions.

12. For non compliance of the Consent condition by the unit and due to continuous public complaint as received against the units operation, the direction for closure, stoppage of electricity under Section 31A of Air (Prevention and Control of Pollution) Act 1981 as amended in 1987 to the unit was recommended to the Board vide this office letter dated 20.12.2019.

13 Based on the above the TNPC Board vide its Proceedings No T1/ TNPCB / F033284 / OS/ Closure / W& A/ 2020 dated 06/01/2020 issued the direction for closure. stoppage of electricity was issued under Section 31A of Air (Prevention and Control of Pollution) Act 1981 as amended in 1987 to the unit and the consequential Proceedings No T1/ TNPCB / F033284 / OS / Closure / EB / 2020 dated 08.01.2020.

& Para 9 No Remarks

Grounds

a.f.g.h.i.j.k 1. Based on the public telephonic complaint & telephonic complaint from the petitioner Mr Umakanthan dated 11.12.2019 against the unit of M/s Shri Veerakkumar Blue Metals located at SF No. 297/3 & 318, Bogampatty Village, Suler Taluk, Coimbatore District

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 NITHI, M.Com., B.L.
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G. Ganesan
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 TAMIL NADU POLLUTION CONTROL BOARD
 No.76, MOUNT SALAI, CHENNAI.
 CHENNAI-600 032. M.K
 TAMIL

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regarding the operation of the unit without providing any air pollution control measures thereby creating nuisance in its vicinity. In this regard the unit was inspected on 11.12.2019 and the following were observed

- i. The unit was commissioned and under operation without adhering the CTE conditions and without obtaining valid consent of the Board for its operation
 - ii. The air pollution measures as stipulated in the consent order has not been provided by the unit to the existing point source of emission, which is in violation of CTE Conditions as issued vide this office Proceeding No. F.2062CBS / OS / DEE / TNPCB / CBS / W&A / 2019 dated 27/02/2019
2. And further the petitioner Mr Umakanthan S/o Mr Maruthasalam filed farm house & Chicken farm shed is located at a distance of 800 m from the unit on 11.12.2019 requested to inspect his poultry farm regarding the impact on the units operation and hence the Poultry farm was inspected on 11.12.2020 and found that depositions of suspended particulate matter on the roof top of the poultry sheds were observed
 3. The unit was served with a show cause notice under Section 21 of Air (Prevention and Control of Pollution) Act, 1981 as amended for the violations there in, vide this office Proceedings No F CBS2182 / DEE / TNPCB / CBS / OS / A / 2019 dated 12.12.2019
 4. The unit in its reply to the show cause notice vide its letter dated 19.12.2019, has informed that a trial operation of the unit had been undertaken and the copy of the unit's letter is hereby submitted for kind reference.
 5. The unit of M/s. Shri Veerakumar Blue Metals, SF No 297/3 & 318, Bogampatty Village, Sular Taluk and Coimbatore District commenced its operation by violating the consent for establishment condition.
 6. For non compliance of the Consent condition by the unit and due to continuous public complaint as received

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ANITHI, M.Com., B.L.,
MANAGER (LAW)
POLLUTION CONTROL BOARD
CHENNAI - 600 032.

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JOINT CHIEF ENVIRONMENTAL ENGR
TAMIL NADU POLLUTION CONTROL
No.75, MOUNT ELEANOR, GUIN
CHENNAI-600 032.

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against the units operation, the direction for closure, stoppage of electricity under Section 31A of Air (Prevention and Control of Pollution) Act 1981 as amended in 1987 to the unit was recommended to the Board vide this office letter dated 20.12.2018.

6. Based on the above the TNPC Board vide its Proceedings No T1/ TNPCB / F033284 / OS/ Closure / W& A/ 2020 dated 06/01/2020 issued the direction for closure, stoppage of electricity was issued under Section 31A of Air (Prevention and Control of Pollution) Act 1981 as amended in 1987 to the unit and the consequential Proceedings No T1/ TNPCB / F033284 / OS / Closure / EB / 2020 dated 06.01.2020.

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 JOINT CHIEF ENVIRONMENTAL EN
 TAMIL NADU POLLUTION CONTROL
 No.76, MOUNT SALAI, GUIN
 CHENNAI-600 032.
 BEFORE ME

only affirmed at Chennai
 is the 21st day of February 2020
 signed his name in my presence.

