

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
SOUTHERN ZONE AT CHENNAI
APPEAL No. 25 OF 2025

Chennai Petroleum Corporation Limited (CPCL),
Rep. by its Managing Director,
New No. 536, Anna Salai,
Teynampet, Chennai - 600018.

...Applicants

Vs

1. Tamil Nadu Pollution Control Board,
Rep. by its Chairperson,
No. 76, Mount Salai, Guindy,
Chennai - 600 032. & Ors.

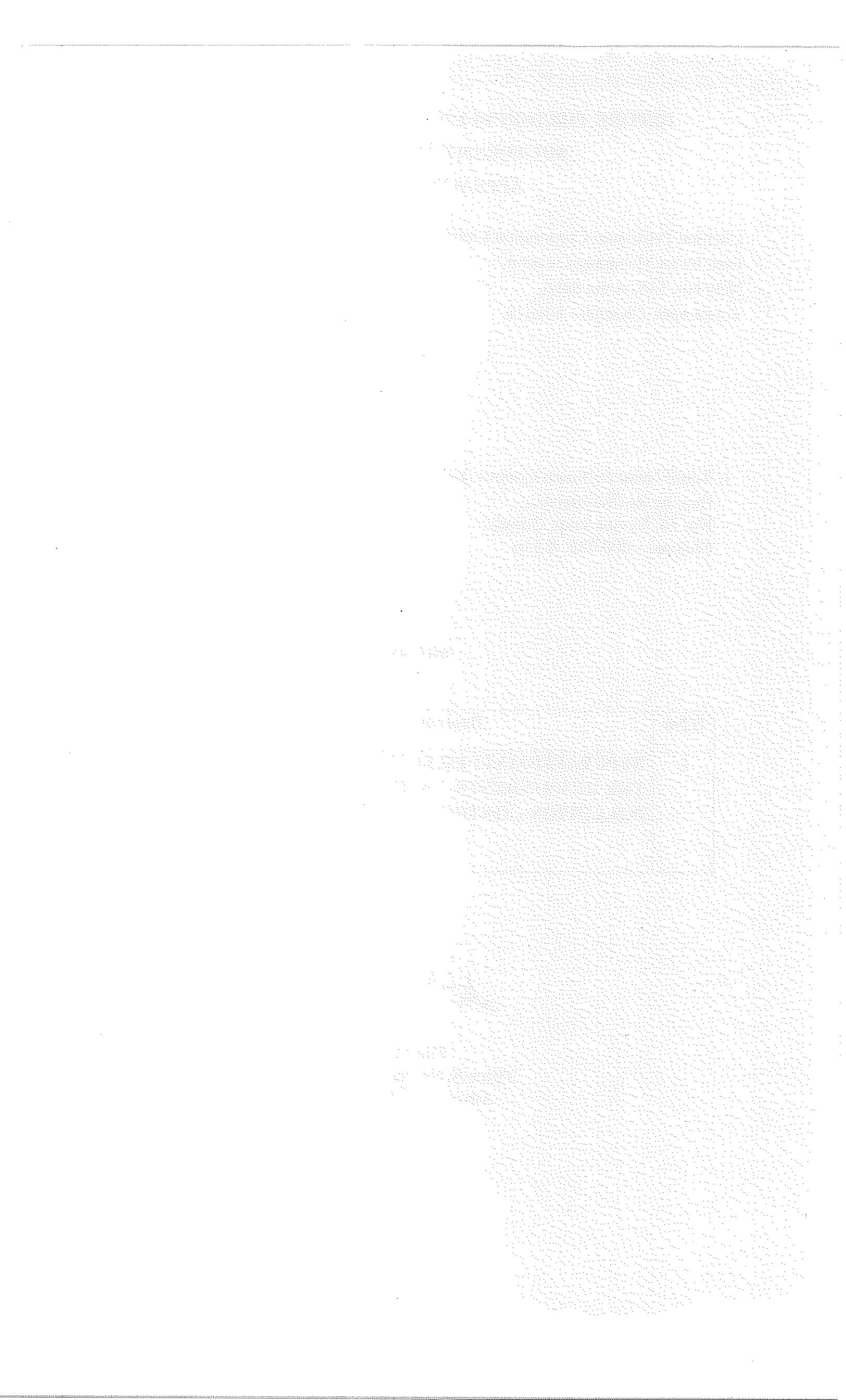
...Respondents

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



**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,
SOUTHERN ZONAL BENCH AT CHENNAI**

APPEAL No. 25 OF 2025

Chennai Petroleum Corporation Limited (CPCL),
Rep. by its Managing Director,
New No. 536, Anna Salai,
Teynampet, Chennai 600018.
Tel: 044-24349833.
Email ID: vsriram@cpel.co.in.

