

BEFORE THE NATIONAL GREEN TRIBUNAL, SOUTH ZONE
BENCH AT CHENNAI

APPLICATION NO 189 OF 2017(SZ)

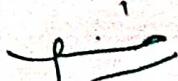
R.Gokulraj
Advocate,
No.197/8, J.N.Road,
Oil Mill, Tiruvallur 602001.

.... Applicant

-Vs-

1. The Government of Tamil Nadu,
Rep. by its Secretary,
Municipal Administration and Water Supply Department,
Fort. St. George,
Chennai-9
2. The Commissioner of Municipal Administration,
Ezhilagam Annex, 6th Floor,
Kamarajar Salai,
Chennai-9.
3. The District Collector,
Tiruvallur.
4. The Tamil Nadu Pollution Board,
Rep. by its Member Secretary,
No.76, Anna Salai,
Guindy, Chennai.
5. District Environmental Engineer,
No.41, Judges Colony, Periyakuppam,
Tiruvallur 602001.
6. The Chief Engineer,
Tamil Nadu Water Supply and Drainage Board
No.8, 1st East Main Road,
Gandhi Nagar,
Vellore-631006.
7. The Municipal Commissioner,
Tiruvallur Municipality,
Tiruvallur.
8. The Chief Engineer,
Water Resources Department,
Chennai-600 005.

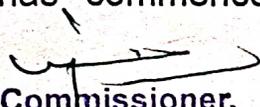
... Respondents


Commissioner,
Tiruvallur Municipality

Compliance Report Filed by the 7th RESPONDENT

I, P.Santhanam, son of Panchatcharam Hindu aged about 51 years, now working as Municipal Commissioner, Tiruvallur, now temporally come down to Chennai to sworn this affidavit, do hereby solemnly affirm and sincerely state as follows:-

1. I am the Commissioner of the Tiruvallur Municipality, the 7th Respondent herein and well conversant with the facts of the case from the connected files.
2. I submit that I have been given a copy of the Report of the Joint Committee dated 24-08-2020, filed as per the order dated 26-06-2020.
3. At the outset, it is submitted that the Report is in contravention of the earlier reports submitted, with regard to the method of discharge of the treated Water into the Eri. As per the report dated 19-05-2020, in the conclusion, it is set out that the discharge of the Treated Water into the Putlur Eri shall be stopped after the implementation of the Pipeline work to convey the treated water to the downstream of the Putlur Checkdam, which has been fixed as November 2020. But at present, the compensation is being levied for even the period that is commencing from October 2019, which is much prior to the cut-off date.
4. It is submitted that the question of levying of Environmental compensation against the Local Bodies as set out by the orders of the National Green Tribunal are only with regard to the failure to establish the Sewage Treatment Plant (Cut-off dated is 31-3-2020) and the failure to commence the treatment(Cut off date 31-03-2021). Both the said dates have not been violated. In fact the STP has been established with the CTE off the TNPCB in the year 2016 itself and it has commenced the


Commissioner,
Tiruvallur Municipality

operations. Only the question to Consent to Operate has been indeterminate due to various factors. The main reasons being that the initial CTE was for the establishment with the discharge of treated water and a bar on the discharge of untreated or semi treated water into the water body.

5. But now the very discharge of the treated water is being considered as if it is a violation of the conditions. The modality of discharge now proposed is an entirely new measure compared to the original plans and design of the STP and there was no bar on the discharge of the treated water into the Eri. But now due to the present Application being filed, the discharge of the treated is to be done in a place that is 4.2 Kilometers and the estimated cost of laying a pipeline is Rs 4.5 Crores.

6. This change in stand of the TNPCB due to the present O.A. being filed cannot be put against the Municipality. Particularly, when the report of the TNPCB clearly sets out in the Conclusion that the discharged water is within the standards of drinking water.

7. With regard to project for the laying of the pipeline. The DPR has already been prepared and submitted to the Sanctioning Authority, namely the Government of Tamil Nadu for Administrative Sanction and for sanctioning of funds.

8. Due to the Funding of the project being bundled with 8 other Municipalities with regard to similar projects, the work has been entrusted to the Tamil Nadu Water Investment Company Limited, (TWIC). The same is now pending for Administrative Sanction and Financial Sanction.

9. As and when the said A.S. and F.S. are accorded, the Tender will be called for the work will be entrusted to after following the due procedures.