M. Karunanithi
 M. KARUNANITHI, M Com., B-
 MANAGER (LAW)
 TAMILNADU POLLUTION CONTROL BOA
 CHENNAI - 600 032



BEFORE THE APPELLATE AUTHORITY
TAMIL NADU POLLUTION CONTROL BOARD

(Wednesday, Seventeenth day of June, Two thousand and twenty)

JUSTICE K.B.K. VASUKI
CHAIRMAN

APPEAL 3 / 2020

M/s. Shri Veerakkumar Blue Metals,
Rep. by its Proprietor,
M. Magudeshwaran,
S.F. No: 293/3 and 318,
Bogampatty Village, Sulur Taluk,
Coimbatore District - 641 658.

- Appellant

Vs.

1. The Tamil Nadu Pollution Control Board,
Rep. by its Chairman,
100, Anna Salai, Guindy,
Chennai - 600 032.

2. The District Environmental Engineer,
Tamil Nadu Pollution Control Board,
Coimbatore (South) Plot No. E-55A,
SIDCO Industrial Estate,
Pollachi Main Road,
Kurichi,
Coimbatore - 641 021.

3. The Superintendent Engineer,
TANGEDCO, Coimbatore South,
Tatabad,
Coimbatore - 641 012.

- Respondents

Mrs. Rita Chandrasekar

- Counsel for the appellant

Mr. V. Vasanthakumar

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Counsel for the respondents 1&2

COMMON ORDER:

1. The present Appeal is filed by the appellant-unit against the order of the 1st respondent-Board in Proceedings No: T1 / TNPCB / F.033284 / OS / Closure / W&A /2020 Dated 6.1.2020 thereby directing closure of and stoppage of power supply to the appellant-unit.

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2. The brief facts which are relevant for consideration herein are as follows:

The appellant-unit M/s. Shri Veerakumar Blue Metals has been issued with the order of Consent to Establish the unit for the production of blue metal jelly of various sizes. The order was issued by the 2nd respondent in their Proceedings dated 27.2.2019. The Consent to Establish order was challenged by one M/s. Valarmathi Hatchery by way of two Appeals 34 & 35 /2019. The appeals were seriously contested by both the Appellant therein M/s. Valarmathi Hatchery and M/s. Shri Veerakumar Blue Metals, who was the 3rd respondent therein and the appellant herein. Both the appeals are taken up for final disposal and both sides advanced their arguments. Pending disposal of the same, the present impugned order directing closure of the appellant-unit and stoppage of electricity to the unit is passed by the 1st respondent-Board on the following three grounds:

- (i) The unit was commissioned and under operation without adhering to the consent to establish conditions and without valid consent of the Board for its operation. .
- (ii) The air pollution control measures as stipulated in the consent order has not been provided by the unit to the existing point source of emission which is in violation of CTE conditions as issued and thereby creating the nuisance in the vicinity.
- (iii) The writ petitioner and the complainant Mr. Umakanthan, at the time of inspection arrived at the unit and briefed particulate matters emanated from the unit are settled down on the roof top of his poultry farm and further his poultry farm was inspected by the DEE, Coimbatore (S)

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3. The 2nd respondent in the impugned order has further stated that the unit was inspected on 11.12.2019 based on the public complaint dated 11.12.2019 and in the course of the inspection, the above violations are observed and the inspection was followed by one show cause notice issued to the appellant on 12.12.2019 and the show cause notice was replied by the appellant-unit on 19.12.2019 thereby informing the respondent-Board that the trial operation of the unit had been undertaken. It is stated in the impugned order that the same is therefore passed in exercise of the powers conferred under the relevant Act.

4. The appellant-unit has seriously challenged the impugned order of closure and disconnection of electricity by saying that the observation of the respondent-Board to the effect that the unit was commissioned and under operation without adhering to the consent to establish conditions was without any basis and without duly considering the reply given by the appellant-unit that what was conducted by the appellant was only a trial run of the machineries and that will not amount to commissioning of the unit which shall happen only after the issuance of consent to operate order.