...APPELLANT

-Vs-

1. Tamil Nadu Pollution Control Board,
Rep. by its Chairperson,
No. 76, Mount Salai, Guindy, Chennai - 600 032.
Tel: 044-26880219 & Email ID tnpcbmn@gmail.com
2. The Joint Chief Environmental Engineer (M),
Tamil Nadu Pollution Control Board,
2nd Floor, 77-A, South Avenue Road,
Ambattur Industrial Estate,
Ambattur Taluk, Chennai - 600 058.
Tel: 044-26880219 & Email ID tnpcbmn@gmail.com
3. District Environmental Engineer,
Tamil Nadu Pollution Control Board,
1st Floor, 6/1, Sri Jothi Complex,
Murugesan Street, Balavinayagar Nagar,
Arumbakkam, Chennai - 600 106.
Phone 044 23632603.
Email ID: tnpcbchennai@yahoo.in

...RESPONDENTS

**REPLY AFFIDAVIT FILED ON BEHALF OF THE RESPONDENTS -
TAMIL NADU POLLUTION CONTROL BOARD**

I, S. Indiragandhi, D/o.A.Sounderarajan, aged about 58 years, having office at No.76, Mount Salai, Guindy, Chennai-32, do hereby solemnly affirm and sincerely states as follows:


**JOINT CHIEF ENVIRONMENTAL ENGINEER
TAMILNADU POLLUTION CONTROL BOARD,
No.76, MOUNT SALAI, CHENNAI-600 032.**

JOINT CHIEF ENVIRONMENTAL ENGINEER
TAMILNADU POLLUTION CONTROL BOARD,
No.76, MOUNT SALAI, CHENNAI-600 032.

2. I respectfully submit that I am working as the Joint Chief Environmental Engineer, Tamil Nadu Pollution Control Board, Chennai and I am authorized to file this Report on behalf of the Respondents (Tamil Nadu Pollution Control Board) and as such I am well acquainted with the facts of the case from the records available at our office.

3. It is respectfully submitted that the Appeal has filed before the Hon'ble National Green Tribunal, SZ, Chennai with the following prayers:

"A. Stay the operation of the Impugned Order in Proc. No.: T6 / TNPCB / F.017544/018927 / 2023 - 5 dated 24.02.2025 (Resid Upgradation Project), issued by the 1st Respondent herein under Section 5 of the Environment (Protection) Act, 1986 which is impugned in the present appeal.

B. Call for the entire records and set aside the impugned order in Proc.No.: T6/TNPCB / F.017544 / 018927 / 2023 - 5 dated 24.02.2025 (Resid Upgradation Project), issued by the 1st Respondent herein under Section 5 of the Environment (Protection) Act, 1986 which is impugned in the present appeal".

4. I respectfully submit that the Appeal filed against the impugned direction issued by the Tamil Nadu Pollution Control Board under Section 5 of the Environment (Protection) Act, 1986 against M/s. Chennai Petroleum Corporation Limited, vide Proceedings No.T6/TNPCB/F.017544/018927/2023-4 dated 24.02.2025, directing them to remit the environmental compensation of Rs.54,45,000/- (Rupees Fifty-Four Lakhs and Forty-Five Thousand only) for the violations caused by the unit in respect of the stack emission exceedances for the period from 01.04.2019 to 26.12.2020.

5. It is respectfully submitted that on 01.04.2025, the Hon'ble NGT, SZ has passed an Order stating that,

"5. There will be an order of interim stay of the impugned order dated 24.02.2025 on condition that the appellant herein shall deposit 50% of the environmental compensation levied in favour of the Tamil Nadu Pollution Control Board within a period of 6 (Six) weeks, failing


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which, the stay granted will be automatically vacated without further reference to this Tribunal.

