

BEFORE THE NATIONAL GREEN TRIBUNAL SOUTHERN ZONE,
CHENNAI

ORIGINAL APPLICATION NO : 238 OF 2020(SZ)

In the matter of ;

Tribunal on its own motion
Suo Motu based on the news item in
The Times of India News Pater, Chennai Edition,
date 29.10.2020, "Wall of gated community blocks
Stream along OMR"

.....Petitioner

-Vs-

1. Engineer in Chief (Water Resources organization)
and Chief Engineer (General)
Public works Department,
Chepauk, Chennai and ors.
2. The District Collector,
Chengalpet District,
Collectorate office, GST Road,
Chengalpattu – 603 001.
3. The Block Development Officer,
St. Thomas Mount Panchayat Union,
20, Chitlapaklaam Main road,
Kamaraj Colony, Nehru Nagar,
Chitlapakkam,
Chennai – 600 064.
4. Directorate of Town and Country Planning
Represented by its Director,
2nd , 3rd , 4th , Floor, E & C Market Road,
Koyambedu,
Chennai – 600 107.
(R4 Suo – Motu impleaded as per order of
Tribunal date 17.11.2011 in OA 238/2020(SZ)

.....Respondents

REPORT FILED BY THE FOURTH RESPONDENT

I, E.Saravanelraj, Hindu, aged about 53 years, holding the post of
Director of Town and Country Planning, having office at CMDA office

complex, 2nd, 3rd, 4th Floor, E&C Market Road, Koyambedu, Chennai – 600 107, do hereby solemnly affirm and sincerely state as follows:

1. The Honourable Green Tribunal has paid due attention on the news item appeared under the heading “Wall of gated community blocks streams along OMR” in Times of India News Paper, Chennai edition dated 29.10.2020”, and has taken up this case on its own motion. The Hon’ble Tribunal has impleaded Director of Town and Country Planning, Chennai as 4th Respondent on 17.11.2021, and has directed to file an independent statement / report regarding the precautionary steps taken while approving the Layout plans for avoiding stagnation of water and for ensuring free flow of rain water during monsoon. Also directed to list the conditions imposed for converting the agricultural land for non agricultural purpose in places where the water is being collected in those agricultural lands especially in paddy fields for collecting excess rain water by ensuring free flow of water to reach the water bodies / water ways and the effectiveness of conditions imposed in this regard. And also directed to suggest / submit further conditions to be imposed to avoid stagnation of water in future for sub-monsoon and non-monsoon seasons.

2. I am the 4th respondent as per order of Tribunal dated 17.11.2021 in the original Application No. 238 of 2020(SZ) and I file this report in cognizance with the article / news item appeared in the Times of India News Paper Chennai edition dated 29.10.2020 and as directed by the Hon’ble Tribunal. I am well acquainted with the status of the case from the records available at our office.

3. It is humbly submitted that the Directorate of Town and Country Planning under the Housing and Urban Development Secretariat, is a Department which is responsible for the preparation and notification of Regional Plans, Master Plans, New Town Development Plans and Detailed Development Plans as envisaged under the provisions of Town and country Planning Act, 1971 and any other functions which is supplemental, incidental or consequential to any of the function as may be necessary or expedient for the purpose of carrying out its function under the Act. Apart from the above, planning permissions for housing/industrial layouts and permissions for construction of buildings have also been processed and issued under section 49 of Town and Country Planning Act, 1971.

4. With regard to the news item appeared in the newspaper, it is humbly submitted that one M/S.Carmen Builders and Constructions P. Ltd., Chennai - 600 004 had applied at Mamallapuram Local Planning Authority seeking planning permission for the construction of 3493 dwelling units along with a mini mall and a club house in the name and style of DLF Garden City in the land bearing Resurvey Nos.178/1A, 178/2, 179/1, 179/2, 181/1Apt, 181/2A1pt, 182/(1, 2, 3A), 183/2A and 184/1, to a site extent of 214000 Sq.M., at Thazhambur Village of Chengalpattu District during the year 2008, and the application was forwarded to the Directorate of Town and Country Planning, Chennai for issue of concurrence. The Directorate of Town and Country Planning, Chennai had processed the application duly following the procedures and rules prevailed during the year 2009, and issued concurrence for the proposal vide letter Roc.No.24468/2008/Spl.Cell, dated 17.02.2009. On receiving the

concurrency, the office of Mamallapuram Local Planning Authority had issued the planning permission to the developer (DLF Garden City) vide letter Roc.No.235/2008/MLPA dated 01.02.2010. The details of the buildings for which planning permission is issued are as follows:

S. No.	Type of Building	No., of Floors	Total Floor Area in Sq.M.	No., of Dwellings
1.	Block A1 to A11	Lower Basement + Upper Basement+ Stilt/Ground+ 19 Floors	150479.18	825
2.	Block B1 to B7	Lower Basement + Upper Basement+ Stilt/Ground+ 19 Floors	89182.65	525
3.	Block C1 to C12	Lower Basement + Upper Basement+ Stilt/Ground+ 19 Floors	130377.16	900
4.	Block D1 to D11	Lower Basement + Upper Basement+ Stilt/Ground+ 19 Floors	141968.31	1243
5.	Mini Mall	Lower Basement + Upper Basement+ Stilt/Ground+ 5 Floors	7748.87	--
6.	Club House	Stilt/Ground, First Floor, Service Floor, 4 th Floor	15395.38	--
Total			535151.55	3493

While issuing planning permission to the developer, a special condition that the developer should ensure adequate protected drinking water is supplied to the dwelling units and also should ensure the waste

water / sullage water discharged by the dwelling units are safely disposed by arranging transportation through private vehicles was imposed. The IS Code 1172 stipulates 135 litres per head per day as the minimum water requirement. The breakup of the demand is as follows:

Per Capita Water Demand

i) Bathing:	55 litres
ii) Toilet flushing:	30 litres
iii) Washing of clothes:	20 litres
iv) Washing utensils:	10 litres
v) Cooking:	5 litres
vi) Drinking:	5 litres
Total	135 litres

A minimum of 70-100 litres per head per day may be considered adequate for domestic needs of urban communities, apart from non-domestic needs such as flushing requirements. An average of 100 litres of water per head per day can be assumed to be supplied by the local body of which 30 litres being utilised for toilet flushing, a net of 70 litres per head per day would be discharged as waste/sullage water.

The DLF Garden City in question comprises 3493 dwelling units with a Mini Mall and a Club House. Assuming four persons per dwelling unit is occupied, the sullage/waste water derived from the dwelling units is calculated to be around 9,78,040 litres (3493 x 4 x 70) per day. This huge quantity of sullage/waste water has to be disposed daily, which falls under the jurisdiction of the layout developer as per the conditions imposed by the

planning permission. If the developer had not made any arrangements for the scientific disposal of the waste water within the DLF Garden City campus, the appropriate authorities (local body) shall ensure the proper disposal of the waste water by insisting the developer. If the waste water is disposed within the campus itself by erecting scientific machineries such as waste water treatment plants, etc., it would not be overloaded to the nearby water courses during the monsoon seasons thereby ensuring safe carrying capacity of water courses. Thus, the water courses will be able to safely discharge the flood water during monsoon.

Further, on perusing the google map, it was observed that on the eastern side of DLF campus, Semmanchery housing units have been established, where there are approximately 739 dwelling units. On the northern side of DLF campus, Semmanchery high rise housing tenements have been established where there are approximately 3072 housing units. On the southern side of DLF campus, Dinesh Vihar high rise housing tenements have been established, where there are 852 dwelling units and on the western side of DLF campus, Jones Cassia villas have been developed where there are around 124 dwelling units. The total number of dwelling units in and around DLF campus is around 8280 numbers of dwellings. (3493 + 739 + 3072 + 852 + 124). Considering dispersed dwellings developed on the north west of DLF campus, the total dwelling units in around DLF campus can be approximated to 8500 Nos., and the sullage/waste water derived from the dwelling units on the area in question can be approximated to 23,80,000 litres per day (8500 x 4 x 70). This alarming quantum of waste

water is expected to be discharged by the dwelling units and whose safe disposal has to be ensured. (Google Map is enclosed).