5. It is further contended that the complaint referred to in the impugned order is self contradictory and without verifying the veracity of the alleged complaint given by one Mr. Umakanthan having personal grudge against the appellant that too at the instance of M/s. Valarmathi Hatchery who is the appellant in the other appeals. It is also their contention that they have been under the process of establishment by providing regular safety and acoustic measures as per the advise of the respondent-Board and by investing huge amount of money by borrowing and under such circumstances the impugned order of closure direction and disconnection of electricity supply to the unit is arbitrary, unreasonable and unjustifiable.

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6. Whereas the respondent-Board has seriously defended the impugned order by reiterating the reasons given in the impugned order stating that the impugned order is passed due to non compliance of consent conditions by the unit and due to public complaint received against the unit's operation. The respondents in the reply referred to various conditions which are not complied with by the appellant-unit. It is further stated by them that they inspected the site on 11.12.2019 in pursuance of public telephonic complaint and telephonic complaint received from Mr. Umakanthan dated 11.12.2019. It is also their case that the complainant Mr. Umakanthan reported regarding the impact on his poultry farm about the deposits of particulate matter on the roof top of the poultry shed.

7. Heard both sides.

8. On the basis of the pleadings and on the basis of oral arguments adduced on both sides the point arises for consideration in the present Appeal is as follows:

Whether the impugned order is liable to be set aside?

9. The facts which remains undisputed are as follows:

The appellant-unit has applied to the respondent-Board seeking consent to establish their stone crushing unit in the proposed site and the consent to establish order is, after inspection of the site, issued on 27.2.2019 subject to strict compliance of various conditions regarding installation of adequate pollution control measures to control dust emission etc.

10. Much before and after the issuance of consent to establish order, the respondent-Board received representations from the farmers of Bogampatti village represented by Mr. Umakanthan against the establishment of stone crushing unit by the appellant. The representation received by the respondent-Board from the farmers in general was much

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before the filing of the application for consent to establish by the appellant-unit and the same was replied by the respondent-Board stating that there is no permission granted to establish any stone crushing unit in the said survey numbers. The representation received from Mr. Umakanthan representing the farmers of Bogampatti village after the issuance of consent to establish order is also duly replied stating that the consent to establish order is issued subject to strict compliance of various conditions to install adequate pollution control measures to safeguard and to protect the interest of villagers. As a matter of fact, the complainant Mr. Umakanthan has approached the Hon'ble High Court by way of writ petition No: 29018 of 2019 and the writ petition is pending without granting any interim order in favour of the writ petitioner against the establishment of the stone crushing unit.

11. One M/s. Valarmathi Hatchery represented by its Managing Partner has also, after the issuance of consent to establish order filed two Appeals 34 & 35 / 2019 with delay before the Appellate Authority and after condoning the delay the Appeals were numbered and contested by both the appellant M/s. Valarmathi Hatchery therein and 3rd respondent M/s. Shri Veerakumar Blue Metals. Pending the same, it is hereby stated that the respondent-Board received the public telephonic complaint and also telephonic complaint from Mr. Umakanthan on 11.12.2019 and the inspection of the appellant-unit was conducted immediately on the same day 11.12.2019 and on the basis of observations made in the course of such inspection, the respondent-Board passed the impugned order of closure and disconnection of power supply.

12. As rightly pointed out by the learned counsel for the appellant the respondent-Board has not first of all furnished the relevant details regarding the public telephonic complaint received by them on 11.12.2019. The other complaint purported to be received from

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Mr. Umakanthan is on 11.12.2019 and the inspection said to be made was forthwith on the same day. It is really surprising to note that the respondent-officials thought fit to act so swiftly pending connected appeals and thought fit to inspect the unit immediately on the same date of receipt of the so called telephonic complaint.

