

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

**ORIGINAL APPLICATION No.48 OF 2023 (SZ)**

**IN THE MATTER OF:**

Dr. Pyarelal V.V

...Applicant

v.

State of Kerala rep. by the Addl. Chief Secretary and Ors.

...Respondents

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Dated at Chennai on this 7<sup>th</sup> day of March, 2024



**COUNSEL FOR RESPONDENT NO.3**

**Dr. Prabhu Gondri**

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**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL SOUTHERN  
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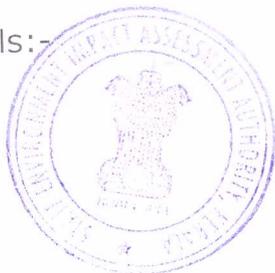
State of Kerala rep. by the Addl. Chief Secretary and Ors.

...Respondents

**STATEMENT FILED ON BEHALF OF THE 3<sup>RD</sup> RESPONDENT**

I, Babitha A, wife of Mr. Nahas N, aged 53 years, working as Legal Officer, SEIAA at Thiruvananthapuram, do hereby solemnly affirm and sincerely state as follows:-

1. It is submitted that, I am well acquainted with the facts of the case from the available records and I am authorized to file this statement on behalf of the 3<sup>rd</sup> Respondent. I crave leave of the Hon'ble Tribunal to statement as and when additional facts are available to the Respondent. It is submitted that the 3<sup>rd</sup> Respondent submit certain facts, which are necessary for the present application, are placed hereunder in seriatim.
2. It is submitted that as per EIA Notification FSTP construction is not a Schedule Activity. So, it does not require prior EC.
3. It is submitted that the common Judgment of National Green Tribunal in Appeal No.3 & 4 of 2021 (SZ) dated 30/07/2021 filed by Lingam Nagar Welfare Association regarding the construction of Fecal Sludge Treatment Plant in Thiruchirapally City Corporation against Tamil Nadu Pollution Control Board. The Judgment mentioned the following details:-



*Babitha A*

**BABITHA. A**  
Deputy Secretary to Govt. & Legal Officer  
State Environment Impact Assessment Authority  
4<sup>th</sup> Floor, KSRTC Terminal Complex  
Thiruvananthapuram Phone : 0471-2334262

'Solid Waste' as defined under clause 3(46) will go to show that it "means and includes solid or semi solid domestic waste, sanitary waste, commercial waste, institutional waste, catering and marketing waste and other non-residential waste, street sweeping, silt removed or collected from the surface of drains, horticulture waste, agriculture and dairy waste, treated bio-medical waste excluding industrial waste, bio-medical waste, e-waste, battery waste, radio-active waste generated in the area under local authorities and other entries mentioned in Rule 2". Sanitary waste has been defined under Rule 3(41) as "Sanitary waste means waste comprising of used diapers, sanitary towels or napkins, tampons, condoms, incontinence sheets and any other similar waste." Non-biodegradable waste has been defined under Rule 3(32) as "Non-biodegradable waste means any waste that cannot be degraded by micro organisms into simpler stable compounds." Biodegradable waste has been defined under Rule 3(4) as "Biodegradable waste means any organic material that can be degraded by micro-organisms into simple stable compounds."

A combined reading of these definitions will go to show that they never include septage waste or faecal waste. So, it cannot be brought under the definition of municipal solid waste as contended by the Learned Counsels for the appellant. Further, the scheme of the Act will go to show that articles which can be segregated and, then disposed by different methods either manually or by simple mechanical process. But as regards the faecal matter collected in the septic tanks with water and that mixture would have to be independently treated and this cannot be mixed with the Solid Waste as defined in the above said rules.



*Babitha A*

**BABITHA. A**  
Deputy Secretary to Govt. & Legal Officer  
State Environment Impact Assessment Authority  
4<sup>th</sup> Floor, KSRTC Terminal Complex

*The human faecal waste cannot be treated or equated with industrial commercial waste as normally human faecal matter is a bio-degradable matter and it can be converted into compost and can be re-used as manure and that will not create any adverse effect on soil fertility but on the other hand, it will only improve the soil fertility as in olden days, this was used as organic manure or fertilizer.*

*The sludge that was generated in STP and CETP would have a different categorisation which may include sometimes heavy metals which are injurious to health and that would have to be separately treated before it would be discharged into soil. But such an adverse effect is not there in the sludge which is being created in the human faecal treatment facility.*

4. It is submitted that, it cannot be equated with other highly polluting industries of general industrial nature and the same standard need not be adopted for establishment of such treatment plants in the municipal areas.

