

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

Appeal No. 20 of 2023

K.Govindasamy,
Proprietor: M/s. Govindasamy Polutry Farm,
S.F.No. 249/2, Kanakankadu,
Kottapalayam, Periyamani Village,
Tiruchengode Taluk, Namakkal District.

...Applicant

Vs

The Chairperson,
Tamil Nadu Pollution Control Board,
and 2 others

...Respondents

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Filed by
Thiru.S. Sai Sathya Jith,
Advocate, Chennai.

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
SOUTHERN ZONE, CHENNAI
Appeal No.20 of 2023**

K.Govindasamy,
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M/s. Govindasamy Polutry Farm,
S.F.No. 249/2, Kanakankadu,
Kottapalayam, Periyamani Village,
Tiruchengode Taluk,
Namakkal District.

...Applicant/Appellant

-Vs-

1. The Chairperson,
Tamil Nadu Pollution Control Board,
No.100, Mount Salai,
Guindy, Chennai – 32.
tnpcb-chn@gov.in
2. The District Environmental Engineer,
Tamil Nadu Pollution Control Board,
Collectorate Campus,
Near Tamil Nadu Civil Supplies Corporation,
Namakkal – 637 003.
tnpcbnamakkal@gmail.com
3. The Superintending Engineer,
TANGEDCO (Distribution Circle),
Namakkal District.
senmkl@tnebnet.org

...Respondents/Respondents

**COUNTER AFFIDAVIT FILED ON BEHALF OF THE 1st AND 2nd
RESPONDENTS - TAMIL NADU POLLUTION CONTROL BOARD
(TNPCB).**

I, S .Ragupathi S/o. R. Sanganan, aged about 59 years, having my office at No.76, Mount Salai, Guindy, Chennai-600032, do hereby solemnly affirm and sincerely state as follows:-

1. I submit that I am holding the post of Joint Chief Environmental Engineer, Tamil Nadu Pollution Control Board, Chennai-600032 and I am authorized to file this counter affidavit on behalf of the 1st and 2nd


08/01/24
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Respondents and as such I am well acquainted with the facts of the case from the records available in our office.

2. The 1st and 2nd respondents deny all the averments contained in the appeal except those that are specifically admitted hereinafter. None of the allegations contained in the said appeal shall be deemed to be admitted merely for want of a specific denial/traverse.
3. Before responding to the averments contained in the appeal, the answering respondents submit the brief facts of the case for appreciation of this Hon'ble Tribunal.
4. It is respectfully submitted that the poultry unit of the Appellant is located at S.F. No.: 249/2, Kanakankadu, Kottapalayam, Periyamani Village, Tiruchengode Taluk, Namakkal District.
5. It is respectfully submitted that a complaint petition dated: 10.08.2022 was received from Thiru. Kaliyannan residing at Kanakankadu, Kottapalayam, Periyamani Village, Tiruchengode Taluk, Namakkal District on 18.08.2022, 22.08.2022 & 23.08.2022, also petition dated: 26.08.2022 was received through Collector Office, Namakkal on 01.09.2022 and Online Grievance Petition Redressal System (hereinafter referred as OLGPRS) petition received through TNPC Board, Chennai on 01.09.2022 against the poultry farm owned by Mr. Govindasamy. Based on the complaint, the poultry farm unit was inspected by the officials of the O/o. DEE, TNPCB, Namakkal (2nd Respondent) on 03.09.2022 and vide 2nd Respondent's letter dated 12.09.2022 the Authority of the poultry farm unit has been instructed to construct the compound wall around the farm, to comply the Central Pollution Control Board (CPCB) guidelines issued during January 2022 and to shall operate the poultry farm after obtaining the consent of the 1st Respondent Chairperson, TNPCB
6. It is respectfully submitted that again a complaint petition dated: 29.09.2022 was received from Thiru. Kaliyannan on 03.10.2022 & 10.10.2022, Chief Minister's camp (CM Camp) petition dated: 29.09.2022 received on 28.10.2022 and OLGPRS petition dated: 29.09.2022 received through TNPC Board, Chennai on 11.10.2022 against the above said poultry farm. Based on the above complaints, the poultry farm unit was again inspected by the officials of the O/o. DEE, TNPCB, Namakkal (2nd


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Respondent) on 03.11.2022 and vide proceeding No.F.NA/GS/DEE/TNPCB/ KMP/SCN-W/2022 Dated: 10.11.2022 Show Cause Notice was issued to the poultry farm unit under Water (Prevention and Control of Pollution) Act, 1984 as amended in 1988 and vide proceeding No. F.NA/GS/DEE/TNPCB/KMP/SCN-A/2022 Dated: 10.11.2022 Show Cause Notice was issued to the poultry farm unit under Air (Prevention and Control of Pollution) Act, 1981 as amended for the reasons stated therein.