5. It is humbly submitted that the state Government through Municipal Administration and Water Supply Department, has framed Tamilnadu Combined Development and Building Rules 2019 and notified in Tamilnadu Government Gazette (Gazette No:43 dated February 4, 2019) in which Rule 47 stipulates the guidelines to be followed while approving layouts. Especially, Rule 47(11) stipulates that **“The cost of laying improvements to the systems in respect of road, water supply, sewerage, drainage electric power supply that may be required as assessed by the concerned authority, namely the local body and Tamilnadu Electricity Board, shall be borne by the applicant.”** Also further, the Housing and Urban Development Department Secretariat has issued simplification procedures to be followed while granting approval for Layout/Subdivisions vide GO.Ms.No.181, Housing and Urban Development (UD4(1)) Department, dated.09.12.2020 in which directions have been issued to the Local bodies, to ensure the layout roads are formed as Tar roads amenities such as storm water drains, water supply facilities, street lights etc are provided up to the satisfaction and standards specified by the local body, before issuing final approval for the layouts. Therefore ensuring the effective drainage of flood water, storm water and the Sullage water derived from layout houses falls within the jurisdiction of Local bodies.

6. The Layout developer should also ensure that the roads which are abutting the adjoining lands are not blocked facilitating the extension of roads into a surrounding area of layout. However, it is unfortunate, to notice

certain layout promoters have constructed compound walls along the boundary of layout blocking adjoining lands. This practice should be taken as serious issue and such compound walls should be removed by the appropriate authorities, since the Layout Promoters do not have any legal right to erect such compound walls.

7. Moreover, canals, channels, odai, rivers etc are water bodies and even if such water bodies are crossing the site where layout approvals are sought, either Water Resource Organization or Localbodies never allows the developers to close such water bodies while granting layout approvals. Hence, the Water Resource Organisation or Localbodies who claim ownership over the water bodies such as Odai, Canal, Channels, etc, can at anytime under maintenance bring back such water bodies to its original position and can ensure the free flow of water.

8. With regard to conversion of agriculture use into non-agricultural use of land, it is humbly submitted that the use and development of lands are scientifically controlled and Judiciously utilized by enforcing regulations of Master plans, Regional plans and New Town Development Plans of various cities and towns which were prepared and approved as per the provisions of Town and Country Planning Act, 1971. With regard to conversion of land uses within Master plan / New Town Development Plan areas, the developments are permitted only after the change of land uses for the developments proposed are obtained from the Government under section 32(4) of the Town and Country Planning Act, 1971.

9. With regard to conversion of agricultural land into non-agricultural use in the areas for which no statutory plans are prepared, it is submitted

that the land uses are being governed by **section 47(A) of Town and Country Planning Act, 1971**. This Section envisages that any person intending to develop the land situated in other than planning area shall obtain prior concurrence from the Director of Town and Country Planning after getting NOC from the Agriculture Department in case of dry lands (Punjai) and after getting NOC from the District Collector in the case of wet lands (Nanjai). The Government also have issued guidelines to be followed while granting such change of land use vide **GO.Ms.No.79, Housing and Urban Development (UD4(3)) Department dated. 04.05.2017**. The Government has paid due attention in framing the guidelines for the land use changes, in such a manner that it ensures the lands are judiciously utilized and the guidelines to be followed by the District Collector and Director of Town and Country Planning for such prior concurrences are as follows.

I) Guidelines to be followed by the Collector for giving his prior concurrence.

(1) The Collector shall satisfy himself that the land in which development is proposed does not fall in any of the following categories, namely:-

- (a) Public water body like channel, canal, tank, lake, river, etc.
- (b) Government Poromboke land, Temple lands, Wakf properties and other lands belonging to religious/charitable institutions.
- (c) Vacant lands with any encroachment on a public road or street or on any other land over which the applicant does not possess ownership right.

(d) Lands below the alignment of high tension and extra high voltage electric line including tower lines.