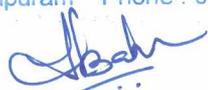
5. It is submitted that such application from the petitioner was not received in Authority.

Under the above circumstances, it is humbly prayed that this Hon'ble Tribunal may be pleased to dismiss the plea and pass such order or orders as this Hon'ble tribunal may deem fit and proper in circumstances of the case and thus render justice.

Dated at Chennai on this the 12<sup>th</sup> day of March, 2024.



**BABITHA. A**  
Deputy Secretary to Govt & Legal Officer  
State Environment Impact Assessment Authority  
4<sup>th</sup> Floor, KSRTC Terminal Complex  
Thiruvananthapuram Phone : 0471-2334262

  
**3<sup>RD</sup> RESPONDENT**

**VERIFICATION**

I, Babitha A, wife of Mr. Nahas N, aged 53 years, working as Legal Officer, SEIAA at Thiruvananthapuram, do hereby verify that the contents of paras 1 to 5 are true to the best of my personal knowledge and paras 1 to 5 believed to be true on legal advice and that I have not suppressed any material fact.

Dated at Chennai on this the 12<sup>th</sup> day of March, 2024.



**BABITHA. A**  
Deputy Secretary to Govt. & Legal Officer  
State Environment Impact Assessment Authority  
4<sup>th</sup> Floor, KSRTC Terminal Complex  
Thiruvananthapuram Phone : 0471-2334200

**3<sup>RD</sup> RESPONDENT**

**Item No.1 & 2:-****BEFORE THE NATIONAL GREEN TRIBUNAL  
SOUTHERN ZONE, CHENNAI****Appeal No. 03 of 2021 (SZ)****With****Appeal No. 04 of 2021 (SZ)**

(Through Video Conference)

**IN THE MATTER OF**

Lingam Nagar Welfare Association

....Appellant(s)

***Versus***The Chairman ,  
Tamil Nadu Pollution Control Board & Ors.

...Respondent(s)

For Appellant(s):

Mr. Sai Sathya Jith.

(In both cases)

For Respondent(s):

Mr. C. Kasirajan through  
Ms. D. Ashwini for R1 and R2.  
Mr. Abdul Saleem and  
Mr. Saravanan for R3 & R4.**Date of Order: 30<sup>th</sup> July, 2021.****CORAM:****HON'BLE MR. JUSTICE K. RAMAKRISHNAN, JUDICIAL MEMBER****HON'BLE DR. K. SATYAGOPAL, EXPERT MEMBER****ORDER**

Judgment pronounced through Video Conference. Both the appeals are disposed of with directions vide separate Common Judgment. All pending interlocutory application(s), if any, shall stands disposed of, in view of the disposal of both the appeals.

Sd/-

.....J.M.  
(Justice K. Ramakrishnan)

Sd/-

.....E.M.  
(Dr. K. Satyagopal)Appeal No.03/2021 &  
Appeal No.04/2021  
30<sup>th</sup> July, 2021. AM.

**Item No.1 &2:-****BEFORE THE NATIONAL GREEN TRIBUNAL  
SOUTHERN ZONE, CHENNAI****Appeal No. 03 of 2021 (SZ)****With****Appeal No. 04 of 2021 (SZ)**

(Through Video Conference)

**IN THE MATTER OF**

Lingam Nagar Welfare Association  
Rep. by V. Thirugnanasambandam  
S/o. A. Vishwanathan,  
Lingam Nagar Residents,  
Kuzhumani Road, Trichy – 620 102.

....Appellant(s)

*Versus*

1. The Chairman,  
Tamil Nadu Pollution Control Board,  
Guindy, Chennai – 600 032.
2. The District Environmental Engineer,  
Tamil Nadu Pollution Control Board,  
Thiruchirapalli.
3. The Commissioner,  
Thiruchirapalli City Corporation,  
Promenade Road,  
Cantonment, Trichy -1.
4. The Commissioner,  
M/s. Fecal Sludge Treatment Plant,  
S.F. No.19/9, Part, Ward – 1, Block-12,  
K. Abishekapuram Village,  
Thiruchirapalli West Taluk,  
Thiruchirapalli District.

... Respondent(s)

For Appellant(s):  
(In both cases)

Mr. Sai Sathya Jith.

For Respondent(s):

Mr. C. Kasirajan through  
Ms. D. Ashwini for R1 and R2.  
Mr. Abdul Saleem and  
Mr. Saravanan for R3 & R4.