13. Notwithstanding the lack of details regarding source of information, the Appellate Authority is of the view that the observations so made by the respondent-Board in the course of their inspection on 11.12.2019 are not justifiable to sustain the impugned order of closure direction and disconnection of electricity supply to the appellant-unit for the following reasons:

14. Regarding the first ground that the unit was commissioned and was under operation without obtaining any valid consent of the respondent-Board, the same is suitably replied by the appellant-unit stating that what was carried out by the unit was only trial run of the machineries installed and during the trial run the machineries was not covered and thereafter the defects were rectified by covering the machineries by GI Sheeting roofs and the appellant has also installed sprinkler spray for outlet air pollutary path. The appellant-unit in the same reply offered unconditional undertaking to comply with the norms prescribed by the respondent-Board and to put the unit into operation after being re-inspected by the respondent-Board and upon the respondent-Board being satisfied with the same. However, the respondent-Board despite the receipt of such reply from the appellant proceeded to issue the impugned order on 6.1.2020 within a week from the date of the receipt of the reply.

15. It may be true that the appellant-unit has conducted the trial run without obtaining permission from the respondent-Board. However, the respondent-Board ought to have, in view of the specific explanation given by the appellant-unit verified the same first to satisfy itself whether the appellant-unit has complied with the norms prescribed by the respondent-Board and could have avoided resorting to the extreme order of closure direction and disconnection of electric supply. The respondent-Board has not come forward with any further plea that what is stated in the reply notice is not true and the unit did not conduct trial run but what was done is regular operation. There is absolutely no material available herein to show that the unit was under regular operation without complying with the consent to establish conditions and without obtaining consent to operate.

16. Regarding the complaint received from Mr. Umakanthan, it is relevant to point out at this juncture that he was not able to obtain any interim order from the Hon'ble High Court. The said Mr. Umakanthan appears to have complained of deposits of particulate matters emanated from the manufacturing process, on the roof top of their poultry farm shed. The respondent-Board has stated to have inspected the poultry farm and observed so in the course of their inspection but has not produced any inspection report of the poultry farm belonging to Mr. Umakanthan.

17. The inspection of the poultry farm of Mr. Umakanthan is also not referred to in the inspection report produced in respect of the appellant-unit. That will lead to any irresistible conclusion that no inspection of Mr. Umakanthan's poultry farm was actually conducted. In that event no deposits of particulate matter on the roof top of his poultry farm could have been actually observed by the inspecting officials. As such, the reason adduced by the respondent-officials for sustaining the

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impugned order of closure and disconnection of power supply to the appellant-unit cannot at all be accepted.

18. Regarding the contention of non compliance of the conditions attached to consent to establish order, the appellant-unit having been granted consent to establish order valid upto 31.3.2023 cannot be expected to complete the establishment process by December, 2019 and it is premature stage to complain about any non compliance of consent to establish conditions by the appellant-unit. Thus the Appellate Authority, for the discussion held above, is of the view that the impugned order of closure and disconnection of power supply is not based on proper reasoning and cannot be sustained and is hence liable to be set aside, however with direction issued to the appellant-unit that the same shall strictly adhere to the statutory norms and other norms and conditions including conducting trial run prescribed in the consent to establish order.

19. In the result, the Appeal is allowed by setting aside the impugned order of the first respondent-Board passed in Proceedings No: T1 / TNPCB / F.033284 / OS / Closure / W&A /2020 Dated 6.1.2020 subject to strict compliance by the appellant of all statutory requirements and other conditions imposed in the consent to establish order including trial run and any other condition likely to be further imposed by the 1st respondent-Board. The respondent-Board shall issue suitable order for revoking closure direction and for restoration of electricity supply to the appellant-unit forthwith with the copy of the same marked to the electricity Board for immediate compliance of restoration of electricity supply to the appellant-unit. The copy of this order is also to be marked to the concerned Electricity Board for their reference.

Sd/-***
CHAIRMAN.