(e) Land which is fit for continuing the cultivation.

(2) The Collector shall inspect the site with Deputy Director of Town and Country Planning and other officials of the relevant Departments as he deems necessary and satisfy himself to the following, namely:-

(i) The status of land as in revenue records;

(ii) The existing development around the proposed site is compatible with the proposed development;

(iii) Details of assured irrigation source / ayacut ;

(iv) Present status of cultivation and how long the cultivation was not carried out and the reasons there for;

(v) Impact on the overall agricultural productivity and the necessity to continue agricultural production;

(vi) Problems of sanitation and waste water disposal and the possibility to realign the canals/ channels/ drains.

(3) The Collector shall ensure that due to the proposed development, the irrigation canals and distribution channels or the natural storm water drains or channels are not obstructed or affected and shall not lead to depletion of ground water level of the area or inundation of nearby areas.

(II) Guidelines to be followed by the Director for giving his prior concurrence.

(1) The Director shall satisfy himself the following, namely:-

- (a) The proposed development in part or whole is not in public water body like channel, canal, tank, lake, river, etc.
- (b) The proposed development in part or whole is not in Government Poromboke land, Temple lands, Wakf properties and other lands belonging to religious/charitable institutions.
- (c) The proposed development is not made in vacant lands blocking access to surrounding lands which do not have any other means of access.
- (d) The proposed development in part or whole is not lying in the lands affected by the alignments of proposed road or rail corridors.
- (e) The proposed development does not encroach any public road or street or other land over which the applicant does not possess ownership right.
- (f) The proposed development in part or whole is not lying in the lands below the alignment of high tension and extra high voltage electric line including tower lines.
- (g) The Director shall ensure that the proposed development possess proper drainage system and pattern wherein all the waste water and excess rain water from the development area flows in the nearest higher order drainage system or some alternate arrangement created for the same so as to arrest water logging in the development area.

- (2) The Director shall consider the prior concurrence given by the Collector in respect of wet lands and the report of Joint Director of Agriculture in respect of dry agriculture lands for taking a decision to issue his prior concurrence.
- (3) In order to satisfy himself before granting his concurrence, the Director may cause inspection or seek report from such officials as he deems fit.

10. With regard to the issues pertaining to the gated communities, it is submitted that the promoters are seeking approval for group developments where in many building blocks, in different heights constituting many dwelling units would be proposed and approvals would be issued based on the proposal complying various vital parameters such as Floor Space Index(FSI), Setbacks from the boundary of site, requisite parking etc. However, in general permission for construction of compound wall along the boundary of the site would not be granted. Even if permission for construction of compound wall is granted, it would be ensured that the flood water, sullage water derived from such gated communities are properly disposed within such premises itself before granting such approval. And, if canals, channels, odai, vaikkal etc are passing across the site where approval for such group development is sought, the water bodies would not be allowed to be disturbed by the developments and necessary conditions would be imposed such that the developer in no case should disturb/ prevent the free flow of water in the watercourses.

11. As mentioned above, it is humbly submitted that the Government have considered various aspects while approving layouts and various

parameters before arriving a decision to issue concurrence for change of land use from agricultural into non-agricultural purpose and framed rules for issuing of such concurrences.

12. However it is unfortunate to notice such inundation and stagnation of flood water in certain areas where free flow in the available water body courses such as odai, canal, channel etc are blocked artificially. This has caused due to the non disposal of waste water derived from the housing units within the campus itself or inefficient disposal of the waste water by the developer by discharging into the nearby water courses, thereby overloading the carrying capacity of the water courses. If safe disposal of waste water discharged by the dwelling unit is ensured and if free flow of canals, odai, channels etc are ensured by restoring the existence of water bodies and by undertaking periodical maintenance works, such inundation, stagnation of flood water will not occur in future.

E. SARAVANAVELRAJ

Director of Town and Country Planning.

Verification:

I, E.Saravanelraj, holding the post of Director of Town and Country Planning hereby submit that the content of the above report are true to the best of my knowledge through records.

E. SARAVANAVELRAJ

Director of Town and Country Planning.