

**BEFORE THE NATIONAL GREEN TRIBUNAL,
SOUTHERN ZONE, CHENNAI**

Original Application No. 91 of 2022 (SZ)

IN THE MATTER OF:

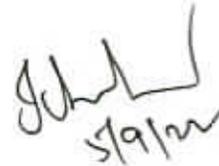
V.Arul
President
Siruthavur Village Panchayat
No.315, Big Street
Siruthavur, Thiruporur Taluk
Chengalpattu District .. Applicant

AND

The Government of India
Ministry of Environment,
Forests and Climate Change
Rep. by its Secretary
Indira Paryavaran Bhavan
Jor Bag Road, Ali Ganj
New Delhi and Ors. .. Respondents

COUNTER AFFIDAVIT FILED BY THE 6TH RESPONDENT

I, K.Selvakumar son of R.Kaliyaperumal aged about 52 years,
officiating as Executive Engineer, Water Resources Department, do,
solemnly affirm and sincerely state as follows:


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**Er. K. SELVAKUMAR, M.E.
EXECUTIVE ENGINEER, WRD, (PWD),
LOWER PALAR BASIN DIVISION,
KANCHEEPURAM - 631 501.**

2. I am the 6th respondent and the Executive Engineer, Water Resources Department, Lower Palar Basin Division, Kanchipuram and the impugned tank in S.No. 627 of Siruthavur Village, Thiruporur Taluk of Chengalpattu District vests in me the administrative and maintenance control.

3. It is stated that the applicant herein has filed the Original Application herein before this Hon'ble Tribunal praying for the following directions:

(i) To direct the 1st to 5th respondent to take appropriate action against the 6th respondent for illegal, non scientific method of operation in quarrying Siruthavur lake comprised in S.No. 672 (herein after the lake) of the Sriuthavur Village, Thiruporu Taluk of Chengalpattu District for violation of environmental imbalance;

(ii) To direct the 2nd to 5th respondent to inspect and assess the damages in Siruthavur lake comprised in S.No. 627 of Siruthavur Village, Thiruporur Taluk due to quarrying operation of ordinary earth in the said lake; and


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(iii) To direct the 3rd respondent/ District Collector herein not to grant any further lease in Siruthavur lake comprised in S.No. 627 of Siruthavur Village, Thiruporur Taluk to the 6th respondent.

4. It is stated that the Original Application filed by the applicant herein is entirely devoid of both in merits and on law since the technical competency of the applicant to agitate against the removal of ordinary soil from the lake as illegal and due to non-scientific method of operation is put to strict proof.

5. It is stated that it is the prerogative of the 6th respondent to maintain the water bodies under his control which are in charge of the Water Resources Department and the applicant has not applied his mind, the basis under which the permission to remove the ordinary soil which was found necessary to evict the encroachers from the catchment of the impugned tank since the encroachers have raised the level of the catchment thus preventing the inflow into the tank. It is pertinent to state here that this Hon'ble Tribunal and the Hon'ble Madras High Court, time and again have been


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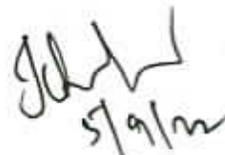
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directing the State to remove all encroachments from the water bodies either suomotu or in the writ petitions/Original Applications filed by those who were aggrieved by the encroachments in the water bodies.

6. It is therefore, stated that this answering respondent by the letter dated 20.03.2022 requested the 3rd respondent to grant permission to remove the ordinary soil accumulated in the catchment and in the inlet point of the lake as a measure of removing the encroachments by way of using the land for agricultural operations by them. This aspect has not been looked into by the applicant in the Original Application here or willfully suppressed to give a magnified picture of the event of clearance of ordinary soil from the encroached parts for the reasons better known to the applicant himself.

7. It is further stated that for removing the ordinary soil by engaging contractors from the catchment, inlets and the water spread area of the tank, the cost that will have to be spent from the


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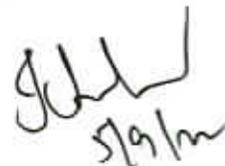
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Government's exchequer would be $27,300^{M^3} \times Rs\ 105.65 =$
Rs. 28,84,245/- by way of hire charges for engaging machineries,
lead and lift, and cost of conveyance etc., Besides, it would be very
difficult to find a dumping ground for the removed soil since the
adjacent localities have been developed as residential areas.

8. It is therefore, stated that instead of desilting the tank
departmentally, it was decided to sell the removed earth to the
intending purchasers in small quantities for their requirements at
the cost fixed by the Government.

9. It is stated also that by selling the removed soil to private
individuals, a quantum of 27,300 M³ removed phenomenally from
06.04.2022 to 15.05.2022 and from 19.05.2022 to 07.06.2022 and
a revenue of Rs. 35,10,780/- was realized to the Government.

10. Hence, it is stated that the ordinary soil was removed as per the
permission granted by the 3rd respondent herein and sold to private
individuals which in turn resulted in restoring the supply sources
and inlets to store up the quantum of water considerably. It is also


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stated that no private individual from the locality complained about the desilting work undertaken in the impugned lake since they are well known about the advantages of the work done since the storage could be maintained which in turn would benefit the agriculturists and in recharging the wells and bore wells.

11. It is also stated that as per the Notification No. 1224 (E) dated 28.03.2020 of the Ministry of Environment, Forests and Climate Change, Government of India, the work is exempted from obtaining environmental clearance and the same is reproduced below:

APPENDIX IX

"5. Community works, like, de-silting of village ponds or tanks, construction of village roads, ponds or bunds undertaken in Mahatma Gandhi National Rural Employment and Guarantee Schemes, other Government sponsored schemes and community efforts".

12. Excavation of ordinary earth or clay for plugging of any breach caused in canal, nallah, drain, water body, etc., to deal with any disaster or flood like situation upon orders of the District Collector or District Magistrate or any other Competent Authority".

Hence, the alleged removal of soil as 'illegal and due to non-scientific method of operation' is only a hoax and unsustainable in law.



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11. It is, therefore, surprising to note that the applicant, who is the President of the village, instead of appreciating the work, has preferred an O.A. before this Hon'ble Tribunal vexatiously and as a President of the Village Panchayat, he has to abide by the decisions made for the public welfare.

It is, therefore, prayed that this Hon'ble Tribunal may be pleased to dismiss the Original Application as devoid of both in merits and on law in view of the facts and circumstances of the case and thus render justice.

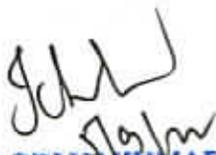
6th RESPONDENT

VERIFICATION

I, K.Selvakumar, Executive Engineer, Water Resources Department, Lower Palar Basin Division, Kanchipuram, do, hereby verify that the contents of above Paragraphs are true to the best of my knowledge and are believed to be true on legal advice and that I have not suppressed any material fact.

Verified at Chennai on this the 5th day of September 2022.

6thRESPONDENT


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EXECUTIVE ENGINEER, WRD, (PWD),
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