7. It is respectfully submitted that further, vide W.P. No. 26855 of 2022 the complainant filed a the case before the Hon'ble High Court of Madras. In the above said case, the Hon'ble High Court of Madras in its order dated: 25.11.2022 issued the following directions:

"2. Mrs. Shanmugavalli Sekar, learned counsel appearing for the Pollution Control Board, 1st respondent, would submit that the Board officials had inspected the poultry unit of the 6th respondent on 10.11.2022 and found that it has been operating without consent under the Air (Prevention and Control of Pollution) Act and The Water (Prevention and Control of Pollution) Act. A notice has also been issued to the unit on 10.11.2022 seeking its explanation. The time granted under the said notice expires by 26.11.2022. 3. In view of the same, we dispose of the writ petition with a direction to the Pollution Control Board to pursue action taken to its logical conclusion. No costs. Consequently, the connected miscellaneous petition is closed."

8. It is respectfully submitted that vide letter dated: 22.12.2022 a letter was addressed to the appellant unit by the DEE, TNPCB, Namakkal (2nd Respondent) to attend the personal hearing on 27.12.2022. The letter was returned to the 2nd respondent, citing *door locked* and the intimation about the scheduled personal hearing was informed to the appellant over phone on 27.12.2022. However, the appellant did not attend the personal hearing.
9. It is respectfully submitted that in this connection, the appellant unit was again inspected by the officials of the O/o. DEE, TNPCB, Namakkal (2nd Respondent) on 27.01.2023 & 10.02.2023. Subsequently, the 1st respondent Chairperson, TNPCB issued direction dated: 09.08.2023 under Section 31A of Air (Prevention and Control of Pollution) Act 1981 as

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amended and Section 33A of Water (Prevention and Control of Pollution) Act 1974 as amended to comply the following:

1. The unit shall shift all the birds to any other poultry farm within a period of one week (i.e. on or before 18.08.2023).
 2. The unit shall take measures or steps to comply with the CPCB Guidelines for Poultry Farms, January 2022 immediately.
 3. The unit shall resume its operation only after getting consent of the TNPCB.
10. It is respectfully submitted that the Hon'ble High Court of Madras in the contempt petition No.888 of 2023 passed orders on 09.08.2023 to monitor the compliance of the above directions by the appellant unit.
11. It is respectfully submitted that subsequently, the appellant unit submitted the reply letter dated: 14.08.2023 citing the order of the Hon'ble Supreme Court in civil appeal No(s) 2480 /2023 in which the following is stated,
- "In the meantime, guidelines of January 2022 "8.0" of Hon'ble NGT dated 10.12.2021 (O.A.No.320/2021: GauriMaulekhi Vs Union of India &Ors.,) poultry farms handling above 5,000 birds at single location shall also obtain Consent to Establish (CTE) and Consent for Operate (CTO) under the Water Act, 1974 & Air Act 1981 from state pollution control Board/Pollution control committee w.e.f.01.01.2023." until further orders, shall remain stayed."*
12. It is respectfully submitted that vide proceeding dated: 04.09.2023 the 1st Respondent Chairperson, TNPCB issued Direction for Closure and Disconnection of Power supply under Section 33A of Water (Prevention and Control of Pollution) Act 1974 as amended to the appellant and accordingly the power supply to the poultry farm unit was disconnected on 08.09.2023:-
13. It is respectfully submitted that as per the stay granted by this Hon'ble Tribunal in I.A.91/2023 filed in this appeal, power supply was restored to the appellant unit vide Proc.No. TNPCB/T1/F.02901/KPM/Restoration of power supply / Water / 2023-1 & 2 dated 21.09.2023.
14. It is respectfully submitted that the Hon'ble Supreme Court in Civil Appeal No(s) 2480 /2023 has stayed the requirement to obtain Consent to Establish (CTE) and Consent to Operate (CTO) under the Water