6. It is respectfully submitted that the respondents (TNPCB) submits its reply affidavit before the Hon'ble National Green Tribunal, SZ, Chennai, herein.
7. It is respectfully submitted that as per the above Order dated 1.4.2025, the appellant has deposited 50% of the environmental Compensation on the interim orders passed in Appeal 21 to 25 of 2025 for the total sum of Rs.3,11,85,000/- (Rupees Three Crores Eleven Lakhs Eighty Five Thousand Only) on 25.04.2025 towards Environmental Compensation Fund in favor of Tamil Nadu Pollution Control Board.
8. It is respectfully submitted that the Appellant Company, M/s. Chennai Petroleum Corporation Limited, (CPCL) is a Public Sector Undertaking and one of the group company of M/s. Indian Oil Corporation Limited (IOCL), having manufacturing facilities at Manali and Sathangadu Villages (Collectively called as Manali Area) of Thiruvotriyur Taluk, Chennai District, as well as in Panagudi, Nagapatinam District. The manufacturing facilities at Manali Area, Chennai District is having the following Facilities viz. (i) Refinery I (ii) Refinery II (iii) Refinery III (iv) Captive Power Plant (v) Resid Upgradation Plant (vi) Propylene, Butylene and Lube Expansion Plant (vii) Diesel Hydro De-Sulphurization (DHDS) Plant, (viii) Hexane Plant and (ix) GTG Power Plant. For the above facilities, CPCL has obtained 7 consent orders from Tamil Nadu Pollution Control Board, for (i) Refinery I, II and CPP (ii) Refinery III (iii) Resid Upgradation Plant (iv) Propylene, Butylene and Lube Expansion Plant (v) Diesel Hydro De-Sulphurization (DHDS) Plant (vi) Hexane Plant and (vii) GTG Power Plant.
9. It is respectfully submitted that the Diesel Hydro De-Sulphurization (DHDS) Plant, has been granted renewal of consent orders under the Water


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(Prevention and Control of Pollution) Act, 1974, as amended and the Air (Prevention and Control of Pollution) Act, 1981, as amended, with validity up to 31.03.2026, vide proceedings dated 21.01.2025, by the Respondent, for the production of Low Sulphur Diesel (Having Sulphur Content of less than 8 ppm), Naptha and Sulphur as by-product, with High Sulphur Diesel as feed stock. The Hydrogen generated in the process, at intermittent stage, is used in the process itself.

10. It is respectfully submitted that the High Sulphur Diesel (HSD) feed-stock is mixed with Hydrogen and then passed over catalyst in a reactor at elevated temperature and pressure, wherein Hydrogen reacts with Sulphur present in the HSD, converting it to Hydrogen sulphide (H_2S), which is then removed, oxidized to get elemental Sulphur. The hydrotreating process, besides desulfurization, also saturates olefins and aromatics, improves the quality of the remaining diesel fuel, a portion of the HSD is also converted to Naphtha, which is separated from Low Sulphur Diesel by distillation process.
11. It is respectfully submitted that the DHDS Plant generates about 48 KLD of Sewage and 720 KLD of Trade Effluent, mainly from Hydro-treater Reactor and Sour Water Stripper. The Sewage generated is treated in a Sewage Treatment Plant and the treated Sewage is utilized as Cooling Tower make-up, as Boiler Feed after subjecting the treated sewage in Reverse osmosis Process and the Reject from Reverse Osmosis Process (to the tune of 3 KLD only) is utilized for either Fire Water make-up or for gardening or for floor washing or for Cooling Tower Make up. The trade effluent generated is treated and the treated effluent is partly (76 KLD) reused in the process, a small portion (5 KLD) is utilized in Resid Upgradation Plant and utilized for Fire Water make-up, Cooling Tower make-up, Floor washing, Gardening etc., The Plant discharges gaseous emission from Diesel Furnace, Reformer, Naptha Furnace and Sulphur Incinerator, through Stacks attached with the respective Sections.

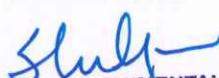

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12. It is respectfully submitted that Chennai Climate Action Group has published a report in News Desk Magazine titled ***"Poison in the Air – the regulatory black hole over Ennore Manali Industrial Zone"*** during November 2020. Based on the above report Hon'ble National Green Tribunal (Southern Zone) [NGT-SZ] has taken up suo-moto cognizance, vide O.A.No.256 of 2020 (SZ) and formed a Joint Committee to furnish a report on the above. It is further submitted that the news paper report published in 'News Desk' Magazine dated, 11.11.2020 under the caption ***"These Six Industries in North Chennai are polluting the air for more than half the year"***, based on the stack emission data recorded at the Care Air Centre (CAC) of Tamil Nadu Pollution Control Board (TNPCB) for the period from 01.01.2019 to 15.12.2020. It is alleged in the news paper report that the air quality in Ennore - Manali Region has been seriously affected on account of the emission made by some of the industries namely, Tamil Nadu Generation and Distribution Corporation Limited's (TANGEDCO) North Chennai Thermal Power Station (NCTPS) Stage 1, North Chennai Thermal Power Station (NCTPS) Stage 2, NTPC Tamilnadu Energy Company Limited (NTECL) Vallur Power Plant, Chennai Petroleum Corporation Limited (CPCL), Tamil Nadu Petro products Limited (TPL), Manali Petrochemicals Limited (MPL), and Madras Fertilizers Limited (MFL).
13. It is respectfully submitted that based on the News Report, the Joint Chief Environmental Engineer (Monitoring), Chennai, the Second Respondent herein caused inspection of the all seven Plants of the Appellant, M/s. Chennai Petroleum Corporation Limited, on 06.01.2021 and based on the observations made during the inspection, recommended for the issue of certain directions to the Appellant Company under Section 33 A of the Water (P&CP) Act, 1974 as amended and under Section 31A of the Air (Prevention and Control of Pollution) Act, 1981 as amended. The First respondent, Tamil Nadu Pollution Control Board, after duly considering the Report/ Recommendations of the second respondent, issued the following directions to M/s. Chennai Petroleum Corporation Limited, the Appellant.


