

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

Original Application No. 50 / 2017 (SZ)

ArapporIyakkam
Represented by Jayaram Venkatesan,
Chennai

...Applicant(s)

Versus

The Secretary to Government
Public Works Department & 5 Others

...Respondent(s)

REPLY AFFIDAVIT ON BEHALF OF THE
GREATER CHENNAI CORPORATION

I, Gagandeep Singh Bedi, S/o Dr.T.S.Bedi, Sikh aged about 54 years, Greater Chennai Corporation having an office at Ripon Building, Chennai - 600003, do hereby solemnly affirm and sincerely submit as follows.

1. I am working as the Commissioner in the Greater Chennai Corporation, and hence I am well acquainted with the facts and circumstances of the case, and I am filing this affidavit on behalf of the Greater Chennai Corporation.

2. I respectfully submit that Arappor Iyyakam, represented by Thiru.JayaramVenkatesan, filed the above application before the National Green Tribunal in O.A. No. 50 of 2017 with the prayer concerning the environment, existence of Villivakkam/Konnur Lake, flooding and dumping of Metro Rail debris and claiming the area of the lake is 214 acres and such.


PRINCIPAL SECRETARY /
COMMISSIONER
GREATER CHENNAI CORPORATION

3. In the reference cited the Hon'ble National Green Tribunal order dated 07.01.2022 in O.A. No. 50 of 2017, filed by Arappor Iyakkam represented by Jayaram Venkatesan stated as follows: -

“...9. The Greater Chennai Corporation (GCC) as well as the Chennai Metropolitan Water Supply and Sewerage Board (CMWSSB) are also directed to look into the issue on the basis of the observations made by this Tribunal to avoid such constructions in those areas or otherwise they can expect the consequential orders of removing those constructions from that area in order to protect the water body which ultimately will result in unnecessary loss for the Greater Chennai Corporation (GCC) as well as the Chennai Metropolitan Water Supply and Sewerage Board (CMWSSB), which they can avoid and they can use their funds with discretion and in a judicial manner to protect the water body than reduce the water storing area or the capacity of the water body since it was intended that the water body will be restored to its original capacity and protected when the area was restored to the Greater Chennai Corporation (GCC).

10. The Chennai Metropolitan Water Supply and Sewerage Board (CMWSSB) is also directed to consider the question of shifting Treatment Ultra Filtration Plant to STP area as mentioned by this Tribunal.


PRINCIPAL SECRETARY /
COMMISSIONER
GREATER CHENNAI CORPORATION

11. The respective affidavit will have to be filed by the responsible officer at the rank of Managing Director, Chennai Metropolitan Water Supply and Sewerage Board (CMWSSB) and the Commissioner of Greater Chennai Corporation, so that they may be knowing about the ground reality before the reports are being submitted to the Tribunal and the consequences of adverse orders likely to be passed by this Tribunal on account of noncompliance of the orders already passed...”

4. I respectfully submit that as per the order dated 07.01.2022 by the Hon'ble National Green Tribunal, the Commissioner, Greater Chennai Corporation, Deputy Commissioner (Works), and the Managing Director, CMWSSB made a joint inspection on 14.02.2022 along with other officials. Before this, another joint inspection was done by the Managing Director, CMWSSB, and Deputy Commissioner (Works), Greater Chennai Corporation, on 03.02.2022. Based on the analysis of the entire subject matter and detailed deliberations conducted, the following details are submitted.

5. I respectfully submit that the primary contention of the petitioner that the Villivakkam/Konnur Lake is measuring a total extent of 214 acres is without any proper evidence or records available. As per the old revenue records, the Public Works Department had owned lands in the said area only measuring to a total extent of 126.12 acres as far back as 1984. I further submit that the Public Works Department had


PRINCIPAL SECRETARY /
COMMISSIONER
GREATER CHENNAI CORPORATION

transferred the lands measuring an extent of 126.12 acres to the Tamil Nadu Housing Board (TNHB) vide G.O. Ms. No. 1759, Revenue Department dated 25.10.1984, for a consideration of Rs. 5000/- per acre.