(Prevention and Control of Pollution) Act, 1974 & Air (Prevention and Control of Pollution) Act, 1981 from State Pollution Control Board/Pollution Control committee w.e.f.01.01.2023 until further orders and further the Hon'ble Supreme Court has not stayed the requirement of compliance of other conditions stipulated in the guidelines. The Poultry Farm has not complied with the following directions issued by the Board on 09.08.2023:

"The unit shall take measures or steps to comply with the CPCB Guidelines for Poultry farm, January 2022 immediately."

15. It is respectfully submitted that in the clause 8.0 Regulatory/Monitoring Mechanism for Poultry Farms, it is mentioned that Guidelines shall be applicable to all the category of Poultry Farms.

16. It is respectfully submitted that, vide Proc. dated 09.08.2023 directions was issued to the Appellant to comply with the following among inter alia.

"The unit shall take measures or steps to comply with the CPCB Guidelines for Poultry farm, January 2022 immediately."

17. It is respectfully submitted that following is the status of compliance of CPCB Guidelines for Poultry Farm, January 2022 by the Appellant poultry farm:

Sl. No.	Central Pollution Control Board's Guidelines issued in January 2022	Status of compliance
6.1	Gaseous emission (NH₃ & H₂S) and feed mill dust	
(i), 2	Manure should be protected from Run-off water and from unwanted pests/insects.	Not complied. The unit has not provided any protection measures to prevent the Run-off water and unwanted pests/insects.
6.2	Management of solid wastes (Solid wastes contains manure/litter, Hatchery debris and dead birds)	
(i), 1	Proper ventilation and free flow of air over manure collection points to keep it dry (by blowing dry air over it or by conveying ventilation air through	Not complied. Ventilation and natural free flow of air was observed. Since it is a

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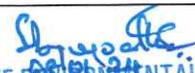
	the manure pit) shall be ensured to prevent obnoxious odour in the area.	cage system the droppings are collected directly on the land surface. However odour was observed during inspection.
(i),4	<p>Manure collected under cages on high raised platforms shall be stored for further processing and utilized by using following options</p> <p>a) Small Poultry Farms (5000 to 25000 Birds): Composting</p> <p>b) Medium & Large Poultry Farms (25,000 to 1,00,000 Birds and more than 1,00,000 Birds) : Composting or Biogas production for disposal/utilization of manure/litter or combination of any of these methods</p> <p>c) Poultry farms in cluster: Common facilities for Biogas production or Composting or their combination</p>	<p>Not complied.</p> <p>The unit authority has informed that the droppings are collected 3-4 months once and the manure will be utilized as manure in agricultural land</p> <p>No separate composting facility was provided by the unit.</p>
(i),6	The litter / manure storage facilities shall be minimum 2 m above the water table and of adequate size based on type and number of birds handled. Its base should be constructed with stone slabs or concrete or impermeable compacted clay.	<p>Not complied.</p> <p>The unit has not provided stone slabs or concrete or impermeable clay to the land surface where all the droppings are collected.</p>


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(i),7	Manure shall be protected from runoff water and cover it to avoid dust and odors in storage pits. The dry manure dump shall be covered with permanent roof or with plastic / similar material to prevent air emissions and the precipitation falling on it.	Not complied. The unit has not provided any protection measures to prevent the Run-off water. However odour was observed during inspection.
Composting of manure		
(i),11	Proper mixing the waste with a carbon rich material (e.g., paddy straw / husk, wood shavings) should be done in the pits. Carbon to nitrogen ratios of 20-25:1 is usually recommended. Pure manure can also be composted following the procedure and monitoring all parameters. The composting facilities may be designed through expert institutions in the field as per the size of poultry farms	Not complied. No composting facilities available. The unit authority has informed that the droppings are collected 3-4 months once and the manure will be directly used for the agricultural land.
(iii), (B)	Composting	
(iii), (B),1	The composting facility shall not be located within 300 m from the nearest dwelling and 100 m from any well or water course	Not Complied. The unit has not provided any composting facility.
(iii), (B),2	The capacity of the composting facility shall be sufficient to handle the average mortalities on the farm	
(iii), (B),3	The roof of the composting facility shall be permanent with concrete bottom	