10. Pending the above pipeline work, the treated Sewage which is meeting Drinking Water Standards is being discharged into two final pits


Commissioner,
Tiruvallur Municipality

and the said pits are provided with 2 motors of 25 HP capacity each and pipelines a total of 4 Numbers are being used to convey the treated water to the Coovum river within the Municipal limits. The Overflow if any in the said two pits alone will reach the Putlur Eri. Therefore the main relief of the Applicant is being addressed at present. Even the overflow of the treated water clearly meets drinking water standards and there is no damage to the environment.

11. Further the return of the Application of the Respondent for CTE on 19-08-2020 due to the reason of non-implementation of the treated sewage Pipe line project is improper. The CTO is for the operation of the STP and the discharge to the alternate location is only a later development and the issuance of the CTO need await the subsequent developments in the project. Due to this return the TNPCB is acting prejudicial to public interest on the basis of the pendency of the present Original Application. Nowhere in the previous CTE or in the NOC of the PWD, was there a condition to convey the treated water to the Coovum River that too 4.2 Kilometers away. By the report of the TNPCB, the financial outlay for the STP itself was only Rs 3.93 Crores. But now due to the subsequent developments in the form of the PWD NOC and the requirement for tertiary treatment, the additional cost of Rs 7.54 Crores has been burdened on the Municipality.

12. If each authority keeps on adding to their requirements one after the other that too after the implementation of the project of the STP, the Public revenue is being gravely affected. Mere treatment and discharge of water that meets the drinking water standards has been now complicated into a huge project of more than three times its initial cost outlay. In this situation, the levying of the Environmental Compensation is not justified and it is


Commissioner,
Tiruvallur Municipality

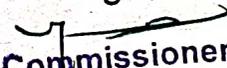
prayed that this Honourable Tribunal may be pleased to discharge the Respondent herein from such liabilities.

13. Further the TWIC has held its Review meeting in regard to the Pollution abatement study for 7 River Stretches in Ambasamudram, Vickramasingapuram, Attur, Narasingapuram, Sivakasi, Thiruthangal, Cuddalore, Kancheepuram and Thiruvallur Municipalities on 30-07-2020. Revised methodology for the abatement of the outfalls was proposed and the TWIC has developed a special Android APP for the purpose of capturing the GPS coordinates and onsite water analysis and processing the parameters. A separate Website has also been developed for this purpose and information can be viewed by the accredited persons with the credentials issued in this regard by the TWIC.

14. In view of the lockdown measures still in force, the TWIC had requested, for further time for revising the DPR and the same is still not finalized. The fact of the present OA pending before this Honourable Tribunal was impressed upon for either separate sanction of the works for the Thiruvallur Municipality or speedy sanction of the funds for the project and this still pending before the concerned Department.

15. In the meanwhile, the Application for Consent to Operate submitted by the TWAD for this Respondent in Application No 4910755 Dated 05-08-2020 was returned and by letter dated 20-10-2020, this respondent has requested for retrieving the application along with the consent fees already remitted. The TNPCB has received the said letter and is yet to respond to the same.

16. Pending the same, the TNPCB issued misguided proceedings levying the environmental compensation of Rs 13,80,000/-. To this, the respondent herein has addressed a detailed communication through its counsel dated


Commissioner,
Tiruvallur Municipality

10-9-2020 setting out the illegality in imposing the levy. For this also there is no reply from the TNPCB. The situation as such is in the stage where the treated sewage water that is admittedly meeting the standards of surface water that is suitable for agriculture is being let out only after pumping a substantial portion by means of the installed 2 Nos of 25 HP Pumps to the Coovum River at present. The excess beyond the capacity of the said pumping arrangement is alone being allowed to overflow to the Putlur Eri. This in turn only aids the water accumulation in the said Eri and does not in any cause pollution to the Eri, as the Water standards are identical to that of surface water:

Hence I therefore prayed that this Hon'ble Tribunal may be pleased to dismiss the application NO.189 of 2017 and thus render justice.

Solemnly affirmed at Chennai
on this the 17th day of November 2020
and signed his name in my
presence


Commissioner,
Tiruvallur Municipality
BEFORE ME


S. ADVOCATE CHENNAI
ADVOCATE, E. No.2522/06
D5, 31/15, 1st Main Road,
Gandhi Nagar, Adyar,
Chennai - 600 020.

P. Srinivas
ADVOCATE

Chamber : # 50, Law Chambers, High Court Building, Chennai - 600 104.
Office : # D5, Ceebros Enclave, III Floor, 31/15, 1st Main Road, Gandhi Nagar, Adyar, Chennai - 600 020.
Telephone : 044 - 24455420, 24424222 Mobile : 94440 - 77464 E-mail : stratos71@gmail.com

Date : 11.09.2020.