6. I respectfully submit that the Tamil Nadu Housing Board had allotted a part of the lands to the SIDCO Residential Blocks and to develop SIDCO Industrial Estate. I further submit that in the year 1991, the Tamil Nadu Housing Board transferred lands measuring an extent of 39 acres with the construction and functioning Sewerage Treatment Plant (STP) to the Chennai Metro Water Supply and Sewerage Board (CMWSSB). After that, the land was maintained as an oxidation pond and Sewage Treatment Plant by CMWSSB. The oxidation pond and the land belonging to the CMWSSB, had limited water holding capacity and it used to cause water stagnation during heavy rains.

7. I respectfully submit that since 39 acres of the land with the Sewerage Treatment Plant was a large open low-lying area, it has been claimed as a Lake without verifying the proper revenue records or the nature of the said land. I further submit that there was only an oxidation pond and Sewerage Treatment Plant present in the said extent of land that was constructed by the TNHB before handing it over to the CMWSSB. The petitioner without any relevant documents or records has claimed the whole extent of 214 acres as Villivakkam/Konnur Lake.


PRINCIPAL SECRETARY /
COMMISSIONER
GREATER CHENNAI CORPORATION

8. I respectfully submit that in 2015, heavy rainfall caused flooding and stagnation of water in the SIDCO Nagar allegedly due to the dumping of debris in the vacant lands by the Chennai Metro Rail Limited. The dumped debris in the area had allegedly blocked the rainwater flow into the Kumaraswamy canal that resulted in flooding, in and around the areas of SIDCO Nagar.

9. I respectfully submit that later on in the year 2016, the Chennai Metro Water Supply and Sewerage Board handed over an extent of 27.5 acres to the Greater Chennai Corporation vide Board Resolution No. 54 of 2017 **for the rejuvenation and restoration of the oxidation pond** and withheld the remaining 11.5 acres of land.

In order to mitigate the flooding of SIDCO Nagar and to utilise the Villivakkam land of 27.5 acres, TUFISIL had appointed M/s INMAAS to prepare a detailed project report. M/s INMAAS had submitted DPR in the year 2018. However, Storm Water Department of GCC, constructed TVS canal connecting North avenue canal which is the discharge outlet for Ambattur lake and it joining Otteri Nullah canal bypassing Villivakkam tank. Before the construction, flood discharge from Ambattur lake used to flood the Villivakkam area inturn blocking the discharge from SIDCO Nagar. Now, due to the presence of the lined TVS canal, water from the upstream does not enter villivakkam area. The only source of water for villivakkam lake is runoff from the surrounding area.


PRINCIPAL SECRETARY /
COMMISSIONER
GREATER CHENNAI CORPORATION

10. It is submitted that at the time of handing over of the land to the GCC, part of the area was encroached. The GCC has paid Rs. 15.22 Crores to Slum Clearance Board to enumerate 268 household for rehabitaion and resettlement. An elaborate planning and steps have taken to remove these encroachments, out of the 268 encroachment on the land, the GCC has already removed 76 encroachments after rehabilitating the enchroachers in tenements built by the Tamil Nadu Urban habitat Development Board. For the rest of the tenements as well, the GCC has deposited the beneficiary contribution as required by TNHUIDB. Negotiations at the grassroots level are being carried out so that the rest of the encroachers can also be resettled peacefully. The tentative time required for full resettlement is 6 months from now.

11. I respectfully submit that, the Greater Chennai Corporation had removed all the debris that has been dumped by the Chennai Metro Rail Limited and started the restoration and development process. I further submit that the Greater Chennai Corporation has taken several effective steps to avoid floods in SIDCO Nagar and Villivakkam by the construction of Storm Water Drains. There is no proof or evidence for flooding and stagnation of water even in the recent monsoon season that witnessed a record-breaking rainfall, clearly hitting some other parts of the city during November and December 2021.


PRINCIPAL SECRETARY /
COMMISSIONER
GREATER CHENNAI CORPORATION

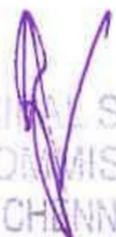
12. I further submit that deepening the pond and increasing the capacity of the tank, has prevented areas around SIDCO Nagar from flooding. The Greater Chennai Corporation has taken all the necessary steps to address the petitioner's concern about flooding, the flow of sewage water, removing the debris dumped in that area, and developing the oxidation pond into a manmade water body. To illustrate this, an article was published in News Indian Express, Chennai edition dated 15.11.2021 under the caption "**Restored Lake comes to Villivakkam Rescue**" is submitted along the typeset.

