

BEFORE THE NATIONAL GREEN TRIBUNAL: SOUTH ZONE AT
CHENNAI.

APPLICATION NO.110/2022

1. Dr.C.Manohar, M/A-66 years,
S/o.Chenthamaraikanna,
No.39, Saibaba Colony 2nd Cross Street,
Virugambakkam, Chennai 92.
Ph:9566254546: yogeshwaranadv@gmail.com
2. Dr.Chandrasekhar.C.K., M/A-70 years,
S/o.C.K.Ramakrishna Sastry,
No.1, First Floor, Saibaba Colony,
Virugambakkam, Chennai 92.
Ph:9566254546: yogeshwaranadv@gmail.com
3. Subhasree Manohar, F/A-58 years,
W/o.Manohar,
No.39, Saibaba Colony 2nd Cross Street,
Virugambakkam, Chennai 92.
Ph:9566254546: yogeshwaranadv@gmail.com
4. Piramanathan.G. M/A-43 years,
S/o.E Gomathinayagam,
No.15, Thanigai Illam, 3rd Street,
Saibaba Colony, Virugambakkam, Chennai 92.
Ph:9566254546: yogeshwaranadv@gmail.com

Applicants.

Vs

1. The Corporation of Chennai,
Rep by its Commissioner,
Ripon Buildings, Chennai.
Ph:044-223211085 : commissioner@chennaicorporation.gov.in



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Sr. Manager

2. P & C Contractors,
Head Office,
P & C Towers, 2nd Floor,
140, Perunthurai Road,
Erode, Tamilnadu 638011.
Ph.:944399000: ero@pandc.co.in

3. The Tamilnadu Pollution Control Board,
Rep by its Member Secretary,
No.76, Mount Salai, Chennai.
Ph:04-22352134: tnpcb-chn@gov.in

Respondents.

COUNTER FILED BY THE SECOND RESPONDENT.

The second respondent most respectfully submits that:

1. The address for service of all notices and process of this Hon'ble Tribunal on the second respondent is that of his counsel M/s.A.Thirumaran, K Purushothaman and P Sivaraman, Advocates at No.14, I Floor, Sunkurama Street, Chennai 600 001.

2. At the outset, this respondent denies all the allegations and averments contained in the application filed by the applicant herein and put the applicants to strict proof of the allegations and averments contained in the application.



M. Chitri
Sr. Manager

3. At the outset this respondent submits that the name of this respondent is M/s.P & C Projects P Ltd., and not P & C Contractors as stated in the cause title.
4. As far as the facts stated in para 1 of the application is concerned, this respondent submits that it is a distortion of facts. The applicant is trying to project as if as though that there was a dumping of construction and demolition waste, sullage from storm water drains, mud etc and further is trying to project such actions were carried out by this respondent alone. On the contrary, it is not so. It is submitted that in order to prevent the frequent flooding of the areas in Chennai the State of Tamilnadu had wanted to ensure that the Storm Water Drainages in Chennai City were properly aligned and further in areas where no storm water drainage facilities were not available, construct such facilities newly and further ensure that the proper storm water drainage facilities in the Chennai City are adequate and proper to meet any eventuality caused on account of incessant rains and therefore the first respondent herein being the Civic body in the City of Chennai had identified areas of flooding and initiated steps to construct appropriate and proper storm water drainage facilities.



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Sr. Manager

5. In pursuance to such initiation of action this respondent was awarded a contract in respect of Vembuliamman Koil, Virugambakkam and other surrounding areas to design and construct storm water drains on the areas allocated to it. This opposite party was awarded the said contract on 15.03.2022 for the work Design, Engineering and Construction of Storm Water drain to prevent water logging in and around Vembuliamman Koil Street, Virugambakkam in Adyar Basin - Zone 10" by the Greater Chennai Corporation. The time span for the work to be completed was six months time and such time was given by the first respondent taking into consideration the onset of monsoon.
6. This respondent further submit that even in the Zone 10 the work has been allotted not only to this respondent but also other contractors and the work has been split into packages covering certain areas. In the said Zone 10, apart from this respondent other contractors have also been awarded works of similar nature.
7. It is further submitted that right from the beginning not only this respondent but also other contractors were impressed that the time span for the completion of the works awarded should be adhered to strictly as it was



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Sr. Manager

the intention of the first respondent as well as the Government that the People of Chennai should not suffer on account of water stagnation caused by incessant rains.

