

**BEFORE THE NATIONAL GREEN TRIBUNAL (SZ)
CHENNAI**

Application No. 240 of 2017 (sz)

BETWEEN

S.P. Muthuraman,

S/o S. Ponnusamy,

Sankar Nagar Post – 627 357,

Tirunelveli District.

...Applicant

AND

1. The Secretary,
Environment and Forest Department,
Government of Tamilnadu,
St. George Fort, Chennai – 600 009.

And 4 others

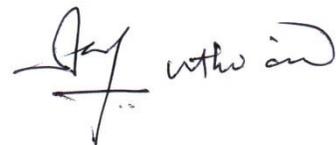
...Respondents

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The above documents are certified as true copies.

Dated at Chennai on this the 30th day of September, 2021.



Counsel for Applicant

BEFORE THE NATIONAL GREEN TRIBUNAL (SZ) CHENNAI

Application No. 240 of 2017

BETWEEN

S.P. Muthuraman,
S/o S. Ponnusamy,
No.204, Railway Feeder Road,
Sankar Nagar Post – 627 357,
Tirunelveli District.

...Applicant

AND

1. The Secretary,
Environment and Forest Department,
Government of Tamilnadu,
St. George Fort, Chennai – 600 009.

2. The Member Secretary,
Tamil Nadu Pollution Control Board,
No. 76, Anna Salai, Guindy,
Chennai – 600 032.

3. The Joint-Chief Environmental Engineer,
Tamil Nadu Pollution Control Board,
30/2, "SIDCO" Industrial Estate,
Pettai, Tirunelveli - 627010.

4. The District Environmental Engineer,
Tamil Nadu Pollution Control Board,
30/2, "SIDCO" Industrial Estate,
Pettai, Tirunelveli - 627010.

5. M/s. Tuticorin Alkali Chemicals and Fertilizers Limited,
Rep. by its Managing Director,
S.F.No.435/2, Mullakadu Part-1 Village,
Tuticorin Taluk,
Tuticorin District – 628 005.

...Respondents

WRITTEN SUBMISSION FILED BY THE APPLICANT

1. The applicant above named respectfully submits that the Application in O.A. No.240 of 2017 (SZ) was filed before the Hon'ble Tribunal with the following prayers:

(i) Order the Respondents 1 to 4 to take appropriate legal action against the 5th Respondent for the violation committed by him in running the manufacturing unit without renewing the Consent to Operate from 01.04.2015 onwards.

(ii) Order the 4th Respondent to take legal action under Section 19 of the Environment (Protection) Act 1986 against the 5th Respondent for his violation.

(iii) Order the 2nd Respondent to take legal action under section 43(1)(a) of the Air (Prevention and Control of Pollution) Act, 1981 against the 5th Respondent for operating the unit from 01.04.2015 to till date without 'Consent to Operate (Renewal)' order.

(iv) Order the 2nd Respondent to take legal action against the 5th Respondent under Section 49(1)(a) of Water (Prevention and Control of Pollution) Act, 1974 for operating the unit from 01.04.2015 to till date without 'Consent to Operate (Renewal)' order.

(v) Order adequate compensation against the 5th Respondent for violation of the statutory provisions in respect of obtaining Consent to Operate (Renewal) and also for the damages caused to the environment in the vicinity of the manufacturing unit.

(vi) To pass any other suitable orders as this Hon'ble Tribunal deems fit and necessary in the circumstances of the case and thus render justice.

2. It is submitted that the core issue in the application is that the 5th Respondent without obtaining Consent to Operate (Renewal) under Water (Prevention and Control of Pollution) Act, 1974 and under Air (Prevention and Control of Pollution) Act, 1981 has continued the operation of the highly polluting Red category industry from 01.04.2015. The Respondents were also admitted the facts.

3. It is submitted that the Hon'ble Tribunal on its order dated 24.01.2020, appointed a Joint Committee to inspect the unit in question and submit the present status. But the 5th Respondent, the Nodal Agency had completely suppressed the facts and allowed the Joint Committee to file a formal report minimizing the responsibilities and liabilities. The applicant had also filed a separate Objection for the report on 14.08.2021.