To
The Chairman
TNPCB,
76, Mount Salai, Guindy,
Chennai-32.

Sir,

Sub: Thiruvallur- CSTP- UGSS-Proceedings issued
for Environmental Compensation Reply -Reg

Ref: Your Proceedings in BLr.No: T1/TNPCB/LAW/LAIII/NGT/25856 /2020
Dt 04-09-2020

The above referred Proceedings issued by you has been placed in my hands by the Commissioner, Thiruvallur Municipality to issue the following reply.

1. At the outset, it is submitted that the Report is in contravention of the earlier reports submitted, with regard to the method of discharge of the treated Water into the Eri. As per the report dated 19-05-2020, in the conclusion, it is set out that the discharge of the Treated Water into the Puttur Eri shall be stopped after the implementation of the Pipeline work to convey the treated water to the downstream of the Puttur Checkdam, which has been fixed as November 2020. But at present, the compensation is being levied for even the period that is commencing from October 2019, which is much prior to the cut-off date.
2. It is stated that the question of levying of Environmental compensation against the Local Bodies as set out by the orders of the National Green Tribunal are only with regard to the failure to establish the Sewage Treatment Plant (Cut-off dated is 31-3-2020) and the failure to commence the treatment (Cut off date 31-03-2021). Both the said dates have not been violated. In fact the STP has been established with the CTE off the TNPCB in the year 2016 itself and it has commenced the operations. Only the question of Consent to Operate

Madurai Office : DOOR No.8A / 4, New Natham Road, Madurai - 625 002. Ph : 94434 87188
Correspond / Reply to Office at : Chennai Madurai For This Case

has been indeterminate due to various factors. The main reasons being that the initial CTE was for the establishment with the discharge of treated water and a bar on the discharge of untreated or semi-treated water into the water body.

3. But now by your proceedings, the very discharge of the treated water is being considered as if it is a violation of the conditions. The modality of discharge now proposed is an entirely new measure compared to the original plans and design of the STP and there was no bar on the discharge of the treated water into the Eri.
4. Only because a case has been filed in the National Green Tribunal, the discharge of the treated water is to be done in a place that is 4.2 Kilometers and the estimated cost of laying a pipeline is Rs 4.5 Crores.
5. This change in stand of the TNPCB due to the O.A. before the NGT being filed cannot be put against the Municipality. Particularly, when the report of the TNPCB clearly sets out in the Conclusion that the discharged water is within the standards of drinking water.
6. With regard to project for the laying of the pipeline. The DPR has already been prepared and submitted to the Sanctioning Authority, namely the Government of Tamil Nadu for Administrative Sanction and for sanctioning of funds.
7. Due to the Funding of the project being bundled with 8 other Municipalities with regard to similar projects, the work has been entrusted to the Tamil Nadu Water Investment Company Limited, (TWIC). The same is now pending for Administrative Sanction and Financial Sanction.
8. As and when the said A.S. and F.S. are accorded, the Tender will be called for the work will be entrusted to after following the due procedures.
9. Pending the above pipeline work, the treated Sewage which is meeting Drinking Water Standards is being discharged into two final pits and the said pits are provided with 2 motors of 25 HP capacity each and pipelines a total of 4 Numbers are being used to convey the treated water to the Coovum river within the Municipal limits. The Overflow if any in the said two pits alone will reach the Putlur Eri. Therefore the



P. Srinivas
ADVOCATE

Chamber : # 50, Law Chambers, High Court Building, Chennai - 600 104.

Office : # D5, Ceebros Enclave, III Floor, 31/15, 1st Main Road, Gandhi Nagar, Adyar, Chennai - 600 020.

Telephone : 044 - 24455420, 24424222 Mobile : 94440 - 77464 E-mail : stratos71@gmail.com

main relief of the Applicant is being addressed at present. Even the overflow of the treated water clearly meets drinking water standards and there is no damage to the environment. In such a situation there is no occasion to allege any damage to the environment and there is no justification in levying compensation for the same.