8. This respondent further submits that Chennai is a very busy city wherein all the roads are almost traffic prone. In such circumstances, considering the pressure upon this respondent and other contractors to complete the work within the stipulated time frame, the work had to be carried out involving heavy machinery and excavations were to be carried out. It is pertinent to note that the storm water drains are situated in the roads and the work was carried out round the clock. However, the excavations being the mud etc which resulted as a result of excavation could not be left on the roadside as the same will hinder the free movement of traffic as well as the public and we were also advised by the officials of the first respondent herein that unattended pits should not be left lying and should be immediately concrete work should be done. In such circumstances, the waste debris was put in the said one acre of land and was taken out regularly in the night times after the traffic had subsided. The said debris could not be transported for disposal immediately after excavation as such transportation should be done by heavy lorries whose continuous



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Sr. Manager

movement during the day time will disrupt the vehicular and public movement. Further, there is a prohibition in the city against movement of heavy lorries also. In such circumstances, these factors resulted in the piling up of the said debris in the said one acre area as a temporary measure and even such debris piled up was being regularly and daily removed using lorries., and in any case, the first respondent was also vigilant in ensuring that the debris piled up should ultimately be removed and the one acre area restored to its normal and original condition upon completion of the work. However, the debris excavated was more than the debris removed using lorries and the further logistics problems in plying the lorries during day time resulted in adding up of debris. However, now the said one acre property has been restored to its original condition.

9. As far as the averments contained in para 3 of the application is concerned, originally, the debris was piled up in the one acre plot and on account of the objections received from the persons from the locality, in order to adhere to their wishes this respondent and other contractors have stopped piling up of the debris from the second week of July 2022 and an alternate

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Sr. Manager

site had been identified by the first respondent herein wherein this respondent and other similar contractors are dumping the surplus excavations in the said alternate site.

10. As far as the averments in para 4 of the application is concerned, this respondent submits that considering the time factor involved in the movement of waste debris, during the month of July 2022 the same was piled up in the said one acre plot only as a temporary measure and even this had been stopped from the second week of July 2022 upon objection from the residents of the locality. In fact, it is submitted that the entire debris had been removed and the said one acre plot restored to its original status. Therefore the question of the inhabitants being exposed to high levels of pollutions presently does not arise. In any case, the said debris is only excavated/demolished debris and was piled up only for a months and upon objections of the inhabitants removed. Further, it is the intention of the Government and the first respondent that the inhabitants of Chennai should not suffer again on account of flooding and therefore the completion of work before the onset of monsoon was impressed upon., which had necessitated the round the clock work. The applicant is also trying to project that the height of the said one acre plot had increased on account of



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Sr. Manager

dumping of the said excavated debris whereas it was not. On the contrary, the said one acre plot is a low lying area and in any case, there was a regular shipping of the debris from the said one acre plot for its onward journey for final disposal.

11. As far as the averments contained in para 5 of the application is concerned, it is submitted that a few of the inhabitants of the locality had represented that the piling up of the debris in the said one acre plot was causing problems and the matter was taken up by the second respondent to the first respondent who had then identified and earmarked another area. It is also learnt that in the meanwhile the inhabitants had also made similar representations to the first respondent also. Therefore the piling up of the debris ceased from the second week of July 2022 and thereafter the already piled debris was removed in a phased manner with precautions. However, the removal could not be completed in a single day owing to the difficulties in plying the lorries during the day time and the lorries could be plied only in the late night and before the sunrise.

12. As far as the averments contained in para 6 of the application is concerned, right from the day when the piling up of the debris was stopped in the one



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Sr. Manager

acre plot, the removal was being carried out. The monitoring of the removal of debris was done as expediently as possible and was monitored continuously by the officials of this respondent.

13. As far as the averment contained in para 7 of the application is concerned, it is reiterated that the piling up of debris stopped during the second week of July 2022 and did not resume thereafter. However, the removal could be carried out only during the night times. Further, priority was given to ensure that the excavated debris was not kept on the roadside to prevent accidents and simultaneous action was taken to ensure the removal from the one acre plot also. The lorries which had visited for the removal are portrayed as the lorries dumping debris.

14. It is further submitted the further allegations in para 7 are denied and the applicants are put to strict proof of the said allegations. In any case, after the objections were made, the piling of debris was stopped during the second week of July 2022 and thereafter did not resume and only the actions of removal was taken place after that. Further, the site identified for the dumping of the debris was far away compared to the place of excavation and the one acre plot and therefore the time taken for removal of



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Sr. Manager

the debris was more than the time taken for the piling of the debris. This respondent also denies the allegation of altercation etc between the second respondent and the applicants and put the applicants to strict proof of such an allegation. Had there been any altercation or intimidation, then the applicants would have immediately resorted to the due process of law.