**Judgment Reserved on: 23<sup>rd</sup> July, 2021.**

**Judgment Pronounced on: 30<sup>th</sup> July, 2021**

**CORAM:**

**HON'BLE MR. JUSTICE K. RAMAKRISHNAN, JUDICIAL MEMBER**

**HON'BLE DR. K. SATYAGOPAL, EXPERT MEMBER**

Whether the Judgement is allowed to be published on the Internet – Yes/No

Whether the Judgement is to be published in the All India NGT Reporter – Yes/No

**COMMON JUDGMENT**

*Delivered by Justice K. Ramakrishnan, Judicial Member.*

1. The above appeals have been filed by the appellants against the common order passed by the Appellate Authority, Tamil Nadu Pollution Control Board in Appeal 46 and 47 of 2018 dated 15.07.2017.
2. The appellants herein are members of the Lingam Nagar Residence Association, whose residential houses were situated in ward no. 60 of Pandamangalam Village, Thiruchirapalli City Corporation. The 3<sup>rd</sup> respondent for the purpose of treating septage generated within their city limit, decided to construct a 'Fecal Sludge Treatment Plant' and for the purpose of implementing the same, they have entered into a Memorandum of Understanding dated 21.09.2016 with Indian Institute of Human Settlements (IIHS). In furtherance to the agreement, 4<sup>th</sup> respondent was then entrusted with the construction and operation of fecal sludge treatment plant facility in S. No. 19/9 of Ward-1, Block-12, K. Abhishekapuram Village, Thiruchirapalli West Taluk, Thiruchirapalli District.

3. The 4<sup>th</sup> respondent had applied for consent to establish with Tamil Nadu Pollution Control Board and they have by their proceedings dated 07.01.2017 issued consent to establish for this project under Water (Prevention and Control of Pollution) Act, 1974 and Air (Prevention and Control of Pollution) Act, 1981. Earlier, some other local associations, namely, Woraiyur-Pandamangalam and Thamalavarubayan Village Agriculture Sangam filed writ petition W.P. (MD) No. 1785 of 2017 before the Hon'ble High Court of Madras at Madurai Bench to restrain 3<sup>rd</sup> respondent from establishing faecal sludge treatment plant in the impugned area and that writ petition was dismissed by the Hon'ble High Court giving liberty for the writ petitioner in that case to file appropriate appeal before this Tribunal. According to the appellant, in the meantime, for the purpose of proposed impugned project and proposed fish market, the disputed land in survey field nos. 158/4/4/4, in T.S. No. 19/9 was illegally reclassified from a residential cum public zone into an industrial zone and that classification was challenged by the appellant association before the Hon'ble High Court of Madras at Madurai Bench as W.P (MD) No. 7664 of 2018 in which the Hon'ble High Court had directed the 3<sup>rd</sup> respondent to maintain status quo until further orders and the same is pending before the Hon'ble High Court.
4. Further, the appellant filed O.A. No. 159 of 2018 before the National Green Tribunal alleging that the 3<sup>rd</sup> respondent cannot proceed with the project without obtaining environment clearance as required under Environmental Impact Assessment, 2006 under Entry No. 7(h) in the schedule to the EIA Notification, 2006 such project requires prior environment clearance before starting but that contention of the applicant was rejected by the National Green Tribunal and dismissed the application by order dated 04.12.2018. It is, thereafter, the appellant filed appeal nos. 46 and 47 of 2017 before the

Appellate Authority, Tamil Nadu Pollution Control Board. The project proponent as well as Pollution Control Board have filed their detailed statements and also documents and after hearing both sides and considering the contentions, the Appellate Authority came to the conclusion that the project did not require prior environment clearance and there is no impediment in establishing the unit in the proposed site as it cannot be said to be a highly polluting industry resulting in huge pollution and it cannot be treated as 'Red' category and dismissed the appeals but with certain observations that any order passed by this Tribunal will be subject to further orders to be passed by the Hon'ble High Court of Madras at Madurai Bench in pending writ petition and the 3<sup>rd</sup> respondent shall comply with all the conditions imposed by the Pollution Control Board in the consent to establish and also the conditions to be imposed while granting the consent to operate for this unit. Aggrieved by the same, the above appeals have been filed by the appellant.

5. Since caveat was filed by 3<sup>rd</sup> respondent and they entered appearance through standing Counsel, we thought that parties can be given an opportunity to file their reply statement and after hearing both sides, appeals can be disposed of on merits itself.
6. The 3<sup>rd</sup> respondent filed reply affidavit contending that the appeals are not maintainable and the Appellate Authority had considered all the aspects and rightly held that the appeals filed against the grant of consent to establish are not sustainable and it was for public interest and also necessity to maintain public hygiene system that such a novel idea of providing sludge treatment plant is required and all the allegations of possible pollution were only imaginary and the Pollution Control Board had considered all the aspects

while granting the consent to establish and there was no necessity to interfere with the same and then, dismissed the appeals.