(iii), (B),4	The composting facility shall be secured with link mesh all around raised to a height of 1.5 m above the ground level to avoid the predation by straw dogs etc.	
(iii), (B),5	A proper mixture of smaller and larger particle sizes to obtain an optimum air exchange within the mixture and build-up of temperature	Not Complied. The unit has not provided
(iii), (B),6	Moisture content of the composting pile shall be approximately 60%. More than this may result in odour problems and less than this will reduce the efficiency of the composting process	any composting facility. Not Complied.
(iii), (B),7	Carbon and nitrogen are vital nutrients for the growth and reproduction of bacteria and fungi. The carbon-to-nitrogen ratio shall be in the range of 20:1 and 25:1 for proper composting. This is obtained by carefully balancing the dead bird and carbon sources.	The unit has not provided any composting facility.
(iii), (B),8	The optimum temperature for composting is 54 to 66 degree celsius which pasteurizes the compost. If temperature falls below 49oC after a week or so, the material should be moved to the secondary stage unit. To facilitate the easy transfer of the first stage material to the secondary stage, the proper designing of the primary stage (first stage) facility is desirable as illustrated in figure 5.5.	Not Complied. The unit has not provided any composting facility.

	Failure to do so will result into poor compost. The temperature in the secondary stage unit will begin to raise as beneficial bacterial activity begins and will peak in 5 to 10 days.	
6.2 Waste water management		
6.2(3)	Improve drainage, reduce standing water and water ditches to control mosquitoes and flies	Not Complied. It was observed that the stagnation of water in the litter drop area.
6.2(4)	Use of pressure pumps, hot water or steam in cleaning activities instead of cold water and plain water scrubs may be encouraged to improve sanitation and reduce the quantities of wash water	
6.3 Other issues		
6.3(1)	Control of Flies: Proper treatment and disposal of manure, ventilation of sheds, control of temperature, good sanitation, swift repairs of leaks, avoidance of feed spills, prompt removal of broken eggs and dead birds shall be ensured for control of flies in the poultry farms. The farm should have provisions of wire nettings, traps, fly-repellents, insecticides etc.	Not complied. White stork birds are observed in the dropping area and odour was observed.
6.3(2)	Control of Rodents: Methods for the control of rodents may include: i) Exclusion ii) Trapping Glue boards iii) Tracking powder iv) rodent proof doors and windows to eliminate rodents/pest infestation.	Not complied. No such rodent control measures are provided by the Poultry Farm.
7. Siting Criteria		


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	<p>New Poultry Farms (Set up after issuance of Guidelines) should preferably be established</p> <p>a) 500 m from residential zone in order to avoid nuisance caused due to odour & flies.</p>	<p>Not complied.</p> <p>The poultry farm has two poultry sheds of 10000 birds each. One shed was established before the issuance of CPCB guide lines for poultry farms January 2022 and the another shed was established after the issuance of CPCB guide lines for poultry farms January 2022</p> <p>Terry loom unit & 1 residential house are located at a distance of about 86 m & 120 m respectively in North West direction.</p> <p>Colony houses are located about 160 m from the boundary of the unit in north east direction.</p> <p>One residential house is located about 60 m in the east direction.</p> <p>Small houses are located at about 50 m form the south west direction of the unit.</p> <p>The expansion activity of the poultry farms attracts</p>
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		<p>the violation of the sitting criteria mentioned in the CPCB guide lines for poultry farms January 2022</p>
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Under the above circumstances, it is humbly prayed that this Hon'ble National Green Tribunal (Southern Zone) may be pleased to pass such further or other orders as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of this case and thus render justice.


 JOINT CHIEF ENVIRONMENTAL ENGINEER
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BEFORE ME

VERIFICATION

I, S. Ragupathi, S/o. R. Sanganan, working as Joint Chief Environmental Engineer, Tamil Nadu Pollution Control Board, Chennai, do hereby verify that the contents of above report are true to the best of my knowledge through records.


 JOINT CHIEF ENVIRONMENTAL ENGINEER
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Advocate for Respondent: TNPCB
Thiru.S. Sai Sathya Jith ,
Advocate, Chennai.

Date: 10.01.2024

Date of hearing on: 13.02.2024

