

BEFORE THE NATIONAL GREEN TRIBUNAL SITTING AT CHENNAI  
MEMORANDUM OF APPEAL

APPEAL NO.24 OF 2020

**Between:**

Michael Lambert Jehan,  
S/o James,  
No.12, Duraisamy Reddy Street,  
West Tambaram, Chennai – 600045.

...Appellant

**And**

1. Tamil Nadu Pollution Control Board,  
Rep. by the Chairman and 2 Others.

...Respondents

**OBJECTION FILED BY APPELLANT IN RESPONSE TO STATUS REPORT  
DT:03.03.2021 FILED ON BEHALF OF THE 1<sup>ST</sup> AND 2<sup>ND</sup> RESPONDENTS (TNPCB)**

01. It is humbly submitted that the appellant has filed this Appeal No.24 of 2020 before this Hon'ble Tribunal praying to set aside the impugned order dated 25.02.2020 in Appeal No.80 of 2019 passed by the learned Appellate Authority, TNPCB, Purasaiwakkam and to direct enforcement of the closure and disconnection of power supply order dated 06.12.2020 already passed by the first respondent amongst others.

02. It is humbly submitted that subsequently, this Hon'ble Tribunal by its order dated 21.09.2020 had directed the TNPCB to come with a fresh status report regarding the functioning of the third respondent tannery unit herein and **also mention as to why show-cause notice was not issued to the third respondent tannery unit herein before imposing environmental compensation and on the basis of the observations made by the appellate authority, whether any further action has been taken by TNPCB in this regard.**

03. It is humbly submitted that subsequently, TNPCB filed status report dated 09.11.2020 whereby, TNPCB only cited previous case history and status reports already filed and nothing new was mentioned and more particularly, TNPCB did not report anything pertaining to aforementioned portion of the order of this Hon'ble Tribunal highlighted in bold and underline. When these lacunae were brought to the notice of this Hon'ble Tribunal by way of the Appellant's Objection Memo, TNPCB submitted that they will come with a further report in this regard following which, this Hon'ble Tribunal by its order dated 06.01.2021 directed the TNPCB to file further report before this Hon'ble Tribunal on or before 03.02.2021 and in consequence, the TNPCB had come up with a report dated 03.03.2021. The same was recorded by this Hon'ble Tribunal by its order dated 04.03.2021 with further direction to file objections if any on or before 26.03.2021 and in compliance of the same, the appellant is filing the present Objection as hereunder.



04. It is humbly submitted that TNPCB in unnumbered paragraph 1 in page 3 of its status report has stated that the Board submitted before this Hon'ble Tribunal that there is no damage on soil and Melakottaiyur Lake. However, it is pertinent to point out the following at this juncture,

- a. No soil sample was collected by TNPCB and no test whatsoever was conducted in this regard to come to a conclusion that there was no soil damage.
- b. As per Joint Inspection Report of CPCB, TNPCB & ASI filed in compliance of order of this Hon'ble Tribunal in O.A.No.6/2018, it was submitted in page 14 of such report that pH in lake water is 9.22 above permissible range of 6.5–8.5 evidencing damage on Melakottaiyur Lake.

05. It is humbly submitted that TNPCB in the last unnumbered paragraph in page 3 of its status report has stated that the respondent unit preferred an appeal in Appeal No.80/2019 before the Hon'ble Appellate Authority at Purasaiwakkam. However, it is pertinent to point out the following at this juncture,

- a. The Board's direction was issued as a consequence of O.A.No.6/2018 filed by the Appellant herein and while the same was challenged by the respondent unit without arraying the appellant as a party therein, it is the duty of the Board to take steps to implead the Appellant therein. This was not done by the Board.
- b. The Board's order was a set of directions issued u/s.33A of Water (P&CP) Act, 1974 and u/s.31A of the Air (P&CP) Act, 1981. As such, the appropriate appellate authority is this Hon'ble Tribunal vide Section 33B of Water (P&CP) Act, 1974 r/w Sec.16(c) of NGT Act, 2010 & Section 31B of Air (P&CP) Act, 1981 r/w Sec.16(f) of NGT Act, 2010. This objection was not raised by the Board.

06. It is humbly submitted that TNPCB in unnumbered paragraph 2 in page 4 of its status report has cited the order dated 25.02.2020 passed by the learned Appellate Authority at Purasaiwakkam that that as per status report filed by Board, out of seven deficiencies, all but two were complied. However, it is pertinent to point out at this juncture that in compliance of order dated 16.12.2019 passed by this Hon'ble Tribunal in O.A.No.6/2018, TNPCB filed a report dated 10.02.2020 before this Hon'ble Tribunal. In such report, TNPCB has not stated about compliance of any of the seven deficiencies whereas before the Appellate Authority, the Board has taken a contrary stand as mentioned hereinabove. This discrepancy has not been explained by the Board in its present status report.