13. I respectfully submit that moreover the pond also serves the purpose of replenishing the aquifers in and around the area. The lake acts as a percolation pond where the water percolates to the ground and rejuvenates the groundwater table. As more and more groundwater is extracted by households and institutions in the nearby areas, water from the lake will percolate further replenishing the groundwater table. This means that the water levels in the lake will have significant percolation losses in addition to the evaporation losses and average evaporation loss per day will be 25,000 liters to a maximum of 35,000 liters and if the surrounding groundwater level decreases, the pond will be the sole resource to feed and maintain the groundwater for surrounding 2-3 km radius.


PRINCIPAL SECRETARY /
COMMISSIONER
GREATER CHENNAI CORPORATION

14. I respectfully submit that to consistently maintain the flora and fauna there must be adequate water in the pond throughout the year. At this stage, it is pertinent to point out that a similar exercise was done by Government of Tamilnadu to restore the Chetpet lake, wherein the water level in the lake is maintained by treating the sewage water in the vicinity and replenishing the reduces water with adequately treater water. Similarly over here a water inflow close to 0.25 to 0.30 MLD per day is required for the survival of flora and fauna and there has to be some source of water other than the runoff during the rainy season. It is humbly submitted that the setting up of a Tertiary Treatment Ultra Filtration Plant is the only option available to make sure that the water levels are maintained throughout the year in the pond. This will also ensure that the groundwater table in the area is replenished throughout the year through gravitational pressure due to the height of the water maintained in the pond.

15. I respectfully submit that there is an ultimate need for keeping the Eco-park filled with water during the failure of monsoon and dry periods at Chennai city. I further submit that the Greater Chennai Corporation has requested the CMWSSB vide letter dated 05.02.2021 to setup the Tertiary treated water to Villivakkam tank to maintain the water level in Villivakkam tank at 8.5m MSL and therefore the need for the TTUF is been clearly conveyed and it is also necessary to increase the groundwater.


PRINCIPAL SECRETARY /
COMMISSIONER
GREATER CHENNAI CORPORATION

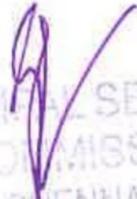
16. I respectfully submit that the functioning of a Tertiary Treatment Ultra Filtration Plant in the remaining land to provide a high quality of water from sewage is very much essential that enables the treated water to reuse applications. The treated water does not have phosphates, sulfides, ammonia, etc, and is free from pathogens, having a TDS of 800 approximately. Its quality is as good as the standard of drinking water. I further submit that the Tertiary Treatment Ultra-Filtration plant near the Villivakkam Tank will facilitate recharge of the groundwater table in the locality of a minimum of 2 to 3 km radius and also promote indirect recycling of water.

17. It is submitted that the area required for the existing pumping station will have to be maintained by CMWSSB since the GCC has no expertise in the area. It is further submitted that if the rest of the land is handed over to us, the GCC is willing to create another waterbody there linking it with the already developed water body. However, due to the reasons enumerated in the preceding paragraphs, it is humbly prayed that the GCC may be allowed to put up a TTUF plant to cater to the needs of the waterbodies. Here it is further submitted that the TTUF plant will have to cater to the needs of the new water body as well in addition to the manmade water body that is already developed by the GCC.


PRINCIPAL SECRETARY /
COMMISSIONER
GREATER CHENNAI CORPORATION

18. I respectfully submit that as per the Second Master Plan for Chennai Metropolitan Area 2026 approved in G.O. (Ms.) No. 190 Housing & Urban Development (UD I) Department dated 02.09.2008 and published as per G.O. (Ms.) No.191 Housing & Urban Development (UD I) Department dated 02.09.2008, the emarked extent of the land in the Villivakkam Village, Chennai District has been classified as "Institutional Zone" vide Map No. MP-II/CITY 18/2008. I further submit that there is no classification of any water body or presence of any lake in the demarked area as per the Second Master Plan for CMDA 2026.