7. They have further contended that Thiruchirapallia Corporation is having an area of 167 sq meters with a population of around 9,16,857 as per 2011 census. About 2,28,518 people were living in slums which roughly comes to 25% of the total population. The main area of the city had a centralized sewage network with a waste stabilization pond for treatment. However, there were few areas within the Corporation limit which were not connected to the network sewerage and rely on on-site sanitation systems for containing the black water. The on-site sanitation infrastructures in the house hold levels were mostly septic tank and pits. The drainage waste gets filled over an interval, post which it requires to be de-sludged. De-sludging was carried out using vacuum pumps owned by private operators or City Corporation. The sludge was currently disposed at designated areas from where it travels through sewerage networks to waste stabilization pond. At times, these de-sludging vehicles decant in vacant or farm lands due to difficulty in access to the disposal sites. A designated treatment plant hence becomes necessary for safe handling and disposal of faecal sludge. The Government of India is taking steps to improve urban sanitation and as a first initiative the Tamil Nadu Urban Sanitation support program was launched and many ideas were discussed including city sanitation planning. A Technical Support Unit had been set up to assist the Government of Tamil Nadu to achieve full chain of sanitation in the urban locations. The Technical Support Unit had been set up under the Tamil Nadu Urban Sanitation Support Program in the Municipal Administration and Waste Supply Department. Under the said program Trichy City Corporation was chosen to demonstrate pilot projects along the sanitation value chain.

Taking safety and hygiene into consideration and to avoid unsecured disposal of faecal sludge, the 3<sup>rd</sup> respondent, Corporation proposed the plan for which the respondent Corporation sought the help from an organisation by name, Indian Institute of Human Settlements, which was having requisite expertise in the field and offered technical and financial support and thereafter a Memorandum of Understanding was entered into between the Corporation and Indian Institute of Human Settlement on 29.09.2016.

**8.** As per MoU, IIHS had taken the responsibility for implementation of the plant with a view to prevent environmental pollution and safeguarding the public health through the septage treatment and disposal of faecal sludge. According to the MoU, the responsibility of IIHS for implementation of the treatment project also includes construction and commissioning of the treatment facility within the prescribed period. So, the 3<sup>rd</sup> respondent, Corporation along with above institution proposed to construct a pilot faecal sludge treatment plant in Kasivilangi, Kulamani Road Woraiyur, Block No. 12, T.S. No. 19/9 in the Corporation lands. They have obtained necessary permission from the Public Works Departments, Trichy for discharging treated water into Kudamurthi drain and after conducting inspection and after satisfaction, they vide letter dated 15.12.2016 recommended that permission granted is subject to certain conditions:

- i) Meet the permissible tolerance limits as issued by the Central Pollution Control Board.
- ii) Tolerance limit to be tested periodically.
- iii) Lean flow to be maintained in the drain.
- iv) Inlet point into Kudamurthi drain to be provided with shutter arrangement etc.

9. They have also obtained consent to establish for the proposed sludge treatment plant from the Tamil Nadu Pollution Control Board vide proceeding dated 07.01.2017 under the Air (Prevention and Control of Pollution) Act, 1981 and the Water (Prevention and Control of Pollution) Act, 1975. After considering the functioning of the units model and working mechanism, granted the permission with stringent norms. They have also obtained necessary permission from other departments to set up the project and a sum of Rs. 3.27 crores was allotted for this purpose. This will give greater relief to the people of Trichy Corporation and it was in order to protect the environment and implement Solid Waste Management Rules, 2016 as well as sludge Waste Management that this noble project was going to be implemented. It is neither hazardous industry nor highly polluting industry as contended by the appellant. This will be more helpful for the residents of wards nos. 45, 49, 53, 57 and 70 of K-Abhisekapuram Zone, where the sewer lines were not connected to the underground sewage system.

10. The proposed plant is located at a distance of 5 kms from Chattiram bus stand, in a total extent of 4 acres out of which 1.5 acres would be made available for this facility. The site is well connected to important arterial roads of the city with an all-weather approach road. They have also explained the technical aspects as to how the system would work, so as to convince that it would not cause any pollution and it will be operated in a hygienic and safe manner. They have mentioned that there would be testing of incoming faecal sludge that would be pre-treated in the chambers and the sludge stabilization would be made and then, sludge would be dried and the sludge would be subject to anaerobic treatment in the settler integrated with an anaerobic filter. This was used for removal of organic matter in the percolate. The treated

water from the filter would be further treated using vertical planted gravel filter and it helps in infusion of oxygen into the passing waste water, thereby reducing of organic matter, removal of nutrients, removal of odour and colour.

