

**IN THE HON'BLE NATIONAL GREEN TRIBUNAL,
SOUTH ZONE AT CHENNAI**
(Under section 18(1) read with section 14 of National Green
Tribunal Act, 2010 Jurisdiction)

Application No. 240 of 2021.

Mr.R.Muthukumaran.,
S/o.P.Ramadas,
Residing at 439/D1,
New Housing unit,
Ponnavarayankottai,
Pattukkottai Taluk,
Thanjavur District.
Phone No. 9750385000
Email ID : muthupon53@gmail.com

...Petitioner

-Vs-

1. The District Collector,
Thanjavur.
2. Revenue Divisional Officer,
Pattukkottai.
3. The Executive Engineer,
Water Resource Department,
Grand Anicut Canal Division
Thanjavur,
4. The Block Development Officer,
Thanjavur.
5. District Environmental Engineer,
Tamil Pollution Control Board
Thanjavur.


Executive Engineer, WRD.,
Grand Anicut Canal Division, Thanjavur.

6. Mrs.Geethanjali,
W/o.Elamurugan,
Ponnavarayankottai
Pattukkottai,
Thanjavur

...Respondents

COUNTER AFFIDAVIT FILED BY THE 3rd RESPONDENT

I, R.Pandy, son of Mr.K.S.Rajendran, Hindu aged about 58 years and working as the Executive Engineer, Public Works Department (Water Resource Department) Grand Anicut Canal Division, Thanjavur, do hereby solemnly affirm and sincerely state as follows:-

1. I am the Executive Engineer in charge of the Grand Anicut Canal Division, Thanjavur and also the 3rd Respondent herein. In the affidavit it was erroneously mentioned as **Kallanai Irrigation Canal**, Pattukkottai, Thanjavur. I am well acquainted with the facts of this case.

2. I respectfully state that I have read the above application along with Affidavit and deny all the allegations made in the averments except those that are specifically admitted here under.

3. I respectfully state that the applicant has filed the above application for issuance of Writ of Mandamus directing the Respondents 1 to 5 to take necessary action to prosecute


Executive Engineer, WRD.,
Grand Anicut Canal Division, Thanjavur.

the 6th Respondent under Rule 36A of Tamil Nadu Minor Minerals Concession Rules, 1959, as per the applicant's representation dated 26.11.2021.

4. I respectfully state that the Pudukulam Tank is situated in Ponnavarayankottai Village of Pattukkottai Taluk in Thanjavur District. It has an Ayacut of 32.40 Acres and has water spread area of 107.44 Acres. For the last 20 years, the tank was silted much. The supply source of this tank is Narasingapuram Channel which offtakes from the Rajamadam Branch Canal and also benefited by another supply from the right side supply channel of Vendakkottai Regulator situated in the nearby village.

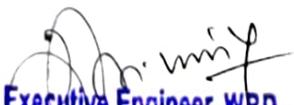
5. I respectfully state that the Ayacutdars of Pudukulam Tank, Ponnavarayankottai Village got permission to take soil (vandalman/savuduman) from Tahsildar of Pattukkottai. The Tahsildar of Pattukkottai granted permission vide letter No.Na.Ka.No.3559/A6/2020 dated:10.06.2020 for 28 numbers of beneficiaries including the 6th Respondent in the order issued a quantity of 2930m³. The total issued quantity of soil (Vandalman/Savuduman) in Pudukulam Tank was 950m³ for the year 2020-21 in Ponnavarayankottai Village under Tamil Nadu Government Free Supply Vandalman/Savuduman Scheme to farmers, public for personal use and those who are in pottery profession.


Executive Engineer, WRD.,
Grand Anicut Canal Division, Thanjavur.

6. I respectfully state that the Irrigation Assistant, who monitors the channels and tanks which are allotted to supervise to him within his jurisdiction limit was instructed to monitor the farmers and public those who were taking free of cost soil (Vandalman/Savuduman) using **Poclain** machineries and loading in the tractors from tanks including the Pudukulam Tank of Ponnavarayankottai Village in Pattukkottai Taluk.

7. I respectfully state that the beneficiaries include the 6th Respondent and her husband Mr.Elamurugan. It is found that the soil (Vandalman/Savuduman) taken from the Pudukulam Tank of Ponnavarayankottai Village was used for Agricultural lands and Tharisu lands only. It is calculated that totally 950m³ of soil (Vandalman/Savuduman) had been taken by the beneficiaries on the basis of permission granted by the Tahsildar of Pattukkottai Taluk for the year 2020-21 by which the tank is now in a improved condition and increase the storage of water in the Pudukulam Tank and also augment the ground water recharge of the Ponnavarayankottai Village and satisfies the motive of the scheme.