19. I respectfully submit that as already submitted above , the Greater Chennai Corporation after taking possession of the land in 2017, has taken immediate steps to address the petitioner's concern about the flooding in SIDCO Nagar and Villivakkam. In the 1st phase of the project, after cleaning the debris in CMWSSB land and the surrounding areas, a master plan was undertaken to establish this place as a water-body cum recreational centre after redeveloping the oxidation pond into a man-made water body. The Greater Chennai Corporation has followed all the regulatory standards in developing the oxidation pond by deepening the pond by further 5 metre depth i.e., from the existing depth of 1-1.5 metre to 6.5 metre depth (from 10.50 metre MSL to 4.00 metre MSL). The total earth removed is 2,82,000 cubic metre, which has increased the capacity of the tank to 2,90,000 cubic metre, from the earlier capacity of 20,000 cu.m. and by creating bunds, stone pitching, and footpath. I


PRINCIPAL SECRETARY /
COMMISSIONER
GREATER CHENNAI CORPORATION

further submit that this is proof of evidence to prove that it is only a created pond, and not a natural lake.

20. It is submitted that the GCC has also provided 10 metres buffer in this created pond which is more than sufficient. The bund also has a walk-around footpath built with 5 meters wider for the safety within the 10 metres buffer zone. Further, the pond area is fully fenced with permanent hand railing and is erected across the bund area (buffer zone) and all recreational entertainment activities are planned beyond the buffer zone only.

21. I respectfully submit that the petitioner has filed the objections stating the developed Villivakkam Tank as a natural lake and pointed out the objections such as buffer zone, Lake Bund, and building structure in the lake. I humbly submit that these objections will apply only to water reservoirs and natural lakes and will not apply to the newly developed Villivakkam Tank as the land in question is purely classified as an "Institutional Zone" and not as a water body. However, it is further reassured that all the developments and recreational facilities by the concessionaire will happen beyond the buffer zone.

22. I respectfully submit that the developed Villivakkam Tank has two inlets and one overflow outlet. The inflow is connected with the SIDCO Nagar and SIDCO Industrial Estate and the overflowing rainwater in the said areas will flow through the Storm Water Drain and will reach


PRINCIPAL SECRETARY /
COMMISSIONER
GREATER CHENNAI CORPORATION

the Villivakkam Tank. The second inlet which is on the northern side of the Tank is connected with the overflowing Storm Water Drain from the TVS Canal and will reach the Villivakkam Tank. After reaching the maximum capacity of the Villivakkam Tank of 2,90,000 cu.m., the excess water will flow through the outlet to the Kumarasamy Canal, TVS Canal, OtteriNullah, and will reach the Buckingham Canal that is connecting to the sea.

23. I respectfully submit that total extent of land handed over to the Greater Chennai Corporation is 1,11,265 sq.m. (27.5 Acres) and the water spread area of the pond is around 73,000 sq.m. (from 4.00m MSL to 8.50m MSL). I further submit that pond area with freeboard is 76,000 sq.m. and the average bund width of the pond is 10 mts and the area comes around 12,000 sq.m. and the existing TVS Canal area is around 1,000 sq.m. Therefore the total extent of the oxidation pond area has been expanded from 73,000 sq.m. to 89,000 sq.m. The remaining extent of land available to the Greater Chennai Corporation is 22,265 sq.m.

24. I respectfully submit that the extent of land transferred to the Greater Chennai Corporation for restoration and rejuvenation has been classified as Institutional Zone as per the CMDA Master Plan II, further an extent of 89,000 sq.m. has been utilized for the development of pond and the remaining of 22,265 sq.m. has been taken up for other development amenities for ECO-PARK like birds park, water sports,


PRINCIPAL SECRETARY /
COMMISSIONER
GREATER CHENNAI CORPORATION

aquarium, children's park/play area, food courts, open-air theatre, etc. by applying the "Principle of Sustainable Development" that has been upheld by a catena of judgments by the Apex Court as cited below:

☐ **N.D. Jayal vs. Union of India, (2004) 9 SCC 362**

"...12.2. It is a settled law that the balance between environmental protection and developmental activities could only be maintained by strictly following the principle of "Sustainable Development". This is a development strategy that caters to the needs of the present without negotiating the ability of upcoming generations to satisfy their needs. The strict observance of sustainable development will put us on a path that ensures development while protecting the environment, a path that works for all peoples and for all generations. It is a guarantee to the present and a bequeath to the future. All environment-related developmental activities should benefit more people while maintaining the environmental balance. This could be ensured only by strict adherence to sustainable development without which life of the coming generations will be in jeopardy. The adherence to sustainable development principle is a sine qua non for the maintenance of the symbiotic balance between the rights to environment and development. Right to environment is a fundamental right. On the other hand, right to development is also one. Here the right to sustainable development cannot be singled out. Therefore, the concept of sustainable development is to be treated as an integral part of life under Article 21. Weighty concepts like intergenerational equity, public trust doctrine and


PRINCIPAL SECRETARY /
COMMISSIONER
GREATER CHENNAI CORPORATION

precautionary principle, which have been declared as inseparable ingredients of our environmental jurisprudence, could only be nurtured by ensuring sustainable development. To ensure sustainable development is one of the goals of the Environment (Protection) Act, 1986 and this is quite necessary to guarantee the right to life under Article 21. If the Act is not armed with the powers to ensure sustainable development, it will become a barren shell. In other words, sustainable development is one of the means to achieve the object and purpose of the Act as well as the protection of life under Article 21. Acknowledgment of this principle will breathe new life into our environmental jurisprudence and constitutional resolve...”

25. I respectfully submit that the Villivakkam SIDCO Nagar is a thickly populated area with industries around it. The Villivakkam Tank eco-development project will provide direct employment for more than 350 people and indirect employment for over 1000 people in the neighborhood. This PPP project is a landmark eco-recreational project in Chennai city that ensures development by protecting the environment. Over forty thousand residents and their welfare associations have welcomed the project and there were no such objections from the residents around.

26. I respectfully submit that we would like to highlight about an existing similar project in a lake-bound area in our city. The Chetpet lake in Chennai is now converted as Chetpet Eco-Park and very well-


PRINCIPAL SECRETARY /
COMMISSIONER
GREATER CHENNAI CORPORATION

functioning in the natural lake bound area for the last two decades with TTUF plant to top up the lake during the summer season. We also highlight another existing similar project in a lake bound area in the city of Ahmedabad, Gujarat in the natural lake called "**Kankaria Lake**" that is converted and developed as a recreational amusement park by the Ahmedabad Local Civic Body which is a very famous recreational and tourist attraction spot that has all kinds of entertainment in the lake area of 76 acres. Similar kinds of Eco-Parks are under development in many parts of the country. I further submit that the Greater Chennai Corporation has conceived of initiating a similar kind of Eco-Parks into the city and the development of Villivakkam tank is a pilot that looks at both environmental and financial sustainability for the development and further conservation of the water body.

27. I respectfully submit that even in the Full Bench judgment in W.P. No. 1294 of 2009 referred by the petitioner, the Hon'ble Supreme Court has held that there should development while taking due care and ensuring the protection of the environment. The relevant paragraph of the judgment is quoted below for reference.

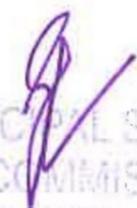

PRINCIPAL SECRETARY /
COMMISSIONER
GREATER CHENNAI CORPORATION

❏ **T.K. Shanmugam vs The State Of Tamil Nadu**
W.P. No. 1294 of 2009 (Full Bench)

“... **35.** The Hon'ble Supreme Court in **Indian Council for EnviroLegal Action v. Union of India [(1996) 5 SCC 281]**, held that 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 environment...”

28. I respectfully submit that the traditional concept that development and ecology are opposed to each other is no longer acceptable. Sustainable Development is the answer. In the international sphere, Sustainable Development as a concept came to be known for the first time in the Stockholm Declaration of 1972. Thereafter, in 1987 the concept was given a definite shape by the World Commission on Environment and Development in its report called Our Common Future. The Commission was chaired by the then Prime Minister of Norway, Ms G.H. Brundtland, and as such, the report is popularly known as Brundtland Report. The necessity of Sustainable Development was emphasized in **M/S. Ramgopal Estates Pvt. Ltd vs. The State Of Tamil Nadu on 2 March 2007** and it quoted below:

“...**7.6.** While the right to clean environment is a guaranteed fundamental right under Articles 14 and 21 of the Constitution of India, the right to development through industrialization equally claims priority under fundamental rights, particularly under Articles 14, 19, and 21 of the Constitution of India. Therefore, there is a necessity for sustainable


PRINCIPAL SECRETARY /
COMMISSIONER
GREATER CHENNAI CORPORATION

development harmonizing both the needs and striking a golden balance between the right to development and right to clean environment.

