

BEFORE THE NATIONAL GREEN TRIBUNAL

SOUTHERN ZONAL BENCH AT CHENNAI

O.A. NO... 1 2of 2020 [SZ]**BETWEEN**

IN THE MATTER OF:

Tribunal on its own motion Suo Motu
based on the news item in Mathrubhumi,
Malayalam newspaper dated 19.01.2020,
“The removal of debris in *Maradu* not according
to Norms – National Green Tribunal”.....Applicant(s)

With

Government of Kerala,
Rep. by its Chief Secretary, Secretariat,
Central Stadium, Mahathma Gandhi Road,
Near Junction, Palayam, Thiruvananthapuram
Kerala and Ors.....Respondent(s)

**OBJECTION TO THE REPORT OF THE KERALA STATE
POLLUTION CONTROL BOARD FILED BY THE 4TH RESPONDENT
IN COMPLIANCE WITH THE ORDER DATED 30-11-2023**

1. The copy of the Report filed by Chief Environmental Engineer, Regional Office, Ernakulam filed on behalf of the Kerala State Pollution Control Board, Ernakulam dated 27TH January, 2024 was served on this counsel for the respondent on 29-01-2024. The facts and averments contained therein are contrary to law and the records filed before this Hon'ble Tribunal.




Secretary
Maradu Municipality

2. It is respectfully submitted that this Hon'ble Tribunal has taken cognizance of the fall of debris on the backwaters and it was removed. There is no damage to any aquatic resources on account of the said small quantity of the said debris fallen. Thus, there is no loss caused to the environment on account of the said debris fall.
3. Without prejudice to the above it is respectfully submitted that the guidelines prescribed for assessing damages with respect to municipal waste cannot be used to determine the damages under the Construction and Demolition Waste Management Rules, 2016 (CDWMR). The Construction and Demolition Waste Management Rules, 2016 and the Solid Waste Management Rules, 2015 were enacted in supersession of the Municipal Solid Waste (Management and Handling) Rules, 2000 (SWMR). When there is separate Rules for different kind of wastes generated and prescribe different methods for handling and different kinds of duty for handling the waste the special rules intended for that kind of waste to be followed. As per Rule 15 (s) of the SWMR the transport construction and demolition waste should be as per the provisions of the Construction and Demolition Waste management Rules, 2016. Therefore, the adaption of the same method for the calculation of Environmental Compensation is unacceptable.




Secretary
Maradu Municipality

4. It is respectfully submitted that the Kerala State Pollution Control Board has issued authorisation to the agency who obtained contract for removal of debris from the demolition site on 28-01-2020. The demolition has taken place on 11-01-2020 and 12-01-2020. No notice alleging violation of the Rules has been issued to M/s. Prompt Enterprises who was managing the waste for the reason that there is no violation. The KSPCB ought to have acted against them if they have violated the authorisation issued to the said agency. Having issued authorisation to the said agencies the KSPCB is estopped from acting against this Maradu Municipality which has not violated any law.
5. It is respectfully submitted that Hon'ble Supreme Court of India, in Civil Appeal Nos. 4784-4785, 4786-4789, dated 8th May, 2023, directed the demolition of four multistoried buildings. The said direction is not to this Maradu Municipality. When the said buildings were not removed proceedings were initiated against the State of Kerala. The Government of Kerala appointed a Committee, G.O.(Rt)No. 2193/2019/LSGD, dated 05-10-2019, consisting of six technical members which includes the Environmental Engineer of the Kerala State Pollution Control Board. In accordance with their directions the buildings were demolished on 11-1-2020 and 12-1-2020 by an expert agency appointed by the Government.




Secretary
Maradu Municipality

6. A news report was published in the *Mathrubhoomi* dated 19-1-2020 stating that there is violation of the disposal of construction and demolition waste. It is based on the observation of Hon'ble Justice Sri.A.V.Ramakrikshna Pillai who was heading a Committee for the implementation of Construction and Demolition Waste Management Rules, 2016, O.A.No.606/2018 of the Principal Bench. This Hon'ble Tribunal by order dated 22-01-2020 appointed a Joint Committee which includes the Secretary of Maradu Municipality, Chief Environmental Engineer Kerala State Pollution Control Board, District Collector and Sub-Collector. The said Committee has been nominated to supervise the work of demolition and removal of waste by the Government. They are also authorised to suggest/recommend necessary pollution control measures to arrest the pollution caused on account of noise and dust pollution and remove the construction waste that has fallen in the backwaters so as to protect the backwaters from encroachment and submit a factual and action taken report.
7. It is respectfully submitted that the entire waste is removed on the basis of the directions from the said Committee wherein this Maradu Municipality is only a member. Therefore, no decision could be taken at any point of time by this Secretary alone. None of the authorities including the Chairman of the State Monitoring Committee has pointed out any violations at any point of time.
8. In this regard it is profitable to refer to the report of the Joint Committee dated 27-10-2020 where it has been categorically found that the mission vested with the Maradu Municipality was properly completed. The




Secretary
Maradu Municipality

directions issued by the State Pollution Control Board was followed. At no point of time no directions were issued by the both the Committees any violation of any of the provisions. The said portion of the report is extracted below:-

The mission vested with the Maradu Municipality was properly completed. It is hereby specified that the directions and supervision of the State Pollution Control Board were available for the Maradu Municipality in consonance with the removal of debris and it was helpful for the completion of this huge task. As part of preliminary estimate 76300 metric tonnes of waste was in calculation, but only 69600 metric tonnes were removed from various sites.

9. It may also be noted that only little time is available for the demolition of the building and the estimation was done with the said available time. Thus, there is no question of any damages to the ecology so as to determine the environmental compensation. The Chief Environmental Engineer, Kerala State Pollution Control Board in its report dated 30th March, 2023 has found that entire waste generated was disposed of as per law. Thus, no compensation could be imposed on the Maradu Municipality.

10. Therefore it is prayed that the said report dated 27th January, 2024 submitted by the Kerala State Pollution Control Board be rejected.

Dated this the 30th January, 2024




Secretary
Maradu Municipality

VERIFICATION

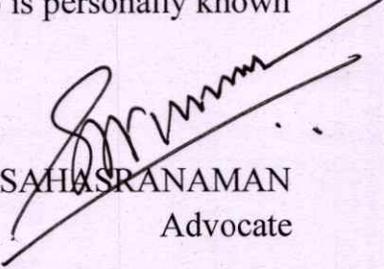
I, Nassim.E, aged 50 years, son of M.Ebrahmkunju Secretary, Maradu Municipality do hereby solemnly affirm and state that what is stated above is true and correct as per the records maintained in the office and the point regarding law has been made on the advice of my counsel.

Maradu Municipality:




Secretary
Maradu Municipality
Deponent

Solemnly affirmed and signed before me by the deponent who is personally known to me at Ernakulam on this the 30th January, 2024..


P.B.SAHASRANAMAN
Advocate