4. It is also submitted that the Applicant has obtained information under the Right to Information Act 2005 wherein it was clearly stated that during an inspection conducted by the 2nd Respondent Board on 12.07.2018, it was found that

- i) The unit has installed a Carbon-di-oxide Plant without consent of the Board
- ii) The unit has installed a desalination plant without consent to operate
- iii) The unit has not provided the continuous Ambient Air Quality monitoring arrangements for Ammonia and pH, BOD and COD in the effluent

A show cause notice was also issued by the 2nd Respondent to the 5th Respondent unit on the very next day i.e. on 13.07.2018 calling for explanation that why action should not be taken against the 5th Respondent for the violation committed by him (Annexure 7).

5. It is submitted that the 5th Respondent obtained the consent to operate (renewal) on 08.07.2019, after illegal operation of 1648 days of a red category industry. The Apex Court in its Judgment delivered in Sterlite Industries (India) Ltd., etc. Vs Union of India and Others etc. and published in 4 SCC 575 (2013) has held that "Operating the plant without a valid renewal for a fairly long period, the appellant company obviously is liable to compensate by paying damages.."
 "The appellants, however, are directed to deposit within three months from today a compensation of Rs.100 crores with the Collector of Thoothukudi District, which will be kept in a fixed deposit in a Nationalized Bank for a minimum of five years, renewable as and when it expires, and the interest therefrom will be spent on suitable measures for improvement of the environment, including water and soil, of the vicinity of the plant of the appellants after consultation with TNPCB and approval of the Secretary, Environment, Government of Tamil Nadu."

6. It is also submitted that the 5th Respondent Unit was being operated without consent to operate (Renewal), while this Original Application No.240 Of 2017 (SZ) is pending before this Hon'ble Tribunal, the 5th Respondent had also desperately committed further violations by installing CO2 plant and desalination plant without obtaining consent to operate.

7. It is also submitted that the 5th Respondent mentioned in his I.A.No.16 of 2020 and his Objection for the Joint Committee's Report and also in his argument that they have obtained consent to operate on 10.07.2018. (Annexure 8). But in fact that 10.07.2018 Consent to Operate was issued only for M/s. TUTICORIN ALKALI CHEMICALS AND FERTILISERS LIMITED (SALTWORKS) i.e. particularly for the SALT WORKS and not for this 5th Respondent unit.

8. It is very obvious that the 5th respondent had committed violation of law which is punishable under the provisions of the Environment (Protection) Act 1986 as well as the Air (Prevention and Control of Pollution) Act, 1981 and the Water (Prevention and Control of Pollution) Act, 1974.

It is therefore prayed that this Hon'ble Tribunal may be pleased to order/direct the respondents 1 to 4 to take appropriate legal action against the 5th respondent for the violations committed by him and also order adequate compensation against the 5th Respondent for violation of the statutory provisions committed by him by running the plant without obtaining Consent to Operate (Renewal) and also for the damages caused to the environment in the vicinity of the manufacturing unit and thus render justice.

A handwritten signature in black ink, appearing to read "Jay with initials". The signature is stylized and includes a horizontal line with a small mark below it.

COUNSEL FOR THE APPLICANT

Annexure : 7

5



TAMILNADU POLLUTION CONTROL BOARD
(C7 & C9, SIPCOT Industrial Complex, Meelavittan, Thoothukudi - 628 008.)

Proceedings No. F - TTN 0016 / W / 2018. Date : .07.2018.

Sub : TNPB - O/o DEE, Tirunelveli - Industries - M/s. Tuticorin Alkali Chemicals and Fertilisers Limited, R.S.No. 435/2, Mullakkadu Part 1 Village, Thoothukudi Taluk, Thoothukudi District - operating the unit without valid consent - notice under the Water (Prevention and Control of Pollution) Act 1974, as amended - issued - reg.

Ref : 1. TNPB's Proc. No: T11/TNPB/CHEM/13183/TTN/RL/EXP/07
DT.06/02/2007.