A Concept of Sustainable Development, an integral part of Articles 14 and 21 of the Constitution of India vide Jayal N D v. Union of India, 2004 (9) SCC 362.

7.7. *Before proceeding further, a sharp and detailed reference on the concept of sustainable development is inevitable.*

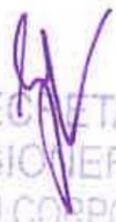
(viii) *During the two decades from Stockholm to Rio, Sustainable Development has come to be accepted as a viable concept to eradicate poverty and improve the quality of human life while living within the carrying capacity of the supporting ecosystems. Sustainable Development as defined by the Brundtland Report means Development that meets the needs of the present without compromising the ability of the future generations to meet their own needs. The Sustainable Development, therefore, is a balancing concept between ecology and development, has been accepted as a part of the customary international law though its salient features have yet to be finalised by the international law jurists. Some of the salient principles of Sustainable Development, as culled out from Brundtland Report and other international documents, are Inter-Generational Equity, Use and Conservation of Natural Resources, Environmental Protection, the Precautionary Principle, Polluter Pays Principle, Obligation to Assist and Cooperate, Eradication of Poverty and Financial Assistance to the developing countries...”*


PRINCIPAL SECRETARY /
COMMISSIONER
GREATER CHENNAI CORPORATION

29. I respectfully submit that the Greater Chennai Corporation has acquired a total extent of 27.5 acres that is classified as an "Institutional Zone" as per the CMDA's Master Second Plan approved by the Government. The Greater Chennai Corporation, as a Civic Administrative Authority, has a vision to bring many new innovative projects to Chennai city and this Villivakkam Tank PPP project is a model pilot project planned to bring international standards as an eco-recreational park by following all the standard norms. I deny the allegations made out by the applicant in their affidavit stating that, this land as a Villivakkam/Konnur Lake without knowing the proper revenue records and land classification and thereby has no proof of evidence to claim this land as a natural lake.

30. I respectfully submit that the Greater Chennai Corporation is doing a lot of developments in the city with the implementation of the Smart City Scheme, Singara Chennai 2.0, and Namakku Naame Thittam and let the petitioner not deviate or falsely claim the total extent of the land in question as to the Villivakkam/Konnur Lake without any basis.

31. I respectfully submit GCC has made a concession agreement in 2020 to maintain the Villivakkam tank and develop further infrastructure including flora and fauna. All further developments will be carried out by the concessionaire at his own cost with a minimum staff of 50 people in maintaining the lake and other safety and security of the place with an estimated cost of minimum 20 lakhs per month. I further


PRINCIPAL SECRETARY
COMMISSIONER
GREATER CHENNAI CORPORATION

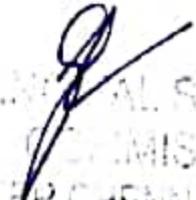
submit that the GCC and concessionaire have taken a special effort to maintain flora, and fauna in the water area. Specifically, they have seeded six different native fish species in the developed pond, on which two of them are endangered. We are giving special care for native conservation and conservation of inland native fish species for procreation.

It is therefore prayed that this Hon'ble Tribunal may be pleased to pass suitable orders as this Hon'ble Tribunal may deem fit and proper in the circumstances of the case and thus render justice.

Solemnly affirm that Chennai

On this the day 28th of February 2022

And signed his name in my presence


REGIONAL SECRETARY /
COMMISSIONER
GREATER CHENNAI CORPORATION
Before Me

ASBA

E No. 2291/2019
29, Add. Law Chambers
High Court, Ch-104
Advocate::Chennai

NATIONAL GREEN TRIBUNAL

(SOUTHERN ZONE)

O. A. No. 50 of 2017

STATUS REPORT

Enroll No.1732/2000

M/s. P.T. Ramadevi

+91 9444344552

Standing Counsel

(Greater Chennai Corporation)

COUNSEL FOR RESPONDENT