

**BEFORE THE NATIONAL GREEN TRIBUNAL (SZ) CHENNAI**  
**MEMORANDUM OF APPLICATION**  
**(Under Section 18(1) read with Sections 14, 15 of National Green Tribunal Act, 2010)**

**Application No. 20 of 2022**

**IN THE MATTER OF:**

S.Easwaramoorthy

... Applicants

VERSUS

The Tamilnadu Pollution Control Board & Ors

.. Respondents

**INDEX**

<b>SI No.</b>	<b>Description</b>	<b>P No.</b>
1	Preliminary Reply	1
2	Links to videos - Pendrive filed in Court	8
3	Test report	9
4	Filter paper from (filed separately before the Court)	Nil

Dated this the 10<sup>th</sup> day of March, 2023 at Chennai

Counsel for the Applicants

**BEFORE THE NATIONAL GREEN TRIBUNAL (SZ) CHENNAI**  
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**(Under Section 18(1) read with Sections 14, 15 of National Green**  
**Tribunal Act, 2010)**

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**Preliminary Reply filed by the Applicant to the counter affidavit  
of the 3<sup>rd</sup> respondent and the report of the Joint committee**

I, S.Easwaramoorthy S/o Semalaiyappa Gounder, residing at 15/74, Avinashipalayam Pudur, Vattamalai village, Kanagayam Taluk, Tirupur District – 638701 solemnly affirm and sincerely state as follows:

1. I am the applicant herein. I am aware of the facts and circumstances of the case and competent to affirm this affidavit.
2. I deny the entire contents of the counter affidavit filed by the 3<sup>rd</sup> respondent industry and the report filed by the Joint committee constituted by this Hon'ble Tribunal as false, except to the extent expressly admitted hereunder. I reserve my right to file a detailed reply, if so necessary.

**Joint committee report**

3. It is submitted that the undated report signed on 01.08.2022 is completely false. The committee has gone to extreme lengths to attempt to deny a problem that is easily demonstrable. The committee members have also levelled allegations against the

*S. Easwaramoorthy*

applicant. The committee members are put to strict proof of these allegations and the statements made in the report.

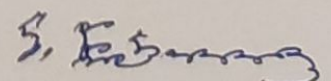
4. It is submitted that the main issue in the present case is the emission of fine ash/ coal dust from the 3<sup>rd</sup> respondent industry which is situated adjacent to the applicant's house and lands. There is no buffer, no greenbelt and the stack emissions, fugitive emissions settle on the applicant's trees, house, solar panels etc. In order to ascertain this, this Hon'ble Tribunal directed the use of a high volume sampler, analysis of the dust etc. However, this was not done by the committee.
5. It is submitted that the area where the industry is situated is an agricultural area. There are no major roads, no traffic and there is no other industrial source of emissions.
6. At page 6 of the committee's report at serial number 6, the committee states,

" There is no black deposit observed on the top of the leaves, whereas the bottom leaves in some of the coconut trees found with black deposit. This black deposit is due to Black fungus and indicates that no carbon particle deposit from the unit."

The committee further states,

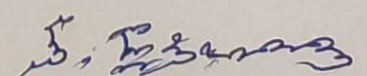
" In the tree leaves fully covered looks like Black soot and initially it was observed in bottom of the leaves, at the severe stages its appear in upper side of the leaves also."

7. This statement is evidence of the falsehood that permeates the entire report. The committee also attributes the black deposits on the bottom of the leaves to a black fungus. It is interesting that the 3<sup>rd</sup> respondent industry in its counter filed in May 2022 has made



the same allegation regarding black fungus. The committee did not conduct any test but makes a bald statement that the member of the agricultural department has confirmed that it is a fungal effect on the coconut trees. However, the letter of the Agricultural department dated 22.06.2022 filed along with the report states that the leaves appeared naturally green. There is no mention of black fungus. The other plants in the applicant's farm, along the 3<sup>rd</sup> respondent industry is also impacted by black colour deposition.

