

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

ORIGINAL APPLICATION NO. 22 OF 2022

IN THE MATTER OF:

A. KRISHNA
and 2 others.

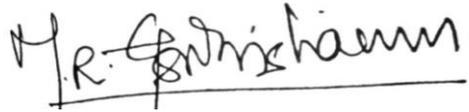
...Applicants

VERSUS

UNION OF INDIA
Through the Secretary,
Ministry of Environment Forest and
Climate Change, Government of India.
and 12 others.

...Respondents

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M.R.GOKUL KRISHNAN

Counsel for 6th Respondent
(Karnataka State Pollution Control Board)
Dated : 31.01.2023

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SOUTHERN ZONE, BENCH AT CHENNAI**

ORIGINAL APPLICATION NO. 22 OF 2022

IN THE MATTER OF:

1. A. KRISHNA
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...APPLICANTS

VERSUS

1. UNION OF INDIA
Through the Secretary,
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Climate Change, Government of India
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E-mail ID: secy-moet@nic.in/ 011 24695136
New Delhi – 110003.
2. CENTRAL POLLUTION CONTROL BOARD
Through its Member Secretary
Parvesh Bhawan, CBD-Cum Office Complex
East Arjun Nagar, Delhi-110032
E-mail ID: msch.cpcb@nic.in/ 011-22307233
3. KERALA STATE POLLUTION CONTROL BOARD
Through its Member Secretary
Head Office, Pattom. P.O



Thiruvananthapuram-695004
E-Mail ID: ms.kspcb@gov.in/ 09447975700

4. TAMILNADU STATE POLLUTION CONTROL BOARD

Through its Member Secretary
76, Mount Salai , Guindy, Chennai-600 032
E-mail ID: tnpcb-chn@gov.in/ 044-22353076

5. ANDHRA PRADESH STATE POLLUTION CONTROL BOARD

Through its Member Secretary,
D. No. 33-26-14 D/2, Near Sunrise hospital,
Pushpa Hotel Centre, Chalamalavani Street,
Kasthuribhaipet, Vijayavada-520010.
E-mail ID: membersecy@appcb.gov.in/ 0866-2463202

6. KARNATAKA STATE POLLUTION CONTROL BOARD

Through its Member secretary
Parisara Bhavan, No.#49,
Church street, Bengaluru – 560001
E-mail ID; ms@kspcb.gov.in/ 080-255891122

7. PUDUCHERRY POLLUTION CONTROL COMMITTEE

Through its Member Secretary
III Floor, PHB Building, Annanagar,
Puducherry-05
Phone: 0413-2201256
E-mail ID: ppcc.pon@nic.in/ 09442222502

8. URBAN DEVELOPMENT AND LOCAL SELF GOVERNMENT (UD&LSG)
STATE OF KERALA

Through the Additional Chief (UD&LSGD)
Room No. 404, 4th Floor, Government Secretariat (Annexe)
Thiruvananthapuram – 695001.
Phone No. 0471-2518163.
E-mail ID: prisecylsgdi@gmail.com

9. HOUSING AND URBAN DEVELOPMENT DEPARTMENT
STATE OF TAMIL NADU

Through the Principal Secretary
Namakkal Kavingar Maaligal.
Fort. St. George, Chennai-600009.
Phone No. 044-25670516
E-mail ID: hud@tn.govt.in



10. MUNICIPAL ADMINISTRATION AND URBAN DEVELOPMENT
DEPARTMENT, STATE OF ANDHRA PRADESH

Through the Special Chief Secretary
Building No. 2, Room No. 140, A.P. Secretary,
Velagapudi-522238
Phone No. 0863-2442313
E-mail ID: peshi.apmaud@gmail.com

11. URBAN DEVELOPMENT DEPARTMENT, STATE OF KARNATAKA

Through the Secretary
Room No. 436, Vikasa Soudha, Bangaluru.
Phone No. 22253958
E-Mail ID: secy-ud@karnataka.gov.in