2. Inspection of the unit on 12.07.2018.

Tamilnadu Pollution Control Board serves this notice to you for contravention of section 25 of the Water (Prevention & Control of Pollution) Act 1974 (as amended) (hereinafter referred to as the 'Act') for violating the condition of the Consent issued by the Board. Tamilnadu Pollution Control Board has issued Consent to Operate to your unit of M/s. Tuticorin Alkali Chemicals and Fertilisers Limited, R.S.No. 435/2, Mullakkadu Part 1 Village, Thoothukudi Taluk, Thoothukudi District under the Act vide reference 1st cited subject to the Special Conditions, as below

"This renewal of consent is valid for operating the facility for the manufacture of products/byproducts. Any change in the product/byproduct and its quantity has to be brought to the notice of the Board and fresh consent has to be obtained."

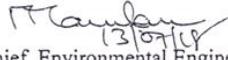
But during inspection of your unit on 12.07.2018, the following were observed:

1. The unit has installed a Carbon Di Oxide Plant with out Consent of the Board.
2. The unit has installed a Desalination Plant with out consent of the Board.
3. The unit has not provided the Continuous Ambient Air Quality Monitoring arrangements for Ammonia and pH, BOD and COD in the Effluent.

Thereby, you have violated the conditions of the consent issued under the Act and thus, the provisions of Section 25 of the Act have been contravened by you which is an offence under the Act.

Hence, you are directed to show cause within 15 days from the date of receipt of this notice as to why not to issue directions under Section 33-A of the Act for closure of the unit, stoppage of power supply, water supply etc. It is informed that non receipt of any reply within the prescribed period will be construed that you have no satisfactory explanation to offer for the above contravention and action will be taken accordingly.

The receipt of this notice shall be acknowledged.


Joint Chief Environmental Engineer (M)
Tamilnadu Pollution Control Board,
Tirunelveli

To
The Chief Operating Officer
Spic House
88 Mount Road
Guindy
Chennai, - 600032

Annexure : 8

(6)

CONSENT ORDER NO. 1808112134301 DATED: 10/07/2018.**PROCEEDINGS NO.F.0398TTN/OS/DEE/TNPCB/TTN/W/2018 DATED: 10/07/2018**

SUB: Tamil Nadu Pollution Control Board - RENEWAL OF CONSENT – M/s. TUTICORIN ALKALI CHEMICALS AND FERTILISERS LIMITED (SALTWORKS) , S.F.No. 450 to 454, 474 to 478, 558 to 564, 566 to 570, 573 to 579, 597 to 601, 604, 608 to 614, 616 & 617., MULLAKKADU PART 1 village, Thoothukkudi Taluk and Thoothukkudi District - Renewal of Consent for the operation of the plant and discharge of sewage and/or trade effluent under Section 25 of the Water (Prevention and Control of Pollution) Act, 1974 as amended in 1988 (Central Act 6 of 1974) – Issued- Reg.

REF: 1. Proc. No. JCEE/TNPCBD/MDU/F-50/G/VOC/W/1996 dated: 07/10/1996.
2. Proc. No. F.0398TTN/OS/DEE/TNPCB/TTN/W/2017 dated: 02/02/2017.
3. IR.No : F.0398TTN/OS/AE/TTN/2018 dated: 10/07/2018

RENEWAL OF CONSENT is hereby granted under Section 25 of the Water (Prevention and Control of Pollution) Act, 1974 as amended in 1988 (Central Act, 6 of 1974) (hereinafter referred to as “The Act”) and the rules and orders made there under to

The Managing Director
M/s.TUTICORIN ALKALI CHEMICALS AND FERTILISERS LIMITED (SALTWORKS) ,
S.F.No. 450 to 454, 474 to 478, 558 to 564, 566 to 570, 573 to 579, 597 to 601, 604, 608 to 614, 616 & 617.,
MULLAKKADU PART 1 Village ,
Thoothukkudi Taluk ,
Thoothukkudi District .

Authorising the occupier to make discharge of sewage and /or trade effluent.

This is subject to the provisions of the Act, the rules and the orders made there under and the terms and conditions incorporated under the Special and General conditions stipulated in the Consent Order issued earlier and subject to the special conditions annexed.

This RENEWAL OF CONSENT is valid for the period ending March 31, 2020

P. S. LIVINGSTON
District Environmental Engineer,
Tamil Nadu Pollution Control Board,
THOOTHUKKUDI