

IN THE HON'BLE NATIONAL GREEN TRIBUNAL (SZ) AT CHENNAI

I.A No. 7 OF 2024

IN

O.A. No. 12 of 2024

M/s. Sri Periyandavar Blue Metal
Represented by its Partners,
Mr. A. Shanmugam,
S.F.No.106/1B, 106/2B, 106/3B, 106/10,
Nemili Village, Vanur Taluk, Villupuram
Email:hemalathaadv@gmail.com
Ph:9940294233

... Applicant/Proposed Respondent

Versus

1. E.V.Sampath,
S/o. Varadhan,
No.1/113, Bajanai Kovil Street,
Erumaiyur, Chennai 600 044
Email:yogeshwaranadv@gmail.com
Ph:9566254546

... 1st Respondent /Applicant

2. Tamil Nadu Pollution Control Board,
Rep. by its Member Secretary,
76, Anna Salai,
Guindy Industrial Estate,
Chennai – 600 032
Email: tnpcb-chn@gov.in
Ph No:044- 22353141

...2nd Respondent/Respondent

COUNTER STATEMENT FILED BY THE 1ST RESPONDENT/APPLICANT

The 1st Respondent/Applicant submits as follows:

1. It is submitted that the present miscellaneous petition has been filed by the petitioner herein seeking to implead in these proceedings as a party respondent and at the outset, it is submitted that the party seeking

impleadment is neither a necessary party nor a proper party to these proceedings.

2. It is submitted that the present application challenges instruments issued by the Respondent Pollution control board. I am advised to submit that the author of the administrative instrument i.e., the Pollution Control Board - is a respondent in the writ petition and they are the best suited to defend their order. The private party seeking impleadment has no locus to defend the vires or validity of the Instruments issued by the Pollution Control Board.
3. No relief is sought against the party seeking impleadment. The Applicant seeking impleadment cannot sustain the validity of the instruments impleading them in a matter challenging an instrument issued by the Pollution control board would result in an anomalous situation where the author of the instrument might accept the verdict of the Court but a third party may not.
4. The present OA concerns legality in exercise of statutory powers by the TNPCB, the application of mind, the scientific correctness of report submitted by the consultants of the TNPCB to the TNPCB. The arbitrariness in accepting such reports without diligence and scrutiny Etc. These private crushers/entities seeking impleadment have no locus to justify the correctness of the actions of the TNPCB nor can they defend the legality of the impugned proceedings of the TNPCB. This responsibility lies solely on the author of these instruments. These private parties seeking impleadment have no vested right and just because some of crushers/entities were impleaded in the writ petition before the Hon'ble High Court, does not mean that these entities have gained the legal

standing to supplant the author of the impugned instruments or even supplement them. In other words, at the cost of repetition it is submitted that these parties cannot in any manner claim any right to sustain the impugned instruments.

5. It is submitted that this Hon'ble Court in **The Film Federation of India Vs. Union of India** (AIR1986Mad43) has held,

*"20. We have read the order of the learned Judges of the Division Bench, and we are of the view that the effect of the observations made by the Division Bench would be devastating. The notification under the Minimum Wages Act fixed the minimum rates of wages for employees in hotels and restaurants with reference to different categories of employees working therein. It appears from the order that the petitioners in the petition before the Division Bench were carrying on business in hotels and restaurants in areas within the limits of the Municipalities of Madurai, Coimbatore, Salem and Tiruchi. If the order of the Division Bench is to be complied with then if a petition is filed in a representative capacity by hotel owners every employee in hotels and restaurants in all the cities will have to be made parties, which is next to impossible. **The mere fact that the persons for whose benefit the notification fixing minimum wages was issued would be adversely affected will not make such employees necessary or proper parties to the petition, because no relief is asked against them. As a matter of fact, when a petitioner comes to Court challenging a particular Government order, which is for the benefit of several people, the relief to be granted depends only upon the validity of the impugned action of the Government. If the impugned action of the Government is held to be constitutionally invalid, the mere fact that persons for whose benefit the action was taken would be deprived of that benefit, does not make it necessary for all those affected persons to be made parties.**"*

6. It is submitted that the above dictum is squarely applicable to the facts of the present case and the claim of the petitioners seeking impleadment that they are affected and hence they are necessary parties ought to be

negated. I submit that the submissions made in the affidavit filed by the party seeking impleadment are without merit, contrary to law, self-serving and are liable to be rejected.

It is therefore prayed that this Hon'ble Court may be pleased to dismiss the petition seeking impleadment and thus render justice.

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(1421/11)

Counsel for the applicant

E.V. Sampath

1st Respondent/Applicant

VERIFICATION

I, E.V. Sampath, do hereby solemnly affirm and verify that the contents in the above paragraphs are true and correct to my knowledge. No part of it is false and nothing material has been concealed there from.

Verified on this day of 27th January 2024

E.V. Sampath

1st Respondent/Applicant

27/01/2024
D. PRASANNA, B.Sc., LLB.,
ADVOCATE & NOTARY
No.18, Plot No.88, F1,
Varadhammal Avenue, 200 Ft Road,
Chennai -117. Cell: 96008 47527.