**11.**The module also consists of sand and carbon filter and UV treatment as planned for tertiary treatment. After undergoing these six stages, it results in two end products, namely, 1) bio solids and 2) treatment water. Thereafter, again it would be treated (bio-manure) and the treated bio solids could be used as soil conditioner for farming as they will be rich in nitrogen, carbon and phosphorus. The treated water could be re-used for irrigating plantations in the nearby farm lands. The remaining unused treated sewage water would be discharged into Kudamurti, for which, proper permission had been obtained. They have also provided parking facility and they propose to provide green belt as well, so as to avoid odour and air pollution, if any, likely to be caused against which all necessary scientific methods were being provided in the treatment plant itself. So, according to the 3<sup>rd</sup> respondent, there is no merit in the appeals. So, they prayed for dismissal of the appeals.

**12.**During the pendency of the appeals, the Learned Counsel appearing for the appellant submitted that the Thiruchirapalli Corporation had decided to provide parking facility slot in the survey number. So, it appears that they have abandoned the project. In order to ascertain the same, the Tribunal had directed the Thiruchirapalli Corporation to explain the aspect and they submitted that they have not abandoned the project but they intend to provide parking facility outside the area earmarked for this faecal sludge treatment plant.

**13.**The Pollution Control Board also produced the entire file relating to the issuance of consent to establish to the plant. The Pollution Control Board had

not filed any independent reply except producing the file as directed by this tribunal.

**14.**The 3<sup>rd</sup> respondent had also filed reply statement more or less in tune with the common status report submitted by them. They have denied the allegations made in the appeal memorandum. They further contended that there is no necessity for any environment clearance as the National Green Tribunal had held that sewage treatment plant did not require any environment clearance as per order in O.A. No. 124 of 2013 Khehar Singh vs. State of Haryana. The same point that had been agitated by the appellant in O.A. No. 159 of 2018 before the National Green Tribunal, New Delhi was also rejected and the application was dismissed on 04.12.2018. It was thereafter, they filed the appeal before the Appellate Authority. The Appellate Authority, after considering all the aspects came to the conclusion that the Pollution Control Board had considered all the aspects and there is no necessity to interfere with the same. So, they prayed for dismissal of the appeals.

**15.**Heard Mr. S. Sai Sathya Jith, learned counsel for the appellant in both the cases, Mr. C. Kasirajan through Ms. D. Ashwini learned counsel for respondents 1 & 2 and Mr. Abdul Saleem and Mr. Saravanan, learned counsel for the respondents 3 & 4.

**16.**The Learned Counsel appearing for the appellant argued that the Pollution Control Board had not properly understood the impact of establishment of a faecal sludge treatment plant near residential area. Further, this being a novel innovative project intended to be introduced for the purpose of treatment of faecal matters, no environment impact assessment study was conducted independently either by the project proponent or by the Pollution Control Board. Further, sewage treatment plant was categorised as red industry by the Pollution Control Board by their notification issued and as such the evaluation

of the project ought to have been done more carefully and taking into all probable aspects and thereafter should have imposed conditions but such steps were not been taken by the pollution Control Board. Further, the Appellate Authority had wrongly interpreted the word 'septage waste' and distinguished with solid waste that had been defined under the Solid Waste Management Rules, 2016 and came to the conclusion that, that will not come under that category. The reasons given by the Appellate Authority for coming to the conclusion that no environment clearance is required in view of the findings of the National Green Tribunal in this regard is not correct. The National Green Tribunal, New Delhi had only considered whether sewage treatment plant would fall under Item 7(h) of the Schedule to the EIA Notification, 2006 but in fact the question as to whether it would fall under item 7(i) as it would be equivalent to effluent treatment plant and it was part of common waste management facility for which prior environment clearance is required as per the notification.

**17.** The possibility of pollution being caused and the functioning of the unit etc were not properly considered. Further, the principles of Precautionary Principle and Sustainable Development and the importance of environment were not properly considered by the Appellate Authority. Further, the area is residential and mixed zone which was latter converted into industrial zone and that notification was challenged before the Hon'ble High Court of Madras at Madurai Bench and the Madurai Bench had order status quo and as such the Appellate Authority should not have permitted the establishment of the unit though, it was mentioned that the order passed by the Appellate Authority would be subject to further order to be passed by the Hon'ble High Court.