12. TETRAPAK INDIA PVT LTD.

Managing Director
16th Floor Building No. 5C, DLF Epitome,
DLF Cyber City, Gurugram,
Haryana – 122002
E-mail ID: NIL

13. UFLEX LTD.

Managing Director,
305, 3rd Floor Bhanot Corner,
Pamposh Enclave, GKI-110048
New Delhi, India.
Phone Nos. +91 11 26440917/925
E-mail ID: feedback@uflexitd.com

...RESPONDENTS

COUNTER AFFIDAVIT FILED BY 6TH RESPONDENT

I, Ramesh D Naik aged about 54 years, having office at No.49, "Parisara"
Bhavan, Church Street, Bengaluru-560001, do hereby solemnly affirm and
sincerely state as follows:

1. I state that I am the Senior Environmental Officer of The Karnataka State
Pollution Control Board who arrayed as the 6th Respondent herein.



2. I state that the relief sought in the application is for issuing direction to implement Clause 9(3) of the Plastic Waste Management Rules, 2016 and for taking action for non-compliance of the Rules.
3. I state that I deny each and every averment made in the affidavit filed in support of the application as false and incorrect except those that are specifically admitted herein in this counter affidavit.
4. I state that the Plastic Waste Management Rules, 2016 notified by the Ministry of Environment, Forest and Climate Change, New Delhi which came into effect on 18.03.2016 and subsequently amended on 27.03.2019, 12.08.2021 and 16.02.2022. I further state that under the Plastic Waste Management Rules, 2016 the KSPCB issues consent/ registration to Producer, Brand owner, Recyclers and plastic raw material Manufacturer.
5. I state that the government of Karnataka banned certain plastic items in its Notification dated 11.03.2016 (Corrigendum 18.04.2017, 26.03.2018, 04.04.2018 & 01.10.2019); the said Notification was in existence prior to the issuance of Plastic Waste Management Rules, 2016. I further state that the said Notification banned the usage of Plastic bag, Plastic banner, Plastic buntings, Flex, Plastic plates, Plastic Flags, Plastic cups, Plastic spoons, Cling Films, Plastic sheets used for spreading on dining table and Plastic straws. Exemption being given only to the following;
 - i. Manufacturer in Special Economic Zone & Export oriented units for Export.
 - ii. Plastic bag that constitute integral part of packing.
 - iii. Plastic bags and sheets used in forestry and Horticulture nurseries.
 - iv. Plastic used for packaging of milk & milk products.



6. I state that the KSPCB is taking action against the illegal dumping of Plastic waste or against the manufacturers in violation of Plastic Waste Management Rules, 2016 by the following actions:

ISSUE OF DIRECTIONS:

- a) Issued direction under Section 5 of Environmental (Protection) Act, 1986 to the units for manufacturing the banned items, till date the KSPCB has issued 112 notices against the manufacturing units.
- b) Issued notice for withdrawal of directions to the units under Section 5 of Environmental (Protection) Act, 1986, till date the KSPCB has issued 55 notices to the manufacturing units. The reason for withdrawal of directions is that the manufacturing units had been changed their production from banned items to non-banned activities/ closing of operation/ shifting of industry.
- c) Number of proposed direction issued to the units under Section 5 of Environment (Protection) Act, 1986 for violations is 35.

COURT CASES FILED:

- a) The KSPCB has filed 9 cases against the manufacturing units in Bellary and filed 3 cases against the units in Mysuru.
7. I state that the officers of Pollution Control Board have conducted large number of awareness programs throughout the State and they have participated as a resource person in the training program conducted by other organizations, all the field officers of the Board are adequately trained. I further state that on 20.09.2018 training for entry level officers was conducted and usage of cloth bags and paper bags were encouraged in the training program.
8. I state that the KSPCB has permitted the cement industries to use plastic waste for co-processing as per the guidelines notified by the CPCB "Utilization of Plastic waste in cement kiln". I further state that the



KSPCB has given permission to co-process the wastes including plastic waste in kilns of 9 Cement industries in the State.