15. As far as the averment contained in para 8 of the application is concerned it is once again reiterated that the piling up of the excavated debris ceased from the second week of July 2022 and thereafter only the removal was taking place. The applicants in the mistaken notion that the debris was dumped started making repeated representations.

16. This respondent further submits that in para 9, 10 of the application the applicants have stated the prevalent rules with reference to the Construction and Demolition Waste management. However, it is pertinent to note that the piling up of the debris in the one acre plot identified by the first respondent to the second respondent and other contractors was done as the said one acre plot was identified by the first respondent for that purpose. Further with reference to the further allegation it is once again reiterated that after the second week of July 2022 upon receipt of oral objections



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Sr. Manager

from the inhabitants from the locality, such dumping had stopped and ceased and thereafter only onward movement of the debris from the one acre plot continued.

17. As far as the averments contained in para 12 of the application is concerned, the piling up of the debris that too as a temporary measure at the one acre plot was stopped during the second week of July 2022 upon receipt of objections from the inhabitants of the locality and did not resume thereafter. In any case, proper covering of the lorries transporting the debris when they made their onward journey from the one acre plot had been made prior to the movement of the lorries. Further, the elevation of said area did not increase. Further, only the excavation materials were stored as temporary measure in the one acre plot and no sullage was dumped there as there was no reason to do so. The work allotted to this respondent was only in respect of the storm water drain and not pertaining to the sewage system as the sewage in the Chennai City is within the jurisdiction of CMWSSB. In any case, the one acre plot has been properly leveled and all the debris cleared.


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Sr. Manager

18. It is further submitted that this respondent has not done anything illegal and has piled up the debris in the one acre plot only as a temporary measure as the said site was referred to and identified by the first respondent initially and in any case, the said one acre plot has been restored to its original condition and further even in its original condition it very much low lying and now the same has been leveled to be maintained in a proper manner.
19. As far as the ground a, b, c and d raised is concerned, it is submitted that the one acre plot was used only as a temporary measure and in any case, the piling of the debris in the said plot stopped from the second week of July 2022 and in order to ensure that the entire storm water work was completed before the onset of monsoon of the year 2022, such temporary measure was adopted and even then the work of removal from the site was done during the night times.
20. As far as the ground e, f, g is concerned, it is again reiterated that the one acre plot was used only as a temporary measure and in any case, the piling of the debris in the said plot stopped from the second week of July 2022 and in order to ensure that the entire storm water work was completed before the onset of monsoon of the year 2022, such temporary measure was



Chitwan
Sr. Manager

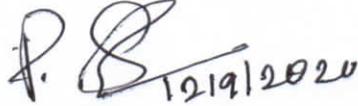
adopted and even then the work of removal from the site was done during the night times. In any case, the waste could not be processed or segregated on site due to the fact that the waste was generated by digging on the road for the construction of Storm water drains and segregation of the waste onsite would have severe repercussions on the traffic movement in the said area. In such circumstances, there is no abdication of responsibilities by either the first and second respondents herein.

21. It is further submitted that it is the contention of the applicants that the debris has not been sorted out when it was piled in the one acre plot as a temporary measure. However, since the one acre plot was used only as a temporary measure that too with the debris being moved out of the one acre plot during the night times, such segregation was not done. In such circumstances, the segregation of the debris was not done as the one acre plot was used only as a temporary measure and not as a permanent debris storage site and therefore there is no violation of law by this respondent.
22. In such circumstances, considering the fact that, all the debris has been removed, nothing survives in the petition filed by the applicants herein.

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Sr. Manager

It is therefore most respectfully prayed that this Hon'ble Tribunal may be pleased to pass an order to dismiss the present application and thus render justice.

Dated at Chennai this the 20th day of January 2023.


12/19/2020

Counsel for the second respondent.




Sr. Manager
Second Respondent.

VERIFICATION.

I, Chitra Devi, W/o.Bhoopathi, aged about 54 years and holding office as Senior Manager with the second respondent herein and with my office at No.87/2-A, P & C Garden, Nolambur, Mogappair West, Chennai 600 037., do hereby affirm and declare what has been stated above are true to the best of my knowledge and belief.

Verified at Chennai, this the 20th day of January 2023.




Sr. Manager
Second respondent.

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Dr.C.Manohar, M/A-66 years,
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And 3 others.

Applicants.

Vs

The Corporation of Chennai and
2 others.

Respondents.

**COUNTER FILED BY THE
SECOND RESPONDENT.**

**M/s.A.THIRUMARAN,
K PURUSHOTHAMAN,
P SIVARAMAN.**

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