**18.** On the other hand, the Learned Counsel appearing for the project proponent argued that the Appellate Authority as well as Pollution Control Board have properly considered all the aspects and even the plea that it requires environment clearance was rejected by the National Green Tribunal, New Delhi in O.A. No. 159 of 2018 filed by the appellant so the same cannot be re-agitated. Further, the project report that has been produced by the project proponent will go to show that it is a new scientific method by which septage or faecal matters are disposed off in a scientific manner and it will never create any pollution.

**19.** The report of the Pollution Control Board filed before the Appellate Authority will go to show that the residential areas are about more than 200 meters from the proposed treatment plant. It cannot be treated as highly polluting industry and it cannot be equated with common municipal waste treatment facility as well so as to bring under the categories provided under Schedule of the EIA Notification, 2006. So, there is no merit in the appeals. The Learned Counsel appearing for the Pollution Control Board also more or less supported the contentions raised by the project proponent.

**20.** The points that arise for consideration are:

- i) Whether the orders passed by the Appellate Authority are liable to be interfered with?
- ii) Whether consent to establish granted is liable to be set aside for any other reasons raised by the appellant?
- iii) Is there is any necessity for imposing any further conditions applying Precautionary Principle?
- iv) Relief and Costs?

**Points:-**

**21.**The appellant had challenged the consent to operate granted to faecal treatment facility proposed to be established by the 3<sup>rd</sup> respondent, Thiruchirapalli City Corporation in S. No. 19/9 of Ward-1, Block-12, K. Abhishekapuram Village, Thiruchirapalli West Taluk, Thiruchirapalli District. The main contentions are (a) that the project being a red category industry as categorised by the Pollution Control Board, it should not be permitted in a residential area, (b) further, it will fall under Item 7(i) of EIA Notification, 2006 thereby prior environment clearance is required and (c) there was no proper application of mind and (d) no precautionary principle was taken into consideration, taking into account the possible pollution that is likely to be caused.

**22.**As regards, the question as to whether environment clearance was required for sewage treatment plant was considered by the Principal Bench in ***O.A. No. 124 of 2013 Khehar Singh Vs. State of Haryana*** and it was observed while dealing with the establishment of sewage treatment plant which was classified as red category as follows:

*“46. The bare reading of the above shows that establishment, expansion and even modernisation of CETPs require EC, being a category B project. Any treatment plant that deals with such effluents having more than 10% of industrial contributions by volume has to be treated as a combined treatment plant. On the strength of this guide, it becomes clear that the material consideration for determining the nature of the project or activity is the kind of effluent that it receives for the purpose of treatment. There is nothing on record before us to show that the STP in question is so established as to treat exclusively sewage and nothing else. On the contrary, the sketch filed by the respondent (Annexure R.3) shows that the sewage is carried by an open drain and would be so carried to the site of STP (for treatment). It is just by the side of a metal road and travels through the abadi and the sludge is carried through an open drain from the entire city. This is demonstrable of the fact that it is not sewage per se that is taken by the open drain to the site but is a mixture of various distinct effluents. Thus,*

*such an STP would even fall under the entry 7(h) because this plant would be treating the effluents in the semi-solid form and even sludge and would contain more than 10% of industrial or other contaminated chemical effluents. Such a plant is not only treating the effluents/sewage but also has to ensure that the ultimate discharge from such plant is strictly within the parameters prescribed so that the waste water is capable of being used for irrigation or recycled for other purposes while the other waste/sludge is to be properly disposed of. This is where the respondent has failed to place scientific data on record to show that it is exclusively the sewage which is capable of being treated to bring the ultimate discharge within the prescribed parameters of Biochemical Oxygen Demand (BOD) and others and also to ensure its proper re-use or recycling. We can reasonably conclude that the open nallah does not carry only the sewage waste but other effluents as well which are required to be treated by a CETP and the capability of the STP requires scientific and appropriate scrutiny from an expert body before it can be permitted to become operational and it is a fit case where it would cover combined waste water treatment plant i.e. CETP excepting sewage along with industrial effluents.*

**23.** The Tribunal had distinguished the same with CETP which falls under Item 7(h) Schedule I of EIA Notification, 2006 and came to the conclusion that STP does not require environment clearance. The same view had been reiterated by the National Green Tribunal, Southern Zone Bench in ***O.A. No. 100 of 2015 (M. Paul Rose & Anr vs. The Secretary to Government, Department of Environment, Forests and Climate Change)***, where this Tribunal had considered whether establishing a Biomethanation plant would require any environment clearance and observed that it was not required for following reasons:

