

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

(Under Section 18(1) read with Sections 14, 15 of National Green Tribunal Act  
2010)

**Original Application No. 45 of 2017 (SZ)**

**Between:**

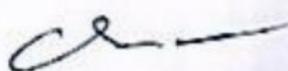
Thenkeeranur Vivasayigal Nala Sangam  
Rep.by.its Secretary G.Srinivasan  
Thenkeeranur Village  
Villupuram District, Tamil Nadu

... Applicants

AND

1. The Union of India  
Rep.by.its Secretary to Government  
Ministry of Environment and Forest  
Paryavaran Bhawan, CGO Complex,  
Lodhi Road, New Delhi- 110 003
2. The Secretary to Government  
Public Works Department  
Government of Tamil Nadu  
Secretariat, Chennai - 600 009
3. The Executive Engineer  
Vellaru Irrigation Division,  
PWD, Viruthachalam, Cuddalore Dt
4. The Southern Railway  
Rep.by.its Chief Administrative Officer  
No.183, EVR Periyar High Road, Egmore
5. The Chief Engineer, (Construction) Southern Railway  
O/o. The Chief Administrative Officer  
No.183, EVR Periyar High Road  
Egmore, Chennai- 600 008
6. The Deputy Chief Engineer (Constructions)  
Southern Railway, Salem Division, Salem
7. The Tamil Nadu Pollution Control Board  
Rep.by.its Member Secretary  
No.76, Mount Road, Guindy, Chennai 600 032
8. The District Collector,  
District Collector Office, Villupuram
9. The Revenue Divisional Officer,  
Kallakurichi
- 10.The Thasildhar,  
Thasildhar Office  
Kallakurichi

... Respondents



**OBJECTIONS TO THE REPORT FILED BY THE JOINT COMMITTEE**

1. I, G. Srinivasan, Son of GovndaKouger, aged about 50 years, the Secretary of the Applicant Association, having office at No. 1/365 Kattuthottam, Thenkeeranur Post, Kallakuruchi Taluk, do hereby solemnly affirm and sincerely state as follows;
  
2. The Original Application in OA No. 45/2017(SZ) was filed against the construction of a railway broad gauge line, in the Kaniyamur Eri (Lake) at S.No.72/4 of Kaniyamur Village, Kallakurichi Taluk, Villupuram Dist over an extent of 0.58.50 Hectares.
  
3. It is submitted that based on the order of this Hon'ble Tribunal an inspection was done by the joint committee on 23.03.2021. The said committee had mentioned the following as observations in the said inspection, through their report:
  - a. The extent of tank as 75 hectares.
  - b. Earthen embankment with box culverts in the impugned site.
  - c. Length of railway track inside the water body is 118 Meters (apprx.).
  - d. Area of construction with the water body is 4,130 Sq. Meters.
  
3. It is necessary to state that the committee had failed to observe the Ayacut of the Lake. The committee had failed to denote the extent of water body that had been occupied/converted from lake area to construction. And whether the place is specially marked as "water spread area" or as "Lake" on the revenue records.



4. It is submitted that the committee had found that, the source of water to the impugned tank from Mayura River is only through the side where the 6<sup>th</sup> Respondent is constructing the Railway line. It is necessary to state that, since the source of water to the lake is through the area where the railway line is being constructed without RCC pillars, the same shall severely affect the inflow of water to the lake, resulting in severe environmental degradation in the area.
5. It is submitted that the grievance of the Applicant is not against the construction of railway line across the Kaniyamoor tank, but the Applicant has approached this Hon'ble Tribunal for direction to the 6<sup>th</sup> Respondent to construct the said railway line across the lake only with RCC pillars. Though it is feasible to make such a construction the 6<sup>th</sup> Respondent has chosen to construct the railway line, inside the water body, by using earthen embankment with box culverts. The said method of construction shall affect the water body severely, where the catchment nature in the said area can be altered. Further, the earth embankment can block the natural springs inside the water tank and result in altering the nature of the water body which shall further affect the ecology.
6. It is submitted that though the Apex court had repeatedly observed and directed the authorities, in various judgments such as, Hinch Lal Tiwari v. Kamala Devi and others (AIR 2001 SC 3215), that,

".....



14. It is important to note that material resources of the community like forests, tanks, ponds, hillocks, mountain etc. are nature's bounty. they maintain delicate ecological balance. They need to be protected for a proper and health environment which enable people to enjoy a quality life which is essence of the guaranteed right under Articles 21 of the Constitution....."

and in *Jagpal Singh v. State of Punjab*, (2001 (11) SCC 396),

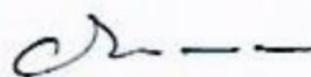
".....17. In this connection we wish to say that our ancestors were not fools. They knew that in certain years there may be droughts or water shortages for some other reason, and water was also required for cattle to drink and bathe in etc. Hence they built a pond attached to every village, a tank attached to every temple, etc. These were their traditional rain water harvesting methods, which served them for thousands of years.

18. Over the last few decades, however, most of these ponds in our country have been filled with earth and built upon by greedy people, thus destroying their original character. This has contributed to the water shortages in the country.

.....  
22. Before parting with this case we give directions to all the State Governments in the country that they should prepare schemes for eviction of illegal/ unauthorized occupants of Gram Sabha/ Gram Panchayat/Poramboke/Shamlat land and these must be restored to the Gram Sabha/Gram Panchayat for the common use of villagers of the village..."

but the 6<sup>th</sup> Respondent had chosen to make the impugned construction inside the Kaniyamoor tank through earth embankment style. The said method is nothing but typically filling the water body with provisions for water from one end to reach the other.

7. It is necessary to state that, though the project is a necessary one, the objection of the Applicant is only against the method of earth embankment



style, adopted to construct the bridge across the Lake. Even as per the principles of sustainable development, the 6th Respondent shall adopt to carry out the construction using RCC Pillars. The Apex Court in the case of **Environmental Action v. Union of India, [1996 (5) SCC 281]**, was pleased to observe that

*"While economic development should not be allowed to take place at the cost of ecology or by causing widespread environmental destruction and violation; at the same time the necessity to preserve ecology and environment should not hamper economic and other developments. Both development and environment should go hand in hand, in other words, there should not be development at the cost of environment and vice versa, but there should be development while taking due care and ensuring the protection of the environment."*

Hence a development at the cost of environment is against law.

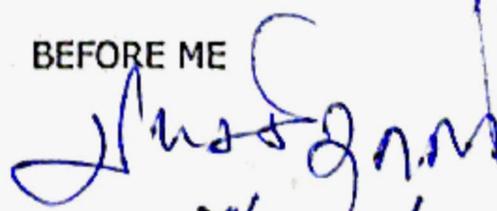
8. It is necessary to state that even the joint committee had observed that the style of construction adopted by the 6<sup>th</sup> Respondent shall cause obstruction in case of heavy rain. Further, the construction of railway line dividing the farm lands near the water tank shall also restrict the water flow to either side resulting in stagnation of water outside the water spread area, causing severe environmental degradation.

9. It is submitted that the 6<sup>th</sup> Respondent is trying to dilute the seriousness of construction inside the water body terming it as construction in water spread area. The revenue records of the impugned site where the construction of 4,130 Sq. Meters of railway line, would clearly show that it is a water body and differentiation between catchment area and water spread area shall not arise.

Solemnly affirmed on this the  
24th day of September, 2021  
And signed his name in my presence.

: BEFORE ME

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