

BEFORE THE NATIONAL GREEN TRIBUNAL SITTING AT CHENNAI

OA (SZ) No. 8of 2022

M.S.Raja,
S/o SubbaiahThevar,
Hindu, aged 45 years,
4/1, Saraswathi Amman Kovil Street,
Sri Vaikundam,Thoothukudi District- 628621

...Applicant

Vs

1. Union of India rep.by its Secretary of Government
Ministry of Environment and Forests and Climate Change,
Government of India, ParyavaranBhavan,
New Delhi-110003
2. The Member Secretary,
State Level Environment Impact Assessment Authority,
PanagalMaligai, Chennai-600 015
3. The State of Tamil Nadu, Rep.by its Secretary to Government
Department of Environment,
Government of Tamil Nadu,
Fort.St.George, Chennai-600 009
4. The Chairman,
Tamil Nadu Pollution Control Board,
76, Mount Raod, Guindy,
Chennai-600 033.
5. The District Environment Engineer,
Tamil Nadu Pollution Control Board,
Thoothukudi - 628 002
6. M/s V.V.Titanium Pigments Private Limited,
Rep.by its Managing Director,
SIPCOT Industrial Complex,
Thoothukudi-628 002

...Respondents

MEMORANDUM FILED BY APPLICANT

The Applicant respectfully submits as under:

1. The applicant is a social and environmental activist and he has filed several public litigations concerning the Environmental Protection.The applicant is the founder of the Nilathadi Neer Padhukappu Iyakkam and he had initiated various petitions before concern govt. authorities and had conducted various protest, peaceful agitation, procession against the exploitation and theft of minor and major minerals and ground water.

2. It is submitted that M/s V.V. Titanium Pigments Private Limited, the 6th respondent herein has established and operating a Titanium Dioxide producing Factory for 2 decades. During the year 2016, the 6th respondent had installed a 6 Mega Watt Captive Thermal Plant illegally established, constructed and the same is being operated within the existing industry area comprised in Survey Field Nos. 1225 (Part), 1227/1 (Part), 1227/2 (Part) of Meelavittan Part-1 Village, Thoothukudi Taluk and District.
3. It is submitted that in respect of the same the applicant had filed OA No.8 of 2022 (SZ) on the file of this Honourable Tribunal and as per the directions of the Honourable Green Tribunal, a Joint Committee was constituted and the Joint-Committee has filed its report on 30.03.2022 wherein it had stated that the 6th respondent has established coal based 6MW Power Plant and applied for Environmental Clearance and SEAC has issued terms of reference (TOR) on 17.05.2016.
4. It is submitted to the shock and surprise, the report had also stated that the 6th respondent has further applied for consent to establish 4.5 MW power coal based thermal power plant from the 4th and 5th respondent and obtained the same on 01.11.2017 and further obtained consent for operation on 27.06.2019. It is submitted that on time of proposal of power project it should have been decided by the proponent for installation and purchase of the machinery with proposed capacity. The project such as coal based power plant molded after evaluating the pros and con. Based on the evaluation the capacity of boilers, Turbine, Condenser, Transformer, Cooling Tower and machinery has to be formulated up to proposed capacity.
5. It is submitted that the inspection report, dated 28.06.2016, it was noticed that the fabrication works were already in progress system. It is also noticed that on 12.02.2016, the 6th respondent has applied for Environmental

Clearance wherein the 6th respondent furnished all the project summary with list of machinery and its capacity. It is submitted that all of sudden, and without any prior intimation to Environmental Authority, the 6th respondent submitted an application for consent to establish with re-designing of the project for 4.5 MW which is simple not possible with the machinery under the project. The said application was directly processed by the Joint-Chief Environmental Engineer and he had issued the consent to establish the project with lesser production capacity i.e., from 6 MW to 4.5 MW. It is submitted that the 6th respondent has acted very smart and concealed the true facts at time of applying consent to establish the 4.5 MW Power Plant before Joint-Chief Environmental Engineer and the entire process of granting consent to establish the 4.5 M.W Power Plant is dubious in nature.

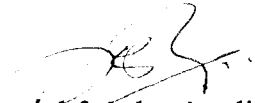
6. It is submitted that the Committee appointed by the National Green Bench in its report had also raised the same doubt regarding downsize of the plant capacity. It is also pertinent to point out there is no trace of altering the machinery component to downsize the production capacity from 6MW to 4.5MW. It is submitted that in the forgoing circumstances and situation, the applicant had taken out an application to summon the documents from the 6th respondent and Tamil Nadu Generation and Distribution Corporation (TANGEDCO) to bring all the real and actual facts regarding the alleged downsizing of the power plant capacity and actual capacity of the erected machinery.
7. It is submitted that the applicant had filed IA No. 112 of 2022 (SZ) in O.A.No. 8 of 2022 (SZ) before this Honourable Tribunal seeking a direction the 6th respondent to produce following documents:
 - i. Purchase order of every machinery components of the alleged power plant.

- ii. The specifications of all the machineries and accessories with name of make and capacity.
 - iii. Invoice raised by the supplier company
 - iv. All communications made between 6th respondent and fabrication company.
8. It is submitted that the applicant had also sought for a direction the Superintendent Engineer, Thoothukudi Electricity Distribution Circle, Tamil Nadu Electricity Generation Distribution Corporation, Thoothukudi to produce application/notice for certificate of readiness of synchronization submitted by the 6th respondent and copy of certificate of readiness of synchronization issued by the Superintendent Engineer, Thoothukudi Electricity Distribution Circle, Tamil Nadu Electricity Generation Distribution Corporation, Thoothukudi to the 6th respondent regarding synchronization with the grid system for the said power plant.
9. It is submitted that under the order dated 08.07.2022, this Honourable Tribunal passed an order IA No. 112 of 2022 (SZ) in O.A.No.8 of 2022 (SZ) effectively denying the summoning of the documents sought to be produced by the applicant. It is submitted that the Order dated 08.07.2022 passed by this Honourable Tribunal in IA No. 112 of 2022 (SZ) in O.A.No.8 of 2022 (SZ) is being challenged by the Applicant Writ Petition (MD) SR No.46269/2022 on the file of the Honourable High Court of Judicature at Madurai Bench and the same was filed on 02.08.2022.
10. It is submitted that above Writ Petition (MD) SR No.46269/2022 was returned for maintainability and it has been re-presented. The Writ Petition is likely to be listed for maintainability of the same before the High Court this week end.

It is therefore just and necessary to adjourn the above O.A.No.8 of 2022 pending the outcome of the above Writ Petition (MD) SR No. 46269/2022 on the file of the Honourable High Court of Judicature at Madurai Bench. Otherwise, the applicant would be put to irreparable hardship and injury. On the other hand, the respondents will not be prejudiced in any manner in the event of this Honourable Court adjourning the above O.A.No.8 of 2022 pending the outcome of the above Writ Petition (MD) SR No. 46269/2022 on the file of the Honourable High Court of Judicature at Madurai Bench. The balance of convenience is in favour of petitioner.

It is therefore prayed that this Honourable Court may be pleased to pass an Order adjourning the above O.A.No.8 of 2022 pending the outcome of the above Writ Petition (MD) SR No. 46269/2022 on the file of the Honourable High Court of Judicature at Madurai Bench and thus render justice.

Dated at Chennai on this the 22nd day of August, 2022


Counsel for the Applicant