

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
SOUTHERN ZONE, CHENNAI**

in

ORIGINAL APPLICATION NO.12/2020(SZ)

Applicants(s): Tribunal on its own motion "Suo Motu" based on the News item in Mathrubhumi, Malayalam Newspaper dt:19.01.2020, "The removal of debris in Maradu not according to Norms-National Green Tribunal".

Versus

Respondents(s): The Chief Secretary, Kerala & others

VOLUME 1

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Dated this the 23rd day of October 2020

Rema Smrithi, Advocate
ADDITIONAL STANDING COUNSEL FOR THE RESPONDENT

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**STATUS REPORT FILED BY THE CHIEF ENVIRONMENTAL
ENGINEER ON BEHALF OF KERALA STATE POLLUTION CONTROL
BOARD AS PER THE ORDER DATED 11.08.2020 IN THE ABOVE
APPLICATION**

Adv.Rema Smrithi.

ADDITIONAL STANDING COUNSEL FOR THE RESPONDENT:

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL, SOUTHERN
BENCH, CHENNAI**

IN

ORIGINAL APPLICATION NO 12/2020 (SZ)

Applicant(s) : Tribunal on its own motion "Suo Motu" based on the News item in Mathrubhumi, Malayalam Newspaper dt: 19.01.2020, "The removal of debris in Maradu not according to Norms – National Green Tribunal".

Versus

Respondent(s) : The Chief Secretary, Kerala & others

**STATUS REPORT FILED BY THE CHIEF ENVIRONMENTAL
ENGINEER AS PER THE ORDER DATED 11.08.2020 IN THE ABOVE
APPLICATION**

I, Baiju M.A, 54 Years S/o M.K Aravindakshan, the Chief Environmental Engineer, Regional Office, Ernakulam, also Nodal Officer of the committee constituted by the Hon'ble National Green Tribunal as per the order dated 22.01.2020 in O A 12 of 2020. I know the facts and circumstances of the case. The factual submissions made hereunder are true and correct to the best of my knowledge, information and belief. In these circumstances it is just and necessary that the Hon'ble Tribunal may be pleased to accept the accompanying additional report on file as submitted by me on behalf of the Board and it is so humbly prayed in the interest of justice in this case.

1. I may humbly submit that this case has been originally taken "Suo Motu" by the Hon'ble Tribunal, Southern Bench on the basis of the paper report published in Mathrubhumi Daily dated 19.01.2020 under the caption "*The removal of debris in*




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Maradu not according to Norms- National Green Tribunal" Monitoring Committee Chairman Justice A.V.Ramakrishna visits Maradu" and posted on 18.03.2020 directing that a Committee shall be constituted in which The District Magistrate, Sub Divisional Magistrate and the Secretary, Maradu Municipality were members in addition to the Chief Environmental Engineer, Regional Office, Pollution Control Board as its Nodal Officer and to file status report.

2. It is respectfully submitted that the Committee had primarily filed its report on 12.03.2020 explaining the status of removal of debris at that time. A separate report was filed by the Chairman, SLMC explaining his views on the activities of removal of debris. Thereafter, the Hon'ble Tribunal heard these statements on 14.05.2020 and directed that updated status report shall be filed within two months of the order and posted the case on 30.07.2020 and which was then adjourned to 11.08.2020.

3. It is respectfully submitted that a report was filed by the Committee on 24.07.2020 explaining the decisions taken during the meeting convened by the Committee on 18.06.2020. At this juncture, the Chairman, SLMC had instructed the Chief Environmental Engineer, the Nodal Officer of the Committee to enquire about a complaint raised by some local public who belong to fisherman community that the Municipality had failed to completely remove the debris from the Kayal. Though the Chairman was intimated about the completion report submitted by the Secretary with respect to removal of debris from all the four sites, he insisted to carry out further enquiry on the specific point raised by the complainant that the debris remains were still there in the backwater and confirmed during the inspection conducted along with the Nodal Officer on 26.07.2020 that the complete removal was not effected. Hence the Nodal Officer himself individually intimated the Hon'ble Tribunal through a report dated 28.07.2020 about the actual situation experienced there during the inspection conducted along with the Chairman, SLMC mentioned above. It may humbly be noted that this report was filed individually by me since the Hon'ble Tribunal specifically allowed through the order dated 14.05.2020 that *"Pollution Control Board is also at liberty to file independent report as well so as to enable us to assess the present status."* It may also important to note that the Chairman, SLMC also submitted his findings vide the report dated 27.07.2020

4. It is respectfully submitted that the Hon'ble Tribunal during hearing convened on 11.08.2020 stated and directed as follows

"It is also seen from the report submitted through Pollution Control Board that here are certain violations and the Maradu Municipality as well as project




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proponent did not strictly comply with the directions issued by the monitoring committee pointed by this Tribunal and non-compliance of the Construction and Demolition Waste Management Rules, 2016 and they also submitted that there are certain remnants of the demolition waste found in the nearby Kayal and there is no methodology provided for assessing compensation and they will recover the amount, after getting necessary guidelines and also taking steps to remove remnants seen in the Kayal. It may be mentioned here that the guidelines provided by Central Pollution Control Board in violation cases for assessing Environmental compensation will be strictly applicable to those who are likely to cause pollution as well. Maradu Municipality is also duty bound to monitor the implementation of the Construction & Demolition Waste Management Rules, 2016 when they are giving "authorization" on the basis of the Management Plan provided by the project proponent for that purpose. It is seen from the report of Chairman, State Level Monitoring Committee and also by Pollution Control Board that necessary registers were not properly maintained by the service provider who are engaged in the demolition process in removing the waste collected due to demolition. Log books were not properly maintained to ascertain how the waste has been disposed of. There is nothing to show whether the authenticity of the particulars given by the project proponent is genuine or not and whether any independent enquiry was conducted by the regulators in this regard as well.