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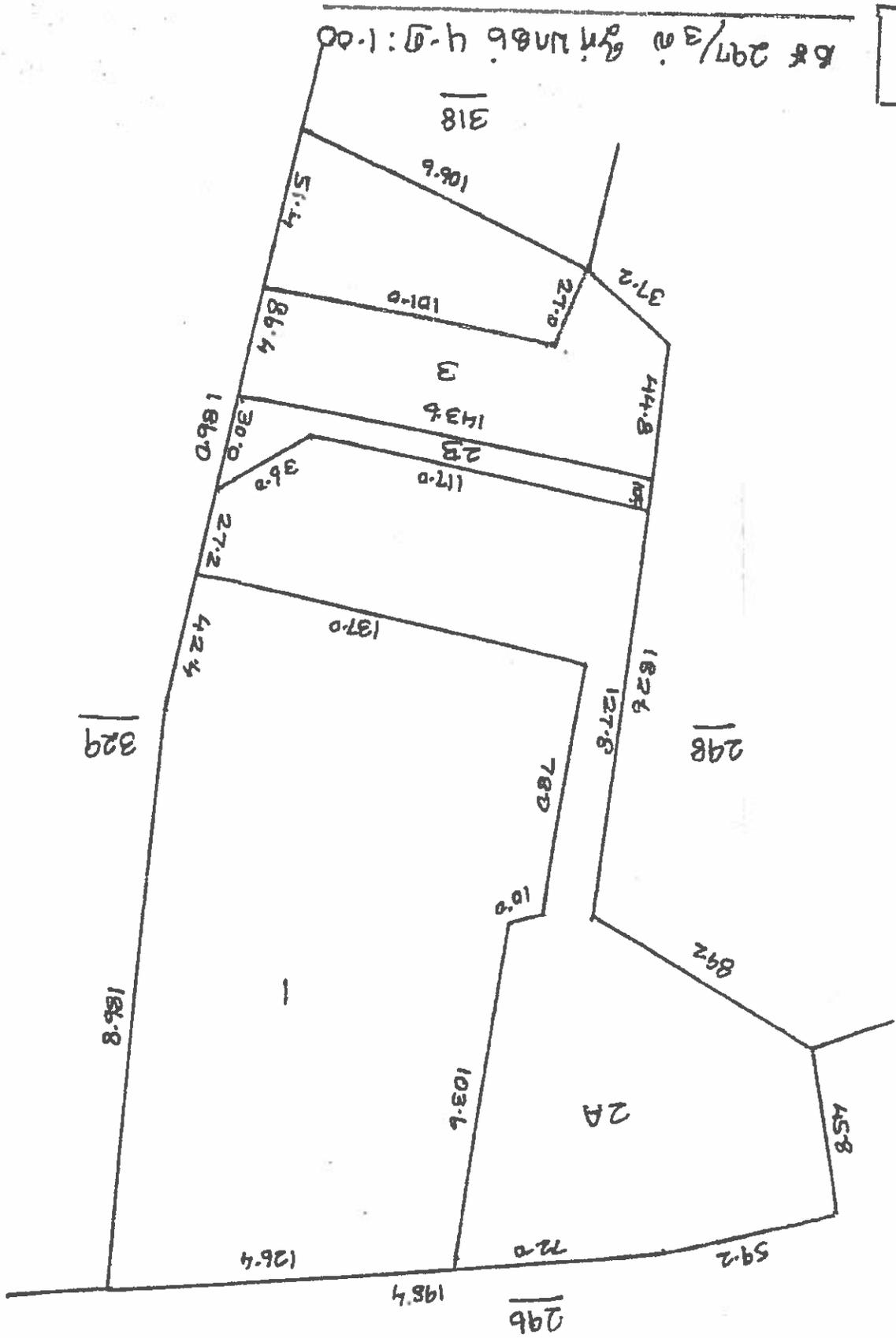
To
✓ M/s. Shri Veerakkumar Blue Metals,
Rep. by its Proprietor,
M. Magudeshwaran,
S.F. No: 293/3 and 318,
Bogampatty Village, Sular Taluk,
Coimbatore District - 641 658.

The Superintendent Engineer,
TANGEDCO, Coimbatore South,
Tatabad,
Coimbatore - 641 012.

Copy to: Member Secretary, TNPCB, Chennai
Copy to: DEE, TNPCB, Coimbatore (S)
Copy to: Counsel for appellant
Copy to: Standing counsel of TNPCB
Copy to: Law Section

// TRUE COPY //


22/6/20
P.A. TO CHAIRMAN,
APPELLATE AUTHORITY.