9. I state that as per the direction of MoEF&CC, New Delhi, Government of Karnataka has constituted a State Level Special Task Force (SLSTF) under the chairmanship of Additional Chief Secretary, Government of Karnataka for elimination of identified SUP (Singly Use Plastic) and implementation of Plastic Waste Management Rules, 2016 and submitted Comprehensive Action Plan (CAP) to MoEF&CC on 01.12.2021.
10. I state that the KSPCB has issued notices to the identified brand owners for registration to comply EPR (Extended Producers Responsibility) obligations under Plastic Waste Management Rules, 2016. I further state that the KSPCB has issued notices to more than 350 identified brand owners.
11. I state that the KSPCB has issued notices to 132 recyclers to comply with the provisions of Plastic Waste Management Rules, 2016. I further state that the KSPCB has initiated interactive meetings with major brand owners of plastic packaging materials to check their compliance of EPR obligations under Plastic Waste Management Rules, 2016.
12. I state that the KSPCB has issued directions to all the concerned Government Authorities to mandatorily adopt the use of waste plastic in bituminous mix for the construction of road as per the Indian Road Congress (IRC) guideline dated 03.12.2021.
13. I state that the KSPCB has issued additional reminder direction to the manufacturer of raw material located within Karnataka and 9 E-Commerce Companies.
14. I state that the KSPCB has issued direction to the all regional officers for inspection, verification and submission of details pertaining to MSME Plastic manufacturing units furnished by CPCB. I further state that Awareness program is under progress with regard to Banned SUP items.



15. I state that the Ministry of Environment, Forest and Climate Change (MoEF&CC) has issued notification G.S.R. No. 571(E) dated 12.08.2021 as Plastic Waste Management (Amendment) Rules, 2021, the following additional SUPs including the above have been banned with effect from 1st July 2022:

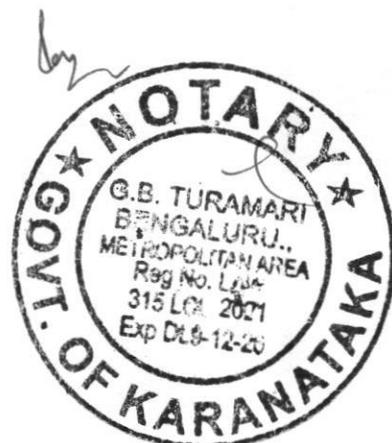
As per Rule 4(2) of PWM Rules, 2016 (as amended); "The Manufacture, Import, Stocking, Distribution, Sale and Use of following Single Use Plastic (SUP), including Polystyrene and expanded Polystyrene commodities shall be prohibited with effect from 1st July 2022".

a) Ear buds with plastic sticks, plastic sticks for balloons, plastic flags, candy sticks, ice-cream sticks, polystyrene [Thermocol] for decoration.

b) Plates, cups, glasses, cutlery such as forks, spoons, knives, straw, trays, wrapping or packing films around sweet boxes, invitation cards and cigarette packets, plastic or PVC banners less than 100 micron, stirrers.

16. I henceforth state that the KSPCB effectively has taken action and taking action by issuing notices to inform all the producers, stockiest, retailers, shopkeepers, E-commerce companies, street vendors, commercial establishment (Malls/ Market place / Shopping centers/ Cinema houses/ Tourist locations/ Schools/ Colleges/ Office complexes/ Hospitals and other institutions) and general public to stop production, stocking, distribution, sale and usage of identified SUP items as per the timeline specified in the said MoEF&CC Notification.

