

BEFORE THE NATIONAL GREEN TRIBUNAL
SOUTHERN ZONE AT CHENNAI.

Original Application No.08 of 2022

M.S.Raja,
4/1, Saraswathi Amman Kovil Street,
Puthukudi – 628 621.
Srivaikundam,
Thoothukudi District.

...Applicant

Vs

Union of India,
Rep. by its Secretary to Government,
Ministry of Environment Forests and Climate Change,
Government of India,
Paryavaran Bhavan,
New Delhi & others

...Respondents

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Filed by
Thiru. S. Sai Sathya Jith
Advocate, Chennai.

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,
SOUTH ZONE, CHENNAI
In O.A. No. 08 of 2022 (SZ)

In the matter of M.S. Raja versus Union of India and others.

Report of the Joint Committee constituted vide Hon'ble NGT(SZ)
order dated 18.01.2022 in O.A. No. 08 of 2012

Date of inspection of the Joint committee: 22/03/2022 & 23/03/2022

Introduction:

Thiru. M.S. Raja of Puthukudi, Srivaikundam, Thoothukudi District has filed this O.A. No. 08 of 2022 against the 1. *Union of India Rep. by the Secretary to Government, Ministry of Environment and Forests and Climate Change, Government of India, New Delhi*, 2. *The Member Secretary, State Level Environmental Impact Assessment Authority, Chennai*, 3. *The State of Tamilnadu Rep. by the Secretary to Government, Department of Environment, Government of Tamilnadu, Chennai*, 4. *The Chairman, Tamilnadu Pollution Control Board, Chennai*, 5. *The District Environmental Engineer, Tamilnadu Pollution Control Board, Thoothukudi*, 6. *M/s. V. V. Titanium Pigments Private Limited, Rep. by its Managing Director, SIPCOT Industrial Complex, Thoothukudi* regarding the establishment of a 6 MW Thermal Power Plant by the 6th respondent industry namely M/s. V.V. Titanium Pigments Private Ltd. In the affidavit filed by the Petitioner it has been mentioned that the 6th respondent industry has established a 6 MW Thermal Power Plant illegally without obtaining environmental clearance as required under the EIA Notification 2006 and also without obtaining State Pollution Control Board consents and hence the Petitioner has prayed the Hon'ble NGT 1. *To direct the 6th respondent industry to immediately stop the illegal and unlawful operation of the 6 MW Thermal Power Plant and 2. To direct the 6th respondent to take steps towards compensating and remedying the social and environmental damages caused due to illegal establishment and illegal operation.*

The Hon'ble NGT (SZ), Chennai in its order dated. 18.01.2022 had constituted a Joint Committee comprising of (i) a Senior officer from Ministry of Environment, Forest & Climate Change (MoEF&CC), Integrated Regional office, Chennai (ii) a Senior officer from the State Level Impact Assessment Authority (SEIAA), Tamil Nadu and (iii) District Environmental Engineer of Tamil Nadu

Pollution Control Board, Thoothukudi to inspect the area in question and to submit report.

In its order dated. 18.01.2022 the Hon'ble NGT issued the following directions:

Para 11: The Joint Committee to inspect the area in question and to submit a factual as well as action taken report, if there is any violation found.

Para 12: The Joint Committee is also directed to ascertain as to whether the 6th Respondent had obtained Environmental Clearance (EC) and necessary permissions under the environmental laws for establishing the 6 MW Power Plant and whether they are operating still, despite the closure order issued by the Tamil Nadu Pollution Control Board, as alleged by the applicant in the application and if so, what is the nature of action taken against them. If the 6th Respondent had committed any violation of environmental laws, the committee is directed to assess the damage caused to the environment on account of their alleged illegal operation and assess environmental compensation not only for the violation of the conditions of the alleged unauthorized operation, but also for cost of restoration for the damage caused to the environment.

Para 13: The Joint Committee is also directed to ascertain as to whether all necessary pollution control mechanisms have been provided to mitigate the chances of pollution on account of the operation of the alleged 6 MW Power Plant, even if they obtained necessary permissions and if not, what is the nature of precautionary measures to be taken to resolve the issue to avoid further complaints in this regard.