8. I respectfully state that there is no sand in the tank and only soil (Vandalman/Savuduman) is in the tank which was taken by the beneficiaries as mentioned in the Scheme G.O.(Miscellaneous) No.50 (CMC.1) Department


Executive Engineer, WRD.,
Grand Anicut Canal Division, Thanjavur.

dated:27.04.2017. It is submitted that nearing **400 tractor** (around 2.30M³/tractor) loads of soil (Vandalman/Savuduman) was taken by the beneficiaries including the 6th Respondent and not 4000 loads as mentioned in the Affidavit.

9. I respectfully state that in pursuance to the permission accorded by the Tahsildar, Pattukkottai in his Lr.No.Na.Ka.No.3559/m6/2020, dated:10.06.2020, the applicants running 28 numbers were permitted to take soil from the tanks under the control of Public Works Department. The Pudukulam Tank in Ponnavarayankottai Village is under the control of the Public Works Department and therefore immediately on receipt of the proceedings of the Tahsildar, Pattukkottai dated 10.06.2020, the Tahsildar, Pattukkottai while according permission to take the soil issued the said permission with as many as six conditions and the foremost condition No.3 is that the soil taken must be utilized for agriculture purpose, for personal use and for pottery and appropriate action will be initiated under Rule 36(A) of Tamil Nadu Minor Minerals and Mines Act, 1959 in the event of the said soil either sold on commercial basis or used for other objects other than the admissible objects. It is pertinent to point out here that the Assistant Engineer of the 3rd Respondent Office in Letter No. கோ.24/உ.பொ./நகார்வு.எண்:2நாள்.01.06.2020 issued necessary instructions to the concerned Irrigation Assistant to


Executive Engineer, WRD.,
Grand Anicut Canal Division, Thanjavur.

enforce the conditions as under:-

- i) *Farmers and Beneficiaries should not cause any damages to the tank bund of the water body while taking Savuduman & Vandalman.*
- ii) *Soil must be taken away by 30 meters from the toe of tank bund.*
- iii) *There should be no damage to the trees on the tank bund.*
- iv) *Soil should not be taken below the ground level/sill level of the deepest sluice of the water body.*
- v) *Soil should not be dug **below 5 feet**.*

The said conditions were strictly followed and enforced by the Irrigation Assistant and therefore no excessive quantity were allowed to be taken against the allowed quantity of soil and therefore the allegations made by the Petitioner that excess soil was taken as against the allowed quantity is wholly **unjustifiable** and **unmaintainable**. It is pertinent to point out here that the applicant in his averment in Para No.7 has stated that he has no detail with regard to other illegal **sand** mining done by others and the Petitioner has stated that he is filing the documents in respect of the Respondent **No.6** only, the said averments itself shows that the applicant has filed the above application under the guise of Public Interest Litigation as against the 6th Respondent for the reasons best known to the


Executive Engineer, WRD.,
Grand Anicut Canal Division, Thanjavur.

applicant. In final, there is no irregularity as alleged by the applicant and therefore the above application is liable to be dismissed.

It is also submitted a Writ Petition in WP(MD) No.12678 of 2020 was filed in High Court of Chennai Bench at Madurai by Thiru.S.Chakravarthi with the same request as in this Application No.240 of 2021 was dismissed on 28.06.2021. So it is very clear to state that with personal motive only these two cases were filed and the Hon'ble Green Tribunal time has been miserably wasted.

Under the above said facts and circumstances, it is therefore prayed that the Hon'ble National Green Tribunal may be pleased to dismiss the above application no. 240 of 2021 as devoid of merits and pass such further or other orders as this the Hon'ble National Green Tribunal may deem fit and proper in the circumstances of the case and thus render justice.


Executive Engineer, WRD.,
Grand Anicut Canal Division, Thanjavur.

BEFORE ME

Solemnly affirmed at
This day of April 2022
Signed his name in my presence

DISTRICT:THANJAVUR

**INTHEHON'BLE NATIONAL
GREEN**

**TRIBUNAL, SOUTH ZONE AT
CHENNAI**

**(Under section 18(1) read with
section 14 of National Green
Tribunal Act, 2010**

Jurisdiction)

Application No. 240 of 2021.

**(On the file of this Hon'ble National
Green Tribunal)**

COUNTER FILED BY

THE 3rd RESPONDENT

SPL. GOVERNMENT PLEADER