17. It is further submitted that the MoEF & CC has issued guidelines on Extended Producer Responsibility (EPR) for Plastic Packaging on 16.2.2022 wherein the Multi Layered Plastic (MLP) packaging (at least one layer of plastic and at least one layer of material other than plastic) is categorized under "**Category-III**". The guideline sets targets for EPR and



obligations for Producers, Importers and Brand owners and also, obligation for recycling wherein the producer shall ensure minimum level of recycling of plastic packaging waste collected under EPR Target, category wise are as below ;

The EPR target shall be determined category wise as below;

Extended Producer Responsibility Target:

Sl.No.	Year	EPR Targets (as a percentage of Eligible Quantity in MT)
1	2021-22	25 %
2	2022-23	70%
3	2023-24	100%

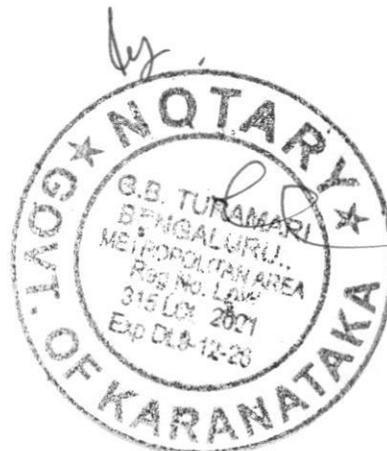
Obligations for Recycling:

Minimum level of recycling of Plastic Packaging waste(% of EPR Target)

Plastic Packaging Category	2024-25	2025-26	2026-27	2027-28 and Onwards
Category III	30	40	50	60

So far KSPCB has issued EPR registration for 263 PIBO units and the details of category III plastic waste procured as per CPCB dashboard in respect of Karnataka for registered PIBO for the Financial Year (FY) 2020-21 & 2021-22 is 4705.904 TPA, Plastic Waste generated for registered PIBO for FY 2020-21 & 2021-22 is 17,222.89 TPA and EPR Target for registered PIBO for FY 2022-23 is 5799.565 TPA. The KSPCB is making efforts for strict implementation of MoEF & CC direction in respect of Plastic Waste Management Rules.

It is therefore prayed that this Hon'ble Tribunal may be pleased to dismiss the Original Application with cost and pass such further or other orders as this



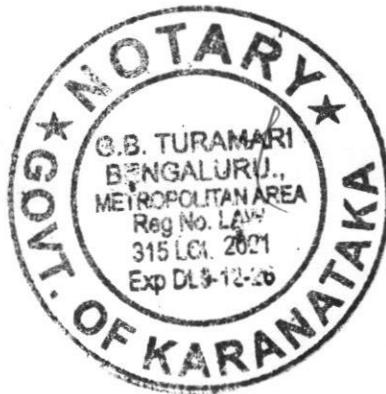
Hon'ble Court may deem fit and proper in the circumstances of the case and thus render justice.


DEPONENT

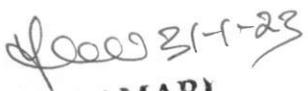
VERIFICATION

I, , Ramesh D Naik Senior Environmental Officer, Kamataka State Pollution Control Board having office at No.49, "Parisara" Bhavan, Church street, Bengaluru-560001, do hereby verify and state that the contents of Paragraph No. 1 to 17 are true and correct to the best of my knowledge, belief and information.


DEPONENT



SWORN TO BEFORE ME


G.B. TURAMARI
ADVOCATE & NOTARY
46/1. Behind Binny Mill
st Main Road, Ganganagar Extn
BENGALURU 560 032



Rajasekaran Kandasaami <mskvakils@gmail.com>

O.A.No. 22 of 2022 A.Krishna & 2 ors -VS- Union of india & 12 ors, pending before the Hon'ble NGT Southern Zone, at Chennai.

1 message

Rajasekaran <mskvakils@gmail.com>

Tue, Jan 31, 2023 at 4:39 PM

To: litigation.life@gmail.com, hud@tn.govt.in, feedback@uflexitd.com, ppcc.pon@nic.in, tnpcb-chn@gov.in, ms.kspcb@gov.in, msch.cpcb@nic.in

Sir/Madam,

Please find the attached Counter Affidavit of Karnataka State Pollution Control Board.

With Regards,



**3rd Floor, Y M C A Building, 223, NSC Bose Road,
Parrys, Chennai - 600 001. TN, India
Phone:- +91 9962549483/84
+91 44 25360057/ 25384932.**

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