*“37. From the above judgement and applying the same to the facts of the present case taking note of the fact that the 6th respondent has made application for authorisation under MSW Rules, 2000 to establish Municipal Solid Waste Processing Facility in the area of 4.2 ha in S.R.No. 278/1B and applied for Consent to Establish separately for Biomethanation Plant in the remaining area of 0.3 acre, the same cannot be termed as a CMSWMF within the purview of item 7(i) of MSW Rules. Therefore, we hold that prior EC under the facts and*

*circumstance of the case is not necessary to be obtained and the 6th respondent is entitled to proceed with the scheme.*

**24.** Further the appellant had challenged the process that the Faecal Treatment Plant requires prior environment clearance by filing O.A. No. 159 of 2018 before the National Green Tribunal, Principal Bench. The Principal Bench by Judgment dated 04.12.2018 dismissed the application holding that this does not require prior environment clearance but they need only consent from the Pollution Control Board and dismissed the application.

**25.** Further, in order to attract the project as common municipal solid waste treatment facility as mentioned in Item 7(i) of the EIA Notification, 2006, it must be part of the facility that is going to be established in the same area as common municipal solid waste treatment facility includes disposal of several wastes including solid, semi-solid, organic, inorganic, food waste, animal waste, plastic waste and other similar waste. It includes processing, segregation, recycling and generation of Refuse Derived Fuel and leachate treatment. Apart from that it may also include waste to energy plant as well. The combination of all these activities will create more pollution when compared to individual processing units which are segregated and independently established. So that was the reason why a combined disposal facility of common municipal waste was brought under the regime of environment clearance and for that reason, in some of the cases referred above, the Tribunal found that if independent processing was undertaken in a different place independently, then prior environment clearance is not required, though it is categorised as red category by the Pollution Control Board. Only for the purpose of regime of bringing them under the regime of consent mechanism, it is to be regulated by Pollution Control Boards and not otherwise. So, the submission made by the Learned Counsel for the appellant

that the plant requires prior environment clearance is without any basis and the Appellate Authority is perfectly justified in coming to the conclusion that it was not required and we do not find any reason to interfere with the same.

**26.** Reading of the definition of 'Solid Waste' as defined under clause 3(46) will go to show that it *“means and includes solid or semi solid domestic waste, sanitary waste, commercial waste, institutional waste, catering and marketing waste and other non-residential waste, street sweeping, silt removed or collected from the surface of drains, horticulture waste, agriculture and dairy waste, treated bio-medical waste excluding industrial waste, bio-medical waste, e-waste, battery waste, radio-active waste generated in the area under local authorities and other entries mentioned in Rule 2”*. Sanitary waste has been defined under Rule 3(41) as *“Sanitary waste means waste comprising of used diapers, sanitary towels or napkins, tampons, condoms, incontinence sheets and any other similar waste.”* Non- biodegradable waste has been defined under Rule 3(32) as *“Non-biodegradable waste means any waste that cannot be degraded by micro organisms into simpler stable compounds.”* Biodegradable waste has been defined under Rule 3(4) as *“Biodegradable waste means any organic material that can be degraded by micro-organisms into simple stable compounds.”*

**27.** A combined reading of these definitions will go to show that they never include septage waste or faecal waste. So, it cannot be brought under the definition of municipal solid waste as contended by the Learned Counsels for the appellant. Further, the scheme of the Act will go to show that articles which can be segregated and, then disposed by different methods either manually or by simple mechanical process. But as regards the faecal matter collected in the septic tanks with water and that mixture would have to be

independently treated and this cannot be mixed with the Solid Waste as defined in the above said rules.

**28.**The human faecal waste cannot be treated or equated with industrial commercial waste as normally human faecal matter is a bio-degradable matter and it can be converted into compost and can be re-used as manure and that will not create any adverse effect on soil fertility but on the other hand, it will only improve the soil fertility as in olden days, this was used as organic manure or fertilizer.

**29.**The sludge that was generated in STP and CETP would have a different categorisation which may include sometimes heavy metals which are injurious to health and that would have to be separately treated before it would be discharged into soil. But such an adverse effect is not there in the sludge which is being created in the human faecal treatment facility.

**30.**So under such circumstances, it cannot be equated with other highly polluting industries of general industrial nature and the same standard need not be adopted for establishment of such treatment plants in the municipal areas.