07. It is humbly submitted that TNPCB in the last unnumbered paragraph in page 4 of its status report has cited the order dated 25.02.2020 passed by the learned Appellate Authority at Purasaiwakkam that appellant unit was not issued with any show cause notice for levying of compensation or any demand notice after levying compensation and without giving opportunity to appellant unit to have their say. However, it is pertinent to point out the following at this juncture,

- a. O.A.No.6/2018 against the respondent unit was pending before this Hon'ble Tribunal and the respondent unit had notice of all actions taken and about to be taken by the Board as well as ample opportunity to have their say. This point was not raised by the Board.
- b. Prior to issuance of the impugned order dated 06.12.2019 (which was subsequently set aside by the learned appellate authority at purasaiwakkam), the Board had issued a letter dated 04.10.2019. Issuance of this letter was not pointed out by the Board.

08. It is humbly submitted that TNPCB in unnumbered paragraph 2 in page 5 of its status report has stated that the said unit was inspected on 31.10.2020 and found the unit was under operation carrying out dry process only and installation of mechanical evaporator and ATFD was completed and trial run was found under progress. However, it is pertinent to point out at this juncture that carrying out dry process only and trial runs are age old tactics used by industrial units to convince PCB authorities to obtain their consent. The Board has not subsequently inspected the respondent unit thereafter.

09. It is humbly submitted that TNPCB in the last unnumbered paragraph in page 5 of its status report has stated that further action was not taken by Board on remittance of environmental compensation because Appellate Authority at Purasaiwakkam set aside directions issued by Board. However, the Board has not provided any explanation as to why the Appellant was not informed in this regard and why the Board preferred not to appeal this decision of the Appellate Authority in the light of the aforementioned facts and circumstances.

10. It is humbly submitted that TNPCB in paragraph 4 in page 6 of its status report has stated that it provided consent to respondent unit as it had provided mechanical evaporator and ATFD. However, these assumptions were based only on the application filed by the respondent unit which the Board itself has mentioned in its status report. The Board had not inspected the respondent unit to verify the correctness of the statements made by the respondent unit in its application for consent. Under such circumstances, the consent already granted to the respondent unit is liable to be recalled in the event of the statements provided by the respondent unit in their application is found to be false.



11. It is humbly submitted that the TNPCB by its status report has not given any satisfactory data such as records pertaining to purchase, installation of mechanical evaporator, ATFD, dismantling of Solar Evaporation Plant, photographs in this regard, etc., as Annexures for the perusal of this Hon'ble Tribunal.

12. It is humbly submitted that the previous status report filed by the Board contained a photograph wherein, one could find only very few plants that appear to have planted overnight. This does not construe a proper green belt as per guidelines and it appears as if the Board does not understand the scientific significance of establishment of a green belt. This was pointed out by the Appellant in his earlier objection itself. Plausible explanation in this regard has not been provided by the Board in its present status report.

13. It is humbly submitted that the Board has so far not taken any proper samples or used any proper devices to scientifically ascertain air pollution and noise pollution caused by the respondent unit. In this regard, the Board is solely relying on the human sensory perception of its officials who inspected the respondent unit.

14. It is humbly submitted that as per rule 5(1)(viii) of Environment Protection Rules, 1986, Board has to consider proximity of respondent unit to a protected area under the Ancient Monuments and Archaeological Sites and Remains Act, 1958. In compliance of order of this Hon'ble Tribunal dated 03.04.2019 in O.A.No.6/2018, a joint committee constituted by the TNPCB and Archaeological Survey of India filed a 6 Page Report with a Sketch Map whereby, it was stated that the following structures pertaining to the respondent unit falls under regulated area, viz-a-viz, EB Transformer, DG Set Room, Visitors Room, Admin Block/Quality Control & Packing Section/ROTO pressing (ground floor) auto spray section (first floor), Effluent Treatment Plant, Part of Crust Section (Toggling & Mollisa Machine (GF) Auto Spray Section (FF), Chemical & Wet Blue Leather Storage Samming/Slitting Machine (GF) Hooking Drying Area (FF), Setting/Shaving Machines & Wet Blue Tanning Section, Boiler, RO Plant & Canteen, Stay Room for Workers (GF & FF), Buffing Section, Chrome Effluent Storage Tank, Chemical Storage Rack, Sludge Drying Beds, Hazardous Waste Storage Shed, Solar Evaporation Pan, Chemical Storage Room, and Mechanical Maintenance Room amongst others. This has also been mentioned in the impugned Closure Order dated 06.12.2019 (which was set aside by the Appellate Authority at Purasaiwakkam). The present status report filed by the Board speaks nothing about it.

It is therefore prayed that this Hon'ble Tribunal may be pleased to pass such or further other directions as this Hon'ble Tribunal may deem fit and proper under the peculiar facts and circumstances of the present case and thus render justice.

**Dated at Chennai on this the 17<sup>th</sup> day of March 2021**



**APPELLANT**