

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

ORIGINAL APPLICATION NO. 181 OF 2020 (SZ)

Sarangam,
Cuddalore

...Applicant

Versus

The Collector,
Cuddalore and Others

...Respondents

REJOINDER ON BEHALF OF THE 7th RESPONDENT

Most respectfully showeth:

I, M. Kumaresan, S/o.M. Muthu, Hindu, aged about, 36years, now working as Assistant Director of Fisheries and Fishermen Welfare, Parangipettai, Cuddalore District, do hereby solemnly affirm and sincerely state as follows:

1. The present rejoinder is being filed before this Hon'ble Tribunal on behalf of the 7th Respondent, Assistant Director of Fisheries and Fishermen Welfare, Parangipettai, Cuddalore District, to the Reply/ Objections filed by the Applicant. This Respondent craves leave of this Hon'ble Tribunal to refer and rely upon the contents of the re-inspection report and documents submitted by the Committee. The same may be read as part and parcel of the present Rejoinder and are not repeated herein for the sake of brevity and avoiding prolixity.

2. At the very outset, it is submitted that the contents of the Reply filed by the Applicant are completely bereft of merit. The Applicant has knowingly and willfully misrepresented and distorted facts with the sole objective of prejudicing this Hon'ble Tribunal.

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3. The contents of the Reply are denied all and sundry. Each and every averment made by the Applicant is denied, unless specifically admitted to herein below. It is submitted that any averment not specifically traversed by this Respondent may not be deemed to be an admission on the part of this Respondent.

PARA WISE REJOINDER:

4. It is submitted regarding para 1 of the Reply/ Objections that the committee has conducted a detailed enquiry on 08.09.2021. The photograph taken during the inspection by the Joint Committee is submitted in Annexure -1. Even though the 7th respondent requested the applicant to be present before the committee on 08.09.2021 at 10 A.M at the time of field visit, the applicant refused to receive the letter and had not attended the field visit. But on that day he gave letter at Collectorate to the collector during the enquiry.

5. It is submitted that the contents of para 2 of the Reply/ Objections are incorrect, misleading hence denied. It is submitted that the Committee has filed the inspection report along with enclosed documents therein including map of property in question before this Hon'ble Tribunal and true copy of the same was served to the Applicant.

6. It is submitted that the contents of para 3 of the Reply/ Objections are incorrect, misleading, misconceived hence denied. It is denied that 10th Respondent has converted the entire 0.48.8 ares in S.No.21/6 and 21/B, Subauppalavadi, Cuddalore District into a pond for breeding fish and prawn. It is submitted that the Fish Culture pond has been constructed in Survey No.21/6B with an extent of 0.20 Ares out of 0.48.80 Ares by the 10th Respondent and the remaining 0.28.80 ares are cultivation land.


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7. It is submitted regarding the contents of para 4 to 7 it is submitted that the land in S.No.25 is a grazing poramboke land, that the 10th respondent had not converted 0.80.0 hectare of the poramboke land in Survey No. 25 into prawn growing ponds as stated by the Applicant in his objections. And also it is submitted that part of the grazing land has been encroached by cultivation for long time by twelve persons including the applicant, and notice was issued to the twelve persons by the Assistant Director, Animal Husbandry Department, Cuddalore to vacate the grazing land in his notice R.C. No. 1210-A-2020 dated : 31.12.2020. Further, it is submitted that the land bearing S.No.16/1 is a patta land stands in the name of one Rajamanickam. The Committee nowhere in its report has mentioned about the distance of the property from the sea. It is submitted that during the field visit it is ascertained that the property Survey No. 21/6B is about 600 meters away from the sea and less than 1 km from the sea.

8. It is submitted regarding the contents of para 8 and that four water samples were taken by the Agricultural Department on 07.09.2021 from the 800 feet Bore well of Thiru.Sarangam, fish pond of Thiru.Sambandam, Uppanar river and Panchayat OHT. During the inspection by the Joint committee 08.09.2021 two water samples were taken respectively by the Agricultural Department from 800 feet Bore well of Thiru. Dharanitharan and 18 feet Borewell of Thiru.Sambandam. It is submitted that Electrical Conductivity of water range 0 to 1 dsm^{-1} is good for all agricultural crops. The report received from Joint Director of Agriculture, Cuddalore is submitted in Annexure -2.

