

**BEFORE THE NATIONAL GREEN TRIBUNAL
SOUTH ZONE BENCH AT CHENNAI**

OA.No. 207 of 2017

1.A.Ayubkhan

S/o SH.Ameerkhan,
No.17, Sengazhuneer Odai Street,
Kancheepuram-631 502

2.P.Sivashankaran,

S/o M.Panchachelam,
No.202/1, Thenpathi Kilaku Street,
Kavanthandalam Village,
Kanchipuram-631 603

3.P.Nandhini

D/o Purushotham
61B, Jawaharlal Street,
Kanchipuram

...

Applicant

Vs -

1.State of Tamilnadu

rep by Secretary to Government,
Highways Department, Secretariat,
Chennai-600 009

2.District Collector,

Collectorate Complex,
Kancheepuram-631 501

3.Divisional Railway Manager,

Works Branch,
Chennai-600 003

4.Divisional Engineer/

Highways Department,
Periyar Nagar,
Chengalpattu-603 001

5.Tahsildar,

Kancheepuram Taluk Office,
kancheepuram

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Respondents

To

The Hon'ble Chairman and his
Companion Member of National
Green Tribunal, Chennai

A. Ayubkhan

P. Sivashankaran
Nandhini

Counter Statement of the Applicant
on the Report of the Joint Committee
in compliance of the Hon'ble Tribunal's
order dated 29.01.2020

The Applicants would submit his counter statement on the Report of the Joint Committee constituted by this Hon'ble Tribunal in order dated 29.01.2020 as follows:-

1. Before referring to the Report of the Committee, the Applicants have to record the following matters:-

(a) Even before the Committee started its work schedule, the Applicants sent a communication in letter dated 02.03.2020 indicating the most relevant points to be examined by the committee and also requesting the committee to given an opportunity to the Applicants to make their representation to the members of the committee. But the committee had not given an opportunity to the Appellants to appear before the committee. This would amount to violation of principles of natural justice.

(b) The Committee has not examined all the contentions of the Appellants in the matter.

2. Now referring to the report of Committee, the Applicants would submit as follows:-

(i) The first point to be considered is in regard to the surplus water from the lake. The surplus water now flows in to the Vellakulam which has an ayacut area which utilises the water for cultivation purpose. The report of the committee states (Page 22) that the flow in the surplus course of the tank is not affected. This is not correct. The surplus water which is now flown in to Velikulam for irrigation purpose will be diverted in the new alignment by constructing a ramp and forming a new canal which takes the water in to Indira Nagar, Karthik Nagar and Kanagadurga Nagar area. This will cause lot of trouble to the residents of the area. The diverted water will stagnate in the area. So it would be proper to allow the surplus water to go in to the Vellakulam instead of residential area. The Committee has not considered this problem in its entirety. It has simply said that there is no hindrance in the surplus flow from the tank.

M. J. J. J.

P. S. S. S.
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- (ii) Rule 4 of the Wetlands (Conservation and Management) Rules 2017 stipulates that any construction of a permanent nature except for boat jetties within fifty meters from the mean high flood level observed in the past ten years calculated from the commencement of the Rules is prohibited. So, this construction is not proper.
- (iii) The committee has approached the reference made to it, with the false notion that this water lake is a man made water body (Page 31). But, this is a creation of nature and this lake is there from the period unknown to the public and it is to be surely called as wetland and the Environmental Impact Assessment Study of the proposed construction is mandatory.
- (iv) In the letter dated 02.03.2020 to the committee, the Appellants made the following suggestions, but the committee failed to examine them:-
- (a) The area of entry in to and exist from the over bridge which has been raised should be changed in such a way as not to affect the flow of water from Ponneri lake in to the Vellakulam.
- (b) The Fish market located, affecting the flow of water in to Vellakulam should be removed from the area and the natural flow of water must be restored.
- (c) The area surrounding Vellakulam is occupied by unauthorised constructions which should be removed.
- (d) The Konerikuppam Village Canal leading to Gurunathaswamy Kulam in S.No.148/9 should be restored.
- (e) The new canal formed so as to carry water in to the Indira Nagar, Karthik Nagar and Kanagadurga Nagar area, should be closed so as to facilitate the entire surplus water flowing in to Vellakulam.
- (f) As per the interim orders of the Hon'ble Tribunal and as per the order of the Department of Environment in Rc.No.17/2127/2018 dated 09.08.2018, the permission of the competent authority should be obtained.
- (v) For the purpose of construction of over bridge permission has been obtained from Archaeological Department, only for a small area of the temple. But the road portion enters in to certain area belonging to the Ervatheeswara temple and Pravatheeswara temple. If the four way road proceeds in the way it is now proposed, it will affect the archaeological site. If heavy vehicles rush in the road its impact will affect the temples. This aspect has also to be examined.

A. Gubbin

P. Siva Sankar

Nandey

- (vi) The committee has observed in its conclusion that this is the man made water body for irrigation purpose, calling this as wetland is not sustainable and Environmental Impact Assessment study is not mandatory. This is not acceptable. The Ponneri Lake is a primitive one and a creation of nature. It is in existence for several decades. So, the Environmental Impact Assessment Study is indispensable.
- (vii) In Kancheepuram town and Konnerikuppam Village, the height of buildings should not exceed 9 meters because of existence of eight protected monuments like Kailasanathar temple, Iravatheswarar temple etc and other 5 temples like Ekambeswarar Temple, Varadaraja Perumal Temple, Kamakshiamman temple etc. This construction exceeds this limit and from the site of construction, the view of the Ekambeswarar Temple disappears. This aspect has also to be considered.
- (viii) The Committee has not considered the impact on the ecology and biodiversity of the lake.
- (ix) There are five alternate roads to connect the Kancheepuram town with the National Highway via Enathur, Vellagate, Keelambi, Vaiyavur and Arrakonam. Of which the Enathur-Thomalvar Street, & Arrakonam-Oli Mohammed Street will be best suited. But, these have not been considered, on the pretext that these would be more expensive. It may not be proper to avoid the alternate routes on this ground because the present proposal destroys the lake area and also affects the monumental buildings.

3. The Appellants would submit that the recommendations of the Committee are perverse and not at all justified. So, the Appellants would pray that this Hon'ble Tribunal may be pleased to allow this OA.No.207 of 2017 as prayed for and thus render justice.

Dated at Chennai on this 23rd day of November 2021

1. A. J. J. J.

2. P. S. S. S.

3. J. S. S. S.

Petitioners

A. S. S. S.
Counsel for Petitioner

Verification

We, the Appellants above mentioned hereby certify that we have verified the contents above and declare that what are all stated above are true and correct to the best of our knowledge and belief.

Verified at Chennai on this 23rd day of November 2021

1. 
2. 
3. 

Petitioners

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TRIBUNAL
SOUTH ZONE BENCH AT CHENNAI**

OA.No. 207 of 2017

1.A.Ayubkhan
and 2 others Applicants

Vs -

1. State of Tamilnadu
rep by Secretary to Government,
Highways Department, Secretariat,
Chennai-600 009
and four others ... Respondents

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*Received copy
with thanks
D. Srinivas
Secretary 27/11/21*

M/s A.Karthikesan 622/98
A.Praveenkumar
M.Meenatchi

Counsel for Applicant

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