In compliance to the above Hon'ble NGT (SZ) order, a Joint Committee was formed with the following members to inspect the 6th respondent industry and to submit the factual and action taken report:

1. *Dr. Sridhar, Scientist 'D',
MoEF&CC, IRO, Chennai.*
2. *Shri. KSSVP Reddy, IFS,
Expert Member – SEAC, TN SEIAA, Chennai.*
3. *The District Environmental Engineer,
Tamil Nadu Pollution Control Board, Thoothukudi.*

The Joint Committee inspected the 6th respondent industry on 22nd and 23rd March 2022 and following report is submitted:

Observation made by the Joint Committee during inspection:

Directions in Para 11 Factual and action taken report:

M/s. V.V. Titanium Pigments Pvt Ltd has proposed to establish 6 MW coal fired thermal captive power plant in its premises in S.F.No. 1225, 1227/1 and 1227/2 of Meelavittan Part I Village, Thoothukudi District and submitted project proposals to SEIAA for EC under B1 category schedule I (d) of EIA Notification 2006 on 13/02/2016. The SEIAA based on appraisal of SEAC has issued Standard Terms of Reference (TOR) on 17/5/2016 for preparing Environment Impact Assessment report with public consultation. The project proponent has not continued with the further process of EC, but continued fabrication and construction works. On complaints of company proceeding constructions without EC, the TNPCB issued Show Cause Notice and issued directions to stop further works. Meanwhile, the project proponent has withdrawn EC application in SEIAA on 16/10/2017.

The industry filed fresh application to Tamilnadu Pollution Control Board(TNPCB) on 01/11/2017 and obtained Consent to Establish(CTE) for 4.5 MW coal based thermal power plant for the same project at the same place. The Consent to Operate has been issued to the company on 27/06/2019 by TNPCB. The company has avoided taking EC under EIA Notification 2006 for 6MW Thermal plant and downsized its plant to 4.5 MW capacity by altering the machinery components. The reason for downsizing plant to 4.5 MW is apparently to avoid the public consultation and EIA Notification process. The thermal plant of 4.5 MW has, thus come into existence and is in operation in the premises. The company has chosen to downsize capacity 6 MW to 4.5 MW to obtain CTE and CTO from TNPCB under section 21 of Air Act, 1981 as amended and under section 25 of Water Act, 1974 as amended so as to avoid process under EIA Notification 2006. In either of the cases the company has clearly commenced the fabrication and construction works before obtaining the prior environmental clearance or before CTE obtained. Hence, it is a case of violation.

Directions in Para 12:

Environment Clearance for 6 MW thermal plant has never been obtained by the company and in its place a 4.5 MW plant has been established and is in operation. Hence, operation of 6 MW plant by the company does not arise. The directions issued by the TNPCB to stop works have been followed with regard to establishment of 6 MW plant. In as much as 6 MW plant has not been established, the question of assessing damage caused to Environment on account of its illegal

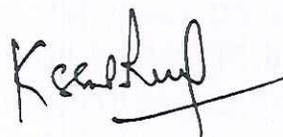
operation, assessing environmental compensation for alleged unauthorized operation and cost of restoration for the damage, does not arise.

Directions in Para 13:

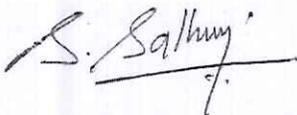
As 6 MW thermal plant has not been in existence, the pollution control mechanism could not be studied. However, the conditions stipulated by the TNPCB in its CTE and CTO with regard to 4.5 MW thermal plant like Electro Static Precipitator, ETP and RO plant, water sprinkling, use of imported coal, not using plastics, development of green belt etc., have been complied with.



Dr. R. Sridhar, Scientist 'D',
MoEF&CC, IRO, Chennai.



Shri. KSSVP Reddy, IFS,
Expert Member-SEAC,
TN SEIAA, Chennai.



S. Sathiaraj, M.Tech.,
District Environmental Engineer,
Tamilnadu Pollution Control Board,
Thoothukudi.

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**REPORT OF THE JOINT COMMITTEE
CONSTITUTED VIDE THE HON'BLE
NATIONAL GREEN TRIBUNAL
ORDER DATED 18.01.2022 IN
O.A.NO.08 OF 2022.**

**Advocate for Respondent: TNPCB
Thiru. S. Sai Sathya Jith,
Advocate, Chennai.**

Date:30.03.2022.

Date of hearing on:31.03.2022