10. Further the return of the Application of the Respondent for CTE on 19-08-2020 due to the reason of non-implementation of the treated sewage Pipe line project is improper. The CTO is for the operation of the STP and the discharge to the alternate location is only a later development and the issuance of the CTO need not await the subsequent developments in the project. Due to this return the TNPCB is acting prejudicial to public interest on the basis of the pendency of the Original Application.
11. Nowhere in the previous CTE or in the NOC of the PWD, was there a condition to convey the treated water to the Coovum River that too 4.2 Kilometers away. By the report of the TNPCB, the financial outlay for the STP itself was only Rs 3.93 Crores. But now due to the subsequent developments in the form of the PWDs NOC and the requirement for tertiary treatment, the additional cost of Rs 7,54 Crores has been burdened on the Municipality.
12. If each authority keeps on adding to their requirements one after the other that too after the implementation of the project of the STP, the Public revenue is being gravely affected. Mere treatment and discharge of water that meets the drinking water standards has been now complicated into a huge project of more than three times its initial cost outlay. In this situation, the levying of the Environmental Compensation is not justified.
13. Moreover, the order of the NGT was not to levy compensation and it was merely a direction to examine the said issue of environmental compensation being due and liable or not. Therefore unless the NGT directs that the E.C. should be levied, there is no power to the TNPCB to levy the E.C.



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14. It is also stated that the TNPCB cannot treat the Municipality like a commercial industry. It is hoped that you are aware that the work of the Municipality is in public interest and not a profit oriented operation.
15. Further as per the order of the National Green Tribunal, the formula for Environmental Compensation is applicable only where the time limits imposed for the implementation of the Sewage treatment plants and their operations are liable to be levied the EC. In the case of my client, the project is already implemented and operational and only the TNPCB is delaying the issue of the CTO on developments that were not part of the original Project of the STP. Therefore it is stated that the question of levying of the Environmental Compensation is illegal and it is not justified.

On behalf of the Commissioner, Thiruvallur Municipality, it is hereby requested that the proceedings above referred dated 04-09-2020 may be forthwith withdrawn and the Application for Consent To Operate submitted on 05-08-2020 be processed and issued immediately, in view of the public interest involved.

Yours sincerely,



(P.SRINIVAS)

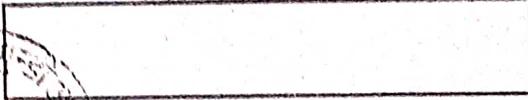
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The Commissioner, Thiruvallur Municipality.

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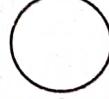
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तारीख-मोहर



Date-Stamp

P. Srinivas

ADVOCATE

4 D5, 31/15, 1st Main Road,
Gandhi Nagar, Adyar,
Chennai - 600 020

पिन / PIN

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प्राप्ति-स्वीकृति (रसीद) ACKNOWLEDGEMENT

* एक रजिस्ट्री बीमा पत्र/पोस्टकार्ड/पैकेट/पार्सल प्राप्त हुआ

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The Chairman
Topic B-76, main road
Gandhi Nagar, Chennai-32

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201920

MUNICIPAL ADMINISTRATION AND WATER SUPPLY DEPARTMENT

From
Thiru. P. Santhanam., BCom.,
Commissioner,
Tiruvallur Municipality,
Tiruvallur.



To:-
The District Environmental Engineer,
Tiruvallur District,
Tiruvallur.

Roc. No. 4458/2003/E2, Dated.20.10.2020

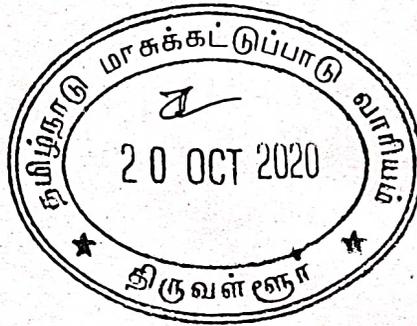
Sir,

Sub : Thiruvallur Municipality-UGSS to Thiruvallur Municipality-
Retrieve of Deleted Application No.4910755 submitted for
CTO-Requested-Reg

Ref : Application No.4910755 Dt.05.08.2020

With reference to the application No.4910755 dt.05.08.2020 submitted for
CTO was-deleted. Hence we kindly request you to retrieve the deleted application
along with consent fees forfeited.

o/c
N.M.C.
20/10/2020
Commissioner,
Tiruvallur Municipality.
20/10/2020
20/10/2020
M.V.



**BEFORE THE NATIONAL
GREEN TRIBUNAL (SZ)
AT CHENNAI**

O. A. No. 189 of 2017

REPORT BY 7th RESPONDENT

**M/s. P. SRINIVAS (828/1994).
N.K. PONRAJ (2263/2009).
R. PURUSHOTHAMAN(253/2011**

COUNSEL FOR 7th RESPONDENT

Mobile No. 94862 04469