9. On scrutinizing the water sample analytical results of the bore well(800 Feet) belonging to Thiru. Dharanitharan S/o. Kumarsamy, which is situated next to fish pond and used for irrigation of Thiru.Sambandam's field

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shown an Electrical Conductivity of 0.77 dsm^{-1} and PH of 7.5. The water sample taken from the Borewell of Thiru.Sarangam S/o. Raja is having an Electrical Conductivity of 0.4 dsm^{-1} and PH of 7.3, is suitable for cultivation. The water sample from the panchayat OHT bore well which is approximately 500 meters away from the fish pond is having an Electrical Conductivity of 0.54 dsm^{-1} and PH of 7.6. On the contrary, the water sample collected from the Uppanar which is flowing adjacent to these fields is having an Electrical Conductivity of 5.7 dsm^{-1} and PH of 6.70. The water sample collected from the 18 feet deep bore well of Thiru. Sambandam is having an Electrical Conductivity of 4.5 dsm^{-1} and a PH of 7.6. Therefore it is implied that the salinity of water is high in the upper level than the water in the deeper level underneath the ground. The water sample collected from the fish pond is having an Electrical Conductivity of 6.1 dsm^{-1} and PH of 7.7. Further the fish pond is having a lining of polythene sheets around, there is less likely of seepage and therefore no harm to the neighbouring fields soil and crops. However, we have obtained a written affirmation from Thiru. Sambandam for not using the bore well water (18 feet deep) and to use only the water from the bore well of Thiru. Dharanitharan (800 feet) with quality water for filling the farm pond and to replace the water immediately with soft water. Further as per the instructions of the first respondent, the Department of Agriculture has proposed to collect at surprise and analyze the sample from the fish pond after replacing with soft water once in a month for about one year.

10. The contents of the para 9 of the Reply/ Objections are incorrect, misleading, misconceived hence denied. It is submitted that the 7th respondent had not advised the 10th respondent to drain away all the salt waters from the pond and fill up the fresh water. The Applicant, on the assumption, stated that the 7th


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respondent would have advised the 10th respondent to drain away all the salt waters from the pond and fill up the fresh water.

11. Regarding the contents of para 10 it is submitted that the news about inspection was posted in the Facebook of the District Collector with an intention of letting the public to know whether the pond in which prawn culture is allegedly carried on is inspected by the District Collector and the other Committee members constituted by the Hon'ble National Green Tribunal. But during the inspection he ascertained that there is no prawn culture in the pond, only fish culture is made in the pond and only fresh water was filled in the pond, hence he signed in the report as if there was fresh water and it was only fresh pond.

12. It is submitted regarding the contents of the para 11 of the Reply/ Objection that a bore-well and pipe is existed in the disputed place and the water pumped from the water is little saline. And also it is observed that the salty water in the pond does not affect the cultivation of the nearby lands.

13. The contents of the para 12 of the Reply/ Objections are incorrect, misleading, misconceived hence denied. Regarding the news items in the newspaper it is submitted that the purpose of the inspection was to find out whether prawn culture was done in the land in question whereas the news items were slightly misleading and those news items were not authenticated in anyway by the committee.

14. The contents of the para 13 of the Reply/ Objections are incorrect, misleading, misconceived hence denied. It is submitted that soil samples were taken by the Agricultural Department on 07.09.2021 from the field of Thiru.Sambandam, Thiru.Sarangam(Applicant), which is situated approximately 40 meters away from the fish pond. Further soil samples was also taken from the


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field of Thiru.Panneerselvam which is situated approximately 100 meters away from the fish pond and sent to the laboratory testing of the sample. The report received from Joint Director of Agriculture is submitted in Annexure -3 . It is submitted that Electrical Conductivity of soil range 0 to 1 dsm^{-1} is good for all agricultural crops. The soil sample is having an EC (Electrical Conductivity which is a measure of salinity) 0.07 dsm^{-1} and a pH value of 7.7 in the field of Thiru. Sambandam, S/o. Thiru. Ramachandran. The soil is in good condition for cultivating all crops and at present the growth of crops like paddy, onion are good in that soil. The land of the Applicant, Thiru.Sarangam's field next to Thiru.R.Sambandam field approximately 40 meters away from Fish Pond is having an Electrical Conductivity of 0.08 dsm^{-1} and a pH of 7.8 is good for the cultivation and the Paddy crop stand is good. Soil samples were taken from the field of Thiru. Panneerselvam approximately 100 feet away from the fish pond , on the other side of the road, is having an Electrical Conductivity of 0.12 dsm^{-1} and pH of 7.7 and the growth of pumpkin and onion crop is good. As per the Analytical report, it is concluded that that there is no evidence to support that soil and crops are affected due to the salinity and alkalinity of farm pond water and the soil in and around the pond indicates that the soil suits all types of crop cultivation.

15. The contents of the para 14 to 16 of the Reply/ Objections are incorrect, misleading, misconceived hence denied. It is denied that no reply was sent to the complaints/ representations dated 23.02.2016 and 21.12.2017. It is submitted that a reply in Na. Ka. No. 20/DL/CAA/2015, dated 10.05.2016 was sent by this Respondent to the representation dated 23.02.2016. Similarly, a reply in Na. Ka. No. 21/DLC/CAA/2013, dated 13.04.2018 was sent by this Respondent to the representation dated 21.12.2017 wherein it is clearly stated that the 10th

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Respondent is breeding inland fish in Survey. No. 21/6B, Subauppalavadi, Cuddalore District and no prawn was cultured. Further, agricultural activities is taking place near the said pond. Therefore, the complainant was informed that no damage would occur due to culture of inland fish.