So under these circumstances, we direct Pollution Control Board to apply the guidelines provided by the National Green Tribunal on the basis of the guidelines of the Central Pollution Control Board to assess compensation for the violation found by them against the Maradu Municipality as well the project proponent in accordance with law, after giving reasonable opportunity before fixing compensation.

Mr. Sahasranaman, learned counsel appearing for fourth respondent – Maradu Municipality submitted that they are strictly adhering to the provisions of the Construction & Demolition Waste Management Rules, 2016 in respect of the disposal of the waste collected. Even if there are any lapses regarding the disposal of debris said to have been done it was due to the shortage of time fixed by the Honourable Apex Court for carrying out the operation.

It may be mentioned here that the Apex Court also did not say that they are not bound to follow the rules. They are expected to follow the Rules within the time frame provided by the Apex Court for carrying out the operation especially




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regarding disposal of the debris collected due to demolition in an environment friendly manner, as provided in the above provisions.

So we direct Maradu Municipality also to produce all the necessary documents as to how they have monitored and satisfied with the compliance of the said Rules and the plan provided as required under the Rules by the project proponent. The committee is directed to file further report as per the observations made within a period of two months. Maradu Municipality is also directed to produce documents before the Pollution Control Board and before the committee. The committee can consider the question and submit a detailed report to this Tribunal on or before 28.10.2020. The Chairman State Level Monitoring Committee appointed in OA 606/2018 is required to monitor the same and submit an independent report regarding the same.

The Registry is directed to communicate this order to the members of the committee and also Chairman of the State Level Monitoring Committee appointed in O.A.No.606 of 2018 immediately by e.mail so as to enable them to comply with the direction”.

It is respectfully submitted that the Nodal Officer has issued a letter to the Secretary, Maradu Municipality on 24.09.2020 pointing out the non-compliance of the direction of the Hon'ble Tribunal regarding the submission of the action plan/action taken report about the removal and transfer of debris from Kayal and reminding to submit the consolidated report on the actions completed. In response to the letter, the Secretary, Maradu Municipality had submitted a letter dated 13.10.2020 intimating the completion of the removal of debris, the main content of which is as follows:

“The measures to redress the environmental issues and related matters in connection with the demolition of flats-Apartments had been adopted within the purview of Maradu Municipality itself. At present, the works in connection with the removal of debris has been completed. It is also hereby reported that, the service providers have completed the removal of debris as per the agreement entered with maradu Municipality and the Municipality has given completion certificate to them in this regard.



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A copy of the letter submitted by the Secretary, Maradu Municipality is produced herewith and marked as **Annexure A**.

5. It is respectfully submitted that though the committee members were intimated regarding the importance of convening a meeting of the committee to discuss about the actions already completed to remove all the debris from the demolition sites especially from the Kayal, the restrictions imposed due to lockdown and the widespread of COVID-19 during the last couple of months restricted the committee in convening meeting before the allowed time of two months from the date of the order ie, 11.10.2020 by the Hon'ble Tribunal. However, the following specific points are identified after visiting the site on 03.09.2020 and 12.09.2020 by the Surveillance team of the Pollution Control Board and on 30.09.2020 along with the Chairman, SLMC.

i). Though the Secretary, Maradu Municipality was asked to submit action plan for the removal of debris remains after this has been identified by the Chairman, SLMC during his visit on 30.09.2020, this has not been submitted prior to removal of debris from Kayal and hence the disposal sites could not be identified in advance.

ii). Total quantity of debris removed from the Kayal after 18.06.2020 could not be verified as no logbook were kept there or not produced before the Pollution Control Board or before the Committee as directed by the Hon'ble Tribunal.

iii). Though the Secretary, Municipality was specifically asked to report about the disposal of dredged debris and mud as seen during the visit of the Chairman, SLMC, no such details are submitted till date before the Pollution Control Board. It is also important to note that the committee was convened on 22.10.2020 to discuss the future course of actions to be initiated in this case and to finalize the report of the Committee. Since some more corrections are suggested by the Secretary, the report should be finalized after redrafting it and getting it approved by each member of the Committee.

Copy of the letter dated 12.09.2020, report dated 02.10.2020 submitted by the Chief Environmental Engineer, Kerala State Pollution Control Board (Nodal Officer) before the Chairman, SLMC and attendance sheet of the meeting convened on 22.10.2020 are produced herewith and marked as **Annexure B, C & D** respectively.

6. I may humbly submit that though the Board had instigated action to obtain specific advice/ guidelines from CPCB on imposing environmental compensation for the violations committed by the Secretary, Maradu Municipality if any by way of not submitting periodical reports viz. Action plans, Data on removal and disposal of




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steel as well as concrete debris, Replies to the queries raised by the Board etc., no such specific guidelines or model calculations are obtained or available for the same and is not found to be practiced anywhere. On receiving such a document the shortfalls/violations committed the Maradu Municipality if any on complying with specific provisions of the said Rule ie, the C&D Waste Management Rules 2016 will be addressed accordingly.

7. It is also respectfully submitted that, as the Chief Environmental Engineer on behalf of the Board and as the Nodal Officer of the Committee I have carried out the duties assigned delemently to ensure all the provisions of the Construction & Demolition Waste Management Rules, 2016 to the maximum extent possible and the shortfalls if any will be addressed after discussed in detail during next State Level Monitoring Committee forum.

Dated this the 23rd October 2020.




Chief Environmental Engineer

KSPCB, Ernakulam **M. A. BAIJU**
Chief Environmental Engineer