

BEFORE THE NATIONAL GREEN TRIBUNAL SOUTHERN ZONE,
CHENNAI

Original Application No.61 of 2022 (SZ)

IN THE MATTER OF:

Mugasi Anumanpalli Village Panchayat, Rep. by its

President Erode District and Ors.

...Applicant(s)

Versus

Union of India, MoEF&CC, Through the Secretary,

New Delhi and Ors.

...Respondent(s)

MEMO FILED ON BEHALF OF MOEF and CC

It is respectfully submitted that as per order dated 06/12/2022 this Hon'ble Tribunal passed the following order,

"ORDER 1. The impleadment application [I.A. No.167 of 2022 (SZ) in O.A. No.89 of 2022 (SZ)] is allowed, as the said applicant is already a party in the connected case viz., O.A. No. 61 of 2022 (SZ). 2. It is also stated that W.P. Nos.19472 of 2022 and 19548 of 2022 are filed by the Tamizhaga Vivasayigal Sangam for a mandamus that the LBP Scheme should be implemented and the result is pending. Page 3 of 3 3. If the said writ petition which is the subject matter of G.O. (Ms.) No.276 Public Works Department dated 09.11.2020 is upheld by the Hon'ble High Court, these Original Applications either would be rendered redundant or the same would have a bearing on entertaining these applications. It is also stated that those writ petitions are being listed on 20.12.2022. Hence, both these Original Applications may be listed on January 2023. 4. Post the matter on 20.01.2023. Sd/- Smt.Justice Pushpa Sathyanarayana, JM Sd/- Dr. Satyagopal Korlapati, EM O.A. No.89/2022(SZ) I.A. No.167/2022 (SZ) O.A. No.61/2022(SZ) 06th December, 2022. Mn"

The Hon'ble Division Bench comprising of THE HON'BLE MR.T.RAJA, ACTING CHIEF JUSTICE AND THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY in W .P.Nos.1 9472 and 19548 of 2022, (Judgment is attached for reference)

The Hon'ble Division Bench while passing the order considered the pendency of the case before the NGT as per submission of the counsel at

"19. Mrs.G.Thilakavathi, learned Senior Counsel appearing on behalf of respondents 11 to 14 in W.P.No.19472 of 2022, submitted that the subject-matter of the present writ petitions is sub judice before the National Green Tribunal in O.A.No.61 of 2022 (SZ) and O.A.No.89 of 2022 (SZ), wherein also the challenge is to the proposed project of extension, renovation and modernization of Lower Bhavani Sub Basin Project System running through Erode, _____ Page 18 of 29 <https://www.mhc.tn.gov.in/judis> W.P.Nos.19472 and 19548 of 2022 however the writ petitioners have deliberately concealed the said fact in the writ petitions."

The operative portion the Judgment is at para 30 and also extracted herein for the Hon'ble Tribunal's Consideration as follows,

<30. That apart, in the status report filed by the 10 th respondent, it has been stated that both the groups of farmers have given their consent for renovating all the existing age old cross _____ Page 24 of 29 <https://www.mhc.tn.gov.in/judis> W.P.Nos.19472 and 19548 of 2022 masonry structures and the sluices and, hence, those works can be carried out based on the existing government order from 1.5.2023. The relevant portion of the status report is extracted hereunder: "13. at present water is being released in the canal and the irrigation period ends on 30.04.2023. Both the group farmers have given their consent for renovating all the existing age old cross masonry structures and the sluices. Hence these works can be carried out based on the existing G.O. from 01.05.2023. Meanwhile the department is taking all efforts to convince both the groups for constructing protection wall in the vulnerable embankment reaches, so as to ensure safety of the canal and the required supply at the tail end. By implementing this project as mentioned above, the law and order problems can be avoided." 31. In the case on hand, the basis for the issuance of G.O.Ms.No.276, Public Works (W1) Department, dated 9.11.2020, is the report submitted by a Seven-Member Committee consisting of experts in the field. When such Committee after due deliberation has opined that the Lower Bhavani Project main canal may be lined _____ Page 25 of

29 <https://www.mhc.tn.gov.in/judis> W.P.Nos.19472 and 19548 of 2022 in the modernization programme in order to reduce the seepage and to carry the water to the tail end faster, which report was accepted by the Government, this Court exercising jurisdiction under Article 226 of the Constitution of India cannot sit in appeal over such opinion expressed by the experts in the field, merely because it is to the disadvantage of respondents 11 to 19. We do not find any reason to interfere with the decision taken by the Government based on such report of the Seven-Member Committee. For the foregoing reasons, we allow the writ petitions and direct the respondent authorities to proceed with the works from 1.5.2023 based on the existing government order. There will be no order as to costs. Consequently, W.M.P.Nos.18765, 18766, 18834 and 18838 of 2022 are closed. (T.R., ACJ.) (D.B.C., J.) 31.03.2023."

Hence it is respectfully submitted that in view of the above judgment passed by the Hon'ble High Court of Madras, nothing survives in the above OA's pending on the file of this Hon'ble Tribunal and accordingly it may be closed.

Dated at Chennai on this 26 th day of May,2023.



Counsel for the 1st Respondent

MOEF & CC

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