**31.**Further, even STPs are to be established within multi-storied residential complexes as one of the conditions, while those big residential complexes are permitted. If STPs can be established within the housing complexes, near the residential houses, then there is nothing wrong for establishing a faecal treatment plant which is less injurious than sewage treatment plant in a residential area. Further, it would be seen from the report submitted by the Pollution Control Board before the Appellate Authority that most of the residential areas are situated beyond 100-200 meters from the proposed site.

**32.**Further, all necessary Precautionary Principles are being adopted and conditions have been imposed by the Pollution Control Board while granting consent for this plant. Further, the project report that had been produced along

with the counter statement by the project proponent would show that the methodology is proposed for collecting and treatment. The ultimate residue that will be generated will be only a dried sludge which can be easily removed and converted into compost and used as manure.

**33.** Further, even in the cases of mini-compost facility less than 5 metric tonnes, no consent mechanism is required and the siting criteria is also not so severe. Even if the compost units are established with more than 5 MT capacity, then also no environment clearance is required but what is required is only authorisation and consent from the Pollution Control Board. Even, if it is part of the common municipal waste facility system, but the wastes are segregated and facilities are established for independent disposal, then each process will stand in a different footing.

**34.** Further, they have obtained all necessary permissions for the purpose of discharging the treated water into the Kudamuruti drain. Even the Central Pollution Control Board while establishing sewage and other treatment facilities insist for maximum re-use of treated water for all purposes except for drinking. So that shows treated water, if treated in-conformity with the standard provided, it will not cause any environmental degradation, even, if it was discharged into the drain which ultimately reaches the water body.

**35.** Further, the Pollution control Board had prescribed standards for outlet of the treated water that would be discharged from the system to the extent of bathing category which can be safely discharged into the public drains. So under such circumstances, the apprehensions raised by the appellant that the plant requires prior environment clearance and that cannot be established in a residential area are without any substance and the same are liable to be rejected.

**36.** Even in the categorisation provided in the Town Planning Act, this is not a prohibited activity within the residential area. Further, the Solid Waste Management Rules, 2016 insist for de-centralised waste management facilities so as to avoid it being taken to distant places and facilitate quick disposal near the generation places itself. This being a new scientific method by which faecal matter would be treated in a scientific manner and the pros and cons were discussed in the project report which would go to show that it would not create any pollution as apprehended by the Learned Counsel for the appellant and it can be established in a residential area as well, as there is no express prohibition for establishment of such treatment facility within the residential area.

**37.** Though, a writ petition is pending before the Hon'ble High Court of Madras at Madurai Bench in respect of the re-classification of this area into industrial area as W.P. (MD) No. 7664 of 2018 and new constructions were directed to be put under status quo by the Madurai Bench by an interim order, that would not prevent this Tribunal from going into the validity of the consent to establish granted for this facility by the Pollution Control Board. Since, this Tribunal observed that there is no express bar even to establish this facility within the residential area, the re-classification will not affect this project. However, as a precaution and since a status quo order in respect of new construction was passed by the Hon'ble High Court of Madras at Madurai Bench, this order will be also subject to further orders to be passed by the Hon'ble High Court of Madras as has been held by the Appellate Authority and we concur with that finding and conclusion.

**38.** In view of the discussion made above, there is no merit in the appeals and we do not find any reason to interfere with the orders passed by the Pollution Control Board granting consent to establish to this facility and confirmed by

the Appellate Authority. So, the appeals lack merits and the same are liable to be dismissed.

**39.**The points are answered accordingly.

**40.**In the result, the appeals fail and the same are hereby dismissed. However, we make it clear that further construction, if any, can be made subject to further orders to be passed by the Hon'ble High Court of Madras at Madurai Bench in W.P (MD) No. 7664 of 2018, as observed by the Appellate Authority and the Thiruchirapalli City Corporation is directed to strictly comply with all the conditions specified in the consent to establish and to be imposed in the consent to operate to be given and also the construction of facility must strictly adhere to the standards provided in the specification of the project report and also provide all necessary protection methods to avoid any possible air or odour pollution being caused which can result in nuisances to the neighbouring residential areas.

**41.**The Pollution Control Board is also directed to monitor the operation of the unit periodically, after the unit is operational and if there is any violation found to take appropriate action against the Thiruchirapalli Corporation, in accordance with law.

**42.**The parties are directed to bear their respective costs in both the appeals.

Sd/-

.....**J.M.**  
**(Justice K. Ramakrishnan)**

Sd/-

.....**E.M.**  
**(Dr. K. Satyagopal)**

Appeal No.03/2021 (SZ)&  
Appeal No. 04/2021(SZ)  
30<sup>th</sup> July, 2021. AM.