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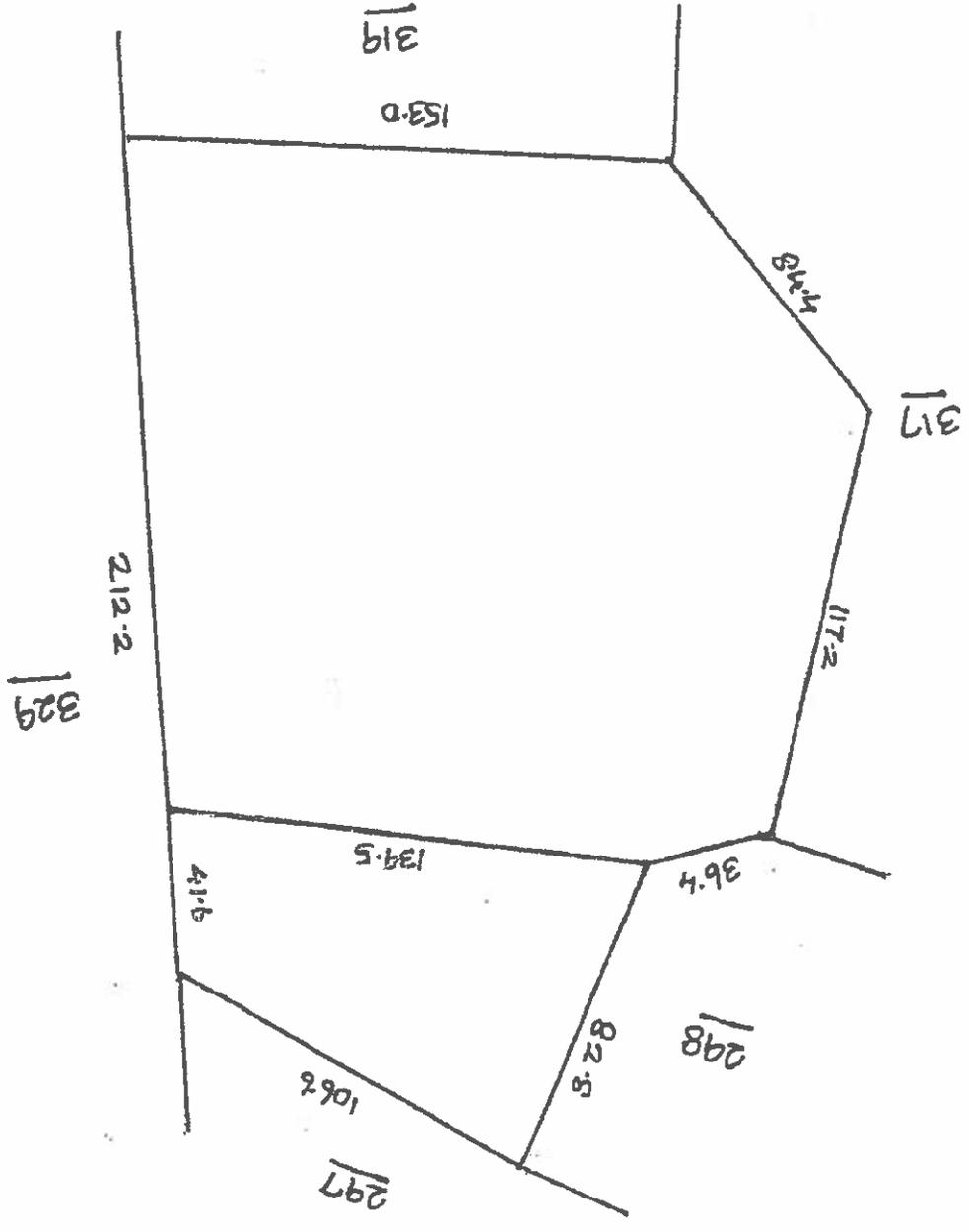
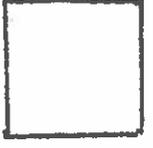
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അളവ് : 1000

കുടിവെള്ള : 318

അളവ് : 1000

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**BEFORE THE NATIONAL
GREEN TRIBUNAL (SZ)
CHENNAI**
Appeal No.16 & 17 of 2020

M/s. Valarmathi Hatchery,

Coimbatore

...Appellant

-Vs-

Tamil Nadu Pollution

Control Board, rep. by its

Member Secretary, Chennai

and others

...Respondents

**INDEX TO COMMON
TYPED SET**

Mrs.Rita Chandrasekar

Counsel for 3rd Respondent