16. Regarding the contents of the para 17 of the Reply/ Objections it is submitted that The Joint Director of Agriculture in his report Date 08.09.2021 has stated that the soil is in good condition for cultivating all crops.

17. The contents of the para 18 to 19 of the Reply/ Objections are incorrect, misleading, misconceived hence denied. It is submitted that the 10th Respondent is culturing inland fish which is not prohibited. Further, the pond in S.No. 21/6B, Subauppalavadi Village falls under Coastal Regulations Zone where fish culture is a permitted activity. Therefore, permission obtained by the 10th Respondent for fish culture vide Membership no. 342 of the District Fish Farmers Development Agency dated 27.12.2017 need not be cancelled.

18. The contents of the para 20 to 21 of the Reply/ Objections are incorrect, misleading, misconceived hence denied. It is submitted that the electricity connection obtained by the 10th respondent in his name bearing SC No. 001-009-468/2004 Dated: 03.12.2004 was disconnected on 17.12.2009 due to the reason of nonpayment of electricity bill. And another electricity connection obtained by the 10th respondent in his mother name Tmt.Kuppammal bearing 001-009-632/2004 which is situated in Survey No. 21/3 is currently running.

19. The contents of the para 22 to 24 of the Reply/ Objections are incorrect, misleading, misconceived hence denied. It is submitted that the respondents 10 to 12 are acting according to the order passed by the Tahsildar, Cuddalore on 09.02.2019.


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20. The contents of the para 25 of the Reply/ Objections are false and derogatory in nature. It is submitted that this Hon'ble Tribunal vide order dated 24.09.2020 appointed a joint committee comprising of the District collector, Cuddalore, a senior Scientist from Tamil Nadu Pollution Control Board as deputed by its Chairman and the Assistant Director of Fisheries who is in charge of that District, to ascertain the genuineness of the allegation made in the application. The Applicant cannot question the genuinity of the joint committee without challenging the aforesaid order dated 24.09.2020. It is submitted that committee members need not defend themselves regarding the 5th respondent's finding report and conditional order regarding the use of the common pathway.

21. The contents of the para 26 to 27 of the Reply/ Objections are incorrect, misleading, misconceived hence denied. It is submitted there is no proof to prove that soil sample was taken from the land of 10th Respondent. Moreover samples were not drawn in the presence of officials. Therefore, said soil report submitted cannot be relied by the Applicant before this Hon'ble Tribunal.

22. The contents of the para 29 to 30 of the Reply/ Objections are incorrect, misleading, misconceived hence denied. It is submitted that 11th Respondent during enquiry on 08.09.2021 stated that last year he had harvested 40 bags paddy, 3 tons of brinjal and this year he has cultivated paddy which is in good condition, and the 12th respondent stated that last year he harvested 20 bags paddy, 1 ton of brinjal and this year he has cultivated paddy which is in good condition. And both the 11th and the 12th respondents has not done prawn culture in their agriculture land as revealed during visiting Joint Committee and the 10th respondent is doing fish culture in his fish pond and there is no damage to the land because of the fish culture pond. The 10th respondent was admitted as a member in


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the Cuddalore District Fish Farmers Development Agency vide Receipt No. 342 dated:27.12.2017. As a member in Cuddalore District Fish Farmers Development Agency, he was eligible to culture the fresh water fish. It is also indicated in the Receipt No. 342 dated:27.12.2017, that he was admitted as member in the Cuddalore District Fish Farmers Development Agency for fish farming in fish pond. It is submitted that he 10th respondent has not done prawn culture he is doing fish culture as per norms. It is humbly submitted that Fish Culture in Pond is a part of permitted activity under Integrated Farming System in Agriculture to improve the income of farmers. Therefore banning of such integrated activity will not go in the interest of farmer community as long as it does not affect the crop cultivation in agricultural land. In the subject case, the Applicant land is about 40 meters away from fish pond and he has been doing crop cultivation and there has been regular crop cultivation in the adjoining fields to the fish pond belonging to the respondents. Soil samples and water samples taken in adjoining fields does not lead to infer that fish pond causes land or water pollution. Therefore the committee has recommended that fish culture need not be stopped at the same time the water from 18 feet bore well belongs to Thiru.Sambandam should not be used for filling in fish pond.

Hence the contents of the para 29 to 30 of the Reply/ Objections are incorrect and false, hence denied.

In view of the contents of the foregoing paras and the inspection report, it is submitted that the application submitted by the Applicant maybe dismissed.

It is prayed accordingly.


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VERIFICATION

I, M. Kumaresan, S/o.M. Muthu, Hindu, aged about, 36years
Assistant Director of Fisheries and Fishermen Welfare, Parangipettai, Cuddalore
District, do hereby verify that I have read the contents of paragraphs are true and
correct to the best of knowledge and information and that I have not suppressed
any material fact.

Dated: .09.2021

Place:



Signature of 7th Respondent