8. While filing the OA, I had inter alia filed photos and videos the trees on my land. It can be very clearly seen that the black deposit on the leaves is on the top of the leaves and not the bottom of the leaves. The exposed surface is covered with black deposits.
9. Moreover, the underside of the leaves, as shown in the video did not contain black deposits – according to the committee it starts at the bottom of the leaves and in severe stages seen on the upper side.
10. I had filed leaves along with the OA but those leaves would have decayed now and the I can produce fresh leaves for inspection of this Hon'ble Tribunal. Screenshots from a video taken on 31.12.2021 are filed to show that the committee's statement is false. A video call from the site will also show the status as it is at the moment.
11. The committee thereafter points to an alleged 20 locations where they found "burned patches & traces of coconut leaves and shells". It is submitted that my farm is about 11 acres. The committee obviously does not seem to have any idea of farming practices. The location of these "burned patches" have not been provided and it is preposterous for the committee to compare a few small spots where farm waste is burnt to the 3<sup>rd</sup> respondent industry and the committee has not stated how they come to the conclusion, if any



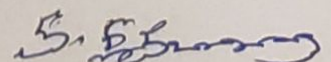
that this alleged burning of leaves results in the deposition of carbon particles on the house, leaves etc.

12. The committee also makes the allegation that the applicant intentionally created black deposit to show the committee. Such allegations are serious and needs to be made with utmost seriousness and evidence. In support of this contention, the committee states that while carbon deposit was found on the table & sofa, it was not found in the beading and sides of the sofa or table.
13. It is submitted that suspended particulate matter will settle on flat surfaces. It is elementary. It is submitted that photos of videos of the surfaces have been filed along with the application and the situation as it is today can be seen by anybody.
14. The committee's contention that there was no carbon deposit in the sheet in front of the house is completely false. Photographs and videos taken today are produced, which speaks for itself.
15. It is submitted that the committee's entire report is manufactured to aid the 3<sup>rd</sup> respondent. It is unfortunate that the committee has failed to report true and correct facts.
16. It is submitted that the applicant contacted several labs to conduct analysis and finally the Cochin test house, a laboratory approved by the Kerala State Pollution control board conducted analysis using a sampler – it is a machine that sucks air and is passed through a filter paper. The particulate matter in the air is trapped by the filter paper and it is weighed and analyzed. The same equipment is used by the TNPCB or any of the labs to perform air quality analysis. The equipment was placed where it could be monitored continuously by CCTV and it was operated from 05.03.2023 - 06.03.2023 and the filter paper is sealed in a cover and presented to this Hon'ble

*S. B. B. B.*

Tribunal. Analysis was conducted from 06.02.2023 – to 07.03.2023 and was subjected to testing. The test report dated 08.03.2023 is shows that PM 10 levels were 177.31 ug/m<sup>3</sup>, which is more than the 100 ug/m<sup>3</sup> limit.

17. This case is not about the exceedance but the presence of carbon particles in the emission from the industry. If the Hon'ble Tribunal sees the filter paper, the deposit of black colour matter is evident. It is necessary to bear in mind that there is no other industry nearby or roads or traffic. It is in the midst of agricultural lands. Even the AAQ results in the report state that SPM levels were 88.4 ug/m<sup>3</sup>. The CCTV video of both days of monitoring is uploaded on a drive link and available at <https://drive.google.com/drive/folders/1xSVvWMhQ17OgfJ8oiW51qZG1SgMoMYZK?usp=sharing>
18. The allegation that the applicant intentionally created carbon deposits is preposterous, untrue and utterly in bad taste. The sampling result above and the filter paper clearly shows the presence of black suspended particles in the air. The committee ought not to have made such allegations. The committee also failed to note that even the TNPCB, as early as 10.01.2020, much before the filing of the OA, in its inspection report records that fine ash/coal dust deposition was noticed in the nearby coconut farm.
19. It is submitted that the averments made in the appeal may be looked into – the industry has no buffer, no green belt and the mere alleged presence of pollution control equipment is insufficient – the presence of pollution and its impact is clear.
20. It is submitted that the committee's report deserves to be rejected and this Hon'ble Tribunal ought to take a serious view of officers filing such reports.



**Counter filed by the 3<sup>rd</sup> respondent**

21. The contents of the counter affidavit are denied as false. It is submitted that the self serving averments made by the 3<sup>rd</sup> respondent are not germane to the present proceedings.
22. It is submitted that para 3 (I,II,III) are denied as false and it is submitted that the alleged fly and mold fungus infestation is denied as false and it is stated that the 3<sup>rd</sup> respondent through its stack and fugitive emissions continues to emit carbon laden emissions that settles all over the applicant's property. It is submitted that even assuming that some insect / infestation is present, it does not take away the fact that the 3<sup>rd</sup> respondent is polluting – these fly or mold do not in any way cause the deposition of carbon particles observed on the applicant's house. These contentions are made by the 3<sup>rd</sup> respondent only to distract from its violations. The 3<sup>rd</sup> respondent has not responded to the allegations made in the OA filed by me.
23. In so far as the contents of para IV are concerned, it is submitted that those proceedings related to charcoal manufacturers from coconut shells and hence this Hon'ble Tribunal observed that this industry was not relevant to that case. In the said judgment, this Hon'ble Tribunal was not concerned with nor did it examine the pollution caused by this industry.
24. In so far as para V is concerned, it is submitted that the existing situation proves that the clean chit given by the TNPCB is false and the proceedings before the Hon'ble High court did not scrutinise or examine the reports of the TNPCB etc.
25. The contents of para VI are denied as false and it is submitted the most proximate cause of pollution is the 3<sup>rd</sup> respondent. Reliance on this report is not relevant.