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- (i) *The unit shall improve oil water separation in the ETP for effective removal of oil.*
- (ii) *The unit shall quantify the amount of water received from each source, Utilization of that water in process and treated water utilization and their distribution system.*
- (iii) *The unit shall provide EMFM to all the inlets and outlets of STPS, ETPs, and all the treated sewage/effluent distribution system.*
- (iv) *The unit shall expedite the provision of online analyser at the outlet of ETP IV and connect the same to the WQW, TNPCB, Guindy.*
- (v) *The unit shall furnish details on wet slop oil collection and utilization since it is not known whereabouts of wet slop oil from ETP.*
- (vi) *The unit shall take necessary action to improve the existing APC measures or provide new control measures to achieve the standards prescribed by the Board as the parameters CO, PM, SO₂ and NO_x have exceeded many times over a period of 2 years.*
- (vii) *The unit shall conduct studies regarding the emission level inside and outside the premises and take necessary effective steps to reduce the emission load let out from the premises and maintain records for the same.*

14. It is respectfully submitted that the Central Pollution Control Board has formulated the methodology to assess and recover compensation, through a document titled "***CPCB Methodology for assessing Environmental Compensation and Action Plan to utilize the fund***" based on the directions of the Hon'ble National Green Tribunal, Principal Bench, in their order dated: 03.08.2018 in O.A No. 593/2017, wherein it is recommended that Environmental Compensation is leviable in cases where there is:


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- (a) Discharges in violation of consent standards/consent limit conditions, mainly prescribed.
 - (b) Not complying with the directions issued, such as direction for closure due to non-installation of OCEMS, non-adherence to the action plans submitted etc.
 - (c) Intentional avoidance of data submission or data manipulation by tampering the Online Continuous Emission / Effluent Monitoring systems.
 - (d) Accidental discharges lasting for short durations resulting into damage to the environment.
 - (e) Intentional discharges to the environment -- land, water and air resulting into acute injury or damage to the environment and
 - (f) Injection of treated/partially treated/ untreated effluents to ground water.
15. It is respectfully submitted that the emission data on the level of air pollutants discharged from the stacks provided at the Appellant's DHDS Plant, from the Online Continuous Emission Monitoring System (OCEMS) provided in the stacks, are received and logged at the Care Air Centre of the Tamil Nadu Pollution Control Board. The logged data for the period between 01.04.2019 to 26.12.2020, showed exceedance of emission parameters, and hence decided to levy Environmental Compensation. The second Respondent issued Show-Cause Notice to the Appellant vide Proc.No.T6/TNPCB/F.017544/CHN ZONE/Misc/2021-4, Dated 25.08.2021, to Show Cause within 15 days from the date of receipt of the notice, as to why Environmental Compensation, computed as per the methodology prescribed by CPCB should not be imposed, under Section 5 of the Environmental Protection Act, 1986.
16. It is respectfully submitted that the Appellant furnished reply for the show-cause notice on 08.09.2021 wherein it was informed that the stack emission monitoring surveys conducted by TNPCB laboratory as well as the Half Yearly surveys conducted engaging approved Laboratories were meeting


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the standards prescribed by TNPCB, listed the various measures taken for improving the emission discharge quality, various initiatives undertaken for improving the environment, and attributed the exceedances mentioned in the show-cause notice to instrument fault and momentary plant upset conditions, requested TNPCB to condone and to consider waiver of Environmental Compensation.

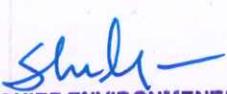
17. It is respectfully submitted that the Hon'ble National Green Tribunal (SZ), while disposing O.A. No 256 of 2020 vide order dated 20.07.2023, among the other things has issued the following direction to the Board,:

"The environmental Compensation imposed following due process should be collected and utilized by the Tamil Nadu Pollution Control Board for the conversion of the existing roads in the Manali Industrial areas into concrete roads to minimize the dