

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL(SZ)

OA No. 190 of 2020

C. Palanisamy,  
Coimbatore

...Applicant

Vs

Mr. Murugesan,  
Naveen Tex,  
Thottathu Salai 6th Street,  
Vagarayam Palayam,  
Sulur Taluk, Moppiripalayam,  
Coimbatore- 641 659.  
(Having Factory at S.F. No. 208/5,  
Mooppiripalayam Village) and others

.....Respondents

**REPLY AFFIDAVIT OF 6<sup>th</sup> RESPONDENT**

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**Certified that the above documents are true copies of their original.  
Dated at Chennai on this the 8<sup>th</sup> day of March, 2021**



**COUNSEL FOR 6<sup>th</sup> RESPONDENT**

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**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL(SZ)**

**OA No. 190 of 2020**

C. Palanisamy,  
Coimbatore

...Applicant

**Versus**

1. The Chairman,  
Tamil Nadu Pollution Control Board,  
76, Mount Road, Guindy,  
Chennai- 600 032

2. The District Collector,  
Coimbatore District,  
Coimbatore

3. The District Environmental Engineer,  
Coimbatore South,  
Tamil Nadu Pollution Control Board,  
Plot No. E- 55A, SIDCO Industrial Estate,  
Kurichi, Pollachi Main Road,  
Coimbatore- 641 621

4. The Tahsildar,  
Sulur Taluk, Sulur,  
Coimbatore District.

5. The Executive Officer,  
Moppiripalayam Town Panchayat Union Office,  
Vagarayampalayam, Coimbatore District- 641 659

6. Mr. Murugesan,  
Naveen Tex,  
Thottathu Salai 6th Street,  
Vagarayam Palayam,  
Sulur Taluk, Moppiripalayam,  
Coimbatore- 641 659.  
(Having Factory at S.F. No. 208/5,  
Mooppiripalayam Village)

... Respondents

**Reply Affidavit filed by 6th Respondent**

I, Murugesan, S/o. Chinna Nanjappa Gounder, Hindu, aged about 50 years, residing at Thottathu Salai 6th Street, Vagarayam Palayam, Sulur Taluk, Moppiripalayam, Coimbatore- 641 659., now temporarily come down to Chennai, do hereby solemnly affirm and sincerely state as follows;

1. I am the proprietor of the 6<sup>th</sup> Respondent Unit herein and as such, I am well acquainted with the facts and circumstances of the case. I have carefully gone through the above main application and the

C. Murugesan

2 documents filed therein and I hereby stoutly deny all the allegations put forth therein as false and erroneous, except those that are specifically and expressly admitted hereunder.

2. It is submitted that the petitioner herein had filed the above application praying to;

*I. Direct Respondent Nos.1 to 5 to take action against the 6th Respondent/Naveen Tex, situated in S.F.No.208/5, at Thottathusalai 6th Street, Vagarayampalayam, Sulur Taluk, Moopperipalayam, Coimbatore District-641659, for operating power looms in a residential area that too abutting the residential building of the Applicant, without installing any air-cooler, without taking safety measures such as sealing of the windows of the factory, and also operating too many looms in an old building in a congested manner thereby causing nonstop noise pollution as wells as causing severe deterioration of air quality by allowing the emission of cotton micro-dust from the power looms being operated 24 hours throughout the year*

*II. Direct Respondent No.6 to pay a compensation of Rs 3,00,000/- for the untold mental agony and causing health problems to the Applicant and his family for the past five years immediately preceding the filing of this Application under Sec. 15(1) of the NGT Act, 2010.*

*III. Direct Respondent No.6 to pay a compensation of Rs.5,000/- per day till the disposal of this Application.*

*IV. Pass any order or orders as this Hon'ble Tribunal may deem fit and appropriate in the facts and the circumstances of the present Application. "*

3. It is submitted that this Respondent had established a power loom unit and has been operating the same all along as means of livelihood. The Applicant is none other than the neighbor residing in the adjacent building.

#### **BACKGROUND MALAFIDES IN THE APPLICATON**

4. Firstly, it is necessary to point out that the Applicant himself was operating a rival Power loom Unit within the same premises which has now been converted into residential building. The said Unit of the Applicant came to be closed very recently and now with malafides, the Applicant had filed the present Application against this Respondent. More particularly, it is submitted that a car parking dispute between the Applicant and this Respondent had led the parties to this forum. The Application is thoroughly only an attempt of seeking vengeance personally against this respondent and there is no other reason except the egoistic attitude of the Applicant. There are absolutely no issue on environment warranting any merit of the Application as per Section 14 of the NGT Act, 2010.

C. G. G. G. G.

5. It is submitted that the Unit of this Respondent was established with necessary permissions from the local authorities and is a small scale-tiny unit, wherein no toxic fumes are emitted from it. The said Unit is set-up in a small room as is the case prevalent in the entire region. The entire locality is surrounded by units such as the Respondent.
6. It is submitted that the 6<sup>th</sup> Respondent runs the Unit only as per the permitted norms. The said power loom is supported on incentives and waiver by the Government in Electricity connections so that the burden is reduced. The unit is thoroughly a micro unit and can only meet the ends for the family members.
7. It is necessary to state that the Unit of this Respondent had provided necessary noise pollution control measures to control noise pollution wherever necessary. It is necessary to state that though the ambient noise level is less than the permissible limits as per the Noise Pollution (Regulation and Control) Rules, 2000. The Respondent also takes earnest efforts to provide the best noise control system in the Unit to ensure the noise levels are maintained within the norms prescribed Noise Pollution (Regulation and Control) Rules, 2000. Even as per the documents relied on by the Applicant himself, the Ambient Noise levels are at less than 63.9 Decibels which is less than the actionable level of 65 Decibels.
8. It is submitted that the Unit of the 6<sup>th</sup> Respondent neither emits smoke/ any air pollution, nor any effluent. The only outcome from a power loom can be noise and that too is cautiously controlled by necessary acoustic measures provided in the premises.
9. It is necessary to state that in OA No.65 of 2017, the Tribunal while disposing of the said application, which is also related to Power loom units, in the order dated 23.03.2012, has made clear observation that as per Rule 7 of the Noise Pollution (Regulation and Control) Rules, 2000 complaint has to be made to the competent Authority and there is no other effective alternate remedy. The relevant portion of para 5 of the judgment of this Tribunal which is as follows:

*“Moreover, even otherwise the case of the applicant is that respondent No.6 by operating the Power Loom is creating noise more than the permissible limit for the residential area. The Noise Pollution (Regulation and Control) Rules, 2000 under Rule 7 provides for complaints to be made to the Authority.*

*Rule 7 reads as follows:*

*7. Complaints to be made to the authority:- (1) A person may, if the noise level exceeds the ambient noise standards by 10 dB (A) or more given in the corresponding columns against any*

*c. (6662-807)*

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area /zone (or, if there is a violation of any provision of these rules regarding restrictions imposed during night time), make a complaint to the authority.

The Authority is defined under Rule 2 (c) as follows:

2(c) "authority" means and includes any authority or officer authorized by the Central Government, or as the case may be, the State Government in accordance with the laws in force and includes a District Magistrate, Police Commissioner, or any other Officer not below the rank of the Deputy Superintendent of Police designated for the maintenance of the ambient air quality stands in respect of noise under any law for the time being in force"

The said order had also been reiterated in the Applications in OA Nos.126 & 127 of 2017 (SZ).

#### **FINDINGS OF THE JOINT COMMITTEE AND UNDERTAKING BY THE RESPONDENT.**

10. It is submitted that this Hon'ble National Green Tribunal was pleased to appoint a joint committee vide order 05.10.2020 to inspect the unit and submit a report if there are any violations. Accordingly, the Committee had inspected the unit and conducted scientific surveys and made the following observation at Page No 11 , Para No 13 of the Report:-

*"13. The Ambient Air Quality (AAQ) survey report reveals that the parameters are within the standards prescribed by the Board, (Copy of AAQ report attached)."*

11. Thereafter the Committee had made the following **FINDINGS AND RECOMMENDATIONS** at Page No 12 Para 4.0:-

#### **"4.0 Findings and recommendations:**

1. **The Unit of M/s. Naveen Tex may be directed to permanently close all the windows with proper cement masonry work facing the petitioner house and to provide appropriate acoustic measures to control the noise as well as Air Pollution.**
2. **The unit may be directed to follow the Hon'ble High Court of Judicature at Madras in the W.P.No. 10356 of 2016 in its order dated 04.06.2018 inter alia that "... the Power Looms are not operated beyond the permitted working hours, which are from 10 A.M. in the morning to 6 P.M. in the evening and to ensure that the noise level does not exceed the permissible decibel level"**

#### **UNDERTAKING**

12. It is submitted that the first condition and conclusion made by the Committee had been complied with by this Respondent. The Respondent had sealed the windows as directed and has annexed

C. Gobburu

photographs to this reply to show proof of the same. The Respondent undertakes to maintain the same and abide by any other measure to improve decibel levels as may be directed.

13. It is submitted that the Respondent also undertakes to abide by the second finding and undertakes the same. The Respondent had been functioning only within the norms as permitted and allowed by the authorities.

14. It is submitted that even though, the Respondent can deny the averments in the main application on a point to point basis, since , this Hon'ble Tribunal had already appointed a Committee to submit report to solve the issue, the Respondent submits the present reply on the lines of the findings made by the Committee. The Respondent prays leave of this Hon'ble Tribunal to file a detailed reply if necessary and when directed by this Hon'ble Tribunal.

It is therefore prayed that this Hon'ble National Green Tribunal may be pleased to dismiss the present Application and thus render Justice.

C. 6060.000

Solemnly affirmed on this the 08<sup>th</sup>  
Day of March 2021 and signed his  
Name in my presence

BEFORE ME

*(Signature)*  
A. Srinivas (Advocate)  
(ADVOCATE : CHENNAI)

தமிழ்நாடு மின்உற்பத்தி மற்றும் பகிர்மானம் கழகம்

அனுப்புநர்:

பொறிஞர்.M.சுப்ரமணியன்.,B.E.,  
செயற் பொறியாளர்,  
இயக்குதலும்&பேணுதலும்,  
கோவை மின்பகிர்மான வட்டம்/தெற்கு,  
சோமனூர் - 641668.

பெறுநர்:

திரு.S.பன்னீர் செல்வம்  
தபெ. சுப்பண கவுண்டர்,  
1/210, முதலிபாளையம்  
அரசூர் (அஞ்சல்),  
கோவை- 641 407.

க.எண்: செபொ/இ&பே/சோம/வ.உ/கோ.RTI/வி.எண்: 60046/2019, நாள்: 05.01.2021.  
ஐயா,

பொருள் :- மின்சாரம் -சோமனூர் கோட்டம் - தகவல் அறியும் உரிமைசட்டம் 2005-ன் கீழ் திரு.S.பன்னீர் செல்வம் தபெ. சுப்பண கவுண்டர்,1/210, முதலிபாளையம் அரசூர் (அஞ்சல்), கோவை- 641 407அவர்களிடம் பெறப்பட்ட மனுவிற்கு தகவல் அளிப்பது சம்பந்தமாக.

பார்வை :- தங்களது மனு இவ்வலுவலகத்தில் கிடைக்கப்பெற்ற நாள்: 07.12.2020

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மேற்கண்ட பார்வையில் திரு.S.பன்னீர் செல்வம் தபெ. சுப்பண கவுண்டர் அவர்களின் தகவல் அறியும் உரிமைசட்டம் 2005-ன் கீழ் பெறப்பட்ட மனுவிற்கு கீழ்க்கண்டவாறு தகவல் அளிக்கப்படுகிறது

- வரிசை எண் 1: அலுவலக மின் இணைப்பு பதிவேட்டின் படி திரு.பன்னீர்செல்வம் என்பவர் 10.12.2001 அன்று மின் இணைப்பு பெற்றுள்ளார் அவரது மின் இணைப்பு IIIA2 வீதப்பட்டியில் பெற்றுள்ளார் இந்த மின் இணைப்பு எண்.289.001.989 ஆகும்
- வரிசை எண் 2: மும்முனை மின் இணைப்பு (Three phase service connection) அனுமதிக்கப்பட்ட மின் 5HP +300W(4.030KW)ஆகும்.
- வரிசை எண் 3: விசைத்தறி கூடத்திற்கு வழங்கப்படும் வீதப்படி IIIA2 என்பதனால் அம்மிணைப்பு விசைத்தறிகளை இயக்குவதற்கு கொடுக்கப்பட்டுள்ளது.இலவச மற்றும் மானிய மின்சாரம் வழங்கப்படவில்லை.விசைத்தறிக்கு வழங்கப்படும் இலவச மின்சாரம் 1.4.2012 அன்றிலிருந்து தான் வழங்கப்பட்டு வருகிறது.
- வரிசை எண் 4: அலுவலக பதிவேட்டின்படி 23.4.2007 அன்று வீதப்படி IIIA2-வில் இருந்து (விசைத்தறி உபயோகம்) IA வீட்டு உபயோகத்திற்கு மாற்றப்பட்டுள்ளது.
- வரிசை எண் 5: தற்போது IA வீட்டு உபயோகத்திற்கான வீதப்பட்டியலில் பயன்படுத்தி வருகிறார்.
- வரிசை எண் 6: மின் இணைப்பு எண்ணில் இது நாள் வரை எவ்வித மாற்றமும் செய்யப்படவில்லை என்பதை தங்களுக்கு அன்புடன் தெரிவித்துக் கொள்ளப்படுகிறது.

தங்களுக்கு அளித்த தகவல்கள் திருப்தி அளிக்கவில்லை எனில் கீழ்க்கண்ட அலுவலரிடம் மேல்முறையீடு செய்யலாம் என தெரிவித்துக்கொள்ளப்படுகிறது.

மேல்முறையீட்டு அலுவலர்

தகவல் அறியும் உரிமை சட்டம்

மேற்பார்வை பொறியாளர்/கோவை மின்பகிர்மான வட்டம்/தெற்கு  
டாடாபாத், கோவை-12

மின் அஞ்சல்: [secbes@tnebnnet.org](mailto:secbes@tnebnnet.org)

கைபேசி : 9445851151

செயற் பொறியாளர்  
இயக்குதலும் & பேணுதலும்  
சோமனூர்.

TRANSLATED COPY

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From, Engineer M.Subramaniyan., B.E.,  
Executive Engineer,  
Operation & Maintenance,  
Coimbatore Electricity Distribution Circle/South,  
Somanur- 641668.

To, Mr.S.Paneerselvam,  
S/o Subbana Gounder,  
1/210, Muthalipalayam,  
Arasur (post),  
Coimbatore-641407.

L.No: SP/E&P/Soma/V.U/Co.RTI/V.No : 00040/2019 Date:05.01.2021.

Sir,

Electricity- Somanur Stream- Under Right to Information ACT 2005, Providing Information's for the Petition received from Mr.S.Paneer Selvam, S/O Subbana Gounder, 1/210 Muthalipalayam, Arasur Post, Coimbatore-641407.

Sub:Petition Received by this Office is 07.12.2020

Information's stated below for the petition received from S.paneerselvam S/o Subbanagounder under Right to information Act 2005.

Si.No 1: As per Electricity Connection office record with us, Mr.Palanisamy Got Electricity Connection on 10.12.2001. The connection Number is 289.001.989 and the tariff is IIIA2.

Si.No 2: It is A Three phase connection and the Allowed electricity power is 5HP+ 300 W (4.030 KW).

Si.No.3: The Application for the Above electricity connection is for Operating of Power looms and the Tariff is IIIA2. No Free or Subsidy Given to Electricity bill because Subsidy on Electricity bill to power looms was given from 1.4.2012.

Si.No.4: As per Our Office record, The Tariff was changed to 1A (House usage) from IIIA2 (Power loom usage)

Si.No.5: Now He is using Electricity under Tariff 1A.

Si.No.6: Afterthat, No modification in Tariff till today.

If you are not satisfied with the above information's, then You can go for Appeal to the below officer.

Appellant Officer,

Right to Information Act,

SE/Coimbatore District Power Distribution circle/South

Tatabad, Coimbatore- 641012.

Email: [secbes@tnebnnet.org](mailto:secbes@tnebnnet.org)

Mobile: 9445851151

Executive Engineer

Operation & Maintenance

Somanur.