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26. The contents of para VII to X are denied as false. It is submitted that the alleged benefits of activated carbon, which is the product does not negate the environmental impacts caused or the pollution suffered by the applicant. It is reiterated that self-serving description of processes do not substitute facts – the facts on ground speak for itself and is evidence that the 3<sup>rd</sup> respondent has been causing pollution.
27. The contents of para XI are denied as false and it is submitted that the it has become a matter of routine for polluters to make such allegations against people who approach courts.
28. It is submitted that there is ample evidence of particulate matter pollution by the 3<sup>rd</sup> respondent and the OA may be allowed as prayed.

It is therefore prayed that this Hon'ble Tribunal be pleased to take these submissions on record and allow the OA and pass such order or orders in the interest of justice.

Solemnly affirmed and signed his  
Name this the 10<sup>th</sup> day of March, 2023  
At Kanayam, Tiruppur Dt -



BEFORE ME

*[Signature]*  
Advocate : \_\_\_\_\_  
**K. KANDASWAMY, B.A., B.L.,**  
**ADVOCATE & NOTARY PUBLIC**  
66, Rajaji Street, Kangayam - 638701,  
Tiruppur Dt, Tamil Nadu South India,  
G.O.M.S No.182/2020  
E.No. 227/1975

Links to videos and photos

Link to videos filed along with the OA

<https://drive.google.com/drive/folders/1gC-Z7HDC8MUz4sip21obv8N47IKI0g78?usp=sharing>

Link to CCTV video of Sampler on 5.03.2023 – 07.03.2023 and Video of Sheet roof taken on 10.03.2023

<https://drive.google.com/drive/folders/1xSVvWMhQ17OgfJ8oiW51qZG1SgMoMYZK?usp=sharing>



# COCHIN TEST HOUSE

ANALYTICAL SERVICES & TESTING LABORATORY

V / 78, Kollanpady, Murungeliparambu Road, Irumpanam P.O., Kochi - 682 309

Mob.: 9446332556, 9846551014, 9387381780. Tel.: 0484 - 2782672

E-mail: cochintesthouse1@gmail.com, info@cochintesthouse.in. Web: www.cochintesthouse.in



TC - 7720

Laboratory Approved by Kerala State Pollution Control Board ('A' Grade)

## AMBIENT AIR QUALITY MONITORING REPORT

Page 1 of 1

Report No: CTH/LR/23/03/544

Issue Date: March 08, 2023

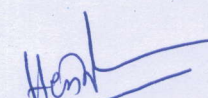
Unique Lab Report Number	TC772023000000544F
Name & Address of the customer	Mr. S.Eswaramoorthy S/o. Semalaippa Gounder, Don.15/74, Avinashipalayam (P.O), Kangayam, Tirupur District - 638701
Monitored By	Cochin Test House
Lab Identification No.	23/03/544
Identification of Sample	Ambient Air Quality Monitoring
Environmental Conditions	Sunny Day
Location of Sampling	Near House
GPS Coordinates	Lat 10.953539 <sup>0</sup> ; Long 77.565899 <sup>0</sup>
Date of Monitoring	06.03.2023 – 07.03.2023
Date of Analysis	08.03.2023

Sl. No.	Parameters	Unit	Method	Result	Limit by CPCB
1	Particulate Matter <sub>10</sub> (PM <sub>10</sub> )	µg/m <sup>3</sup>	IS : 5182 (Pt.23)	177.31	100
2	Particulate Matter <sub>2.5</sub> (PM <sub>2.5</sub> )	µg/m <sup>3</sup>	CTH/CH/SOP/462	22.6	60

End of report

  
Verified By



  
Henry Michel  
Authorised Signatory  
Chemical  
COCHIN TEST HOUSE

NOTE : This test results relate only to the sample submitted for analysis.

The test report shall not be reproduced except in full without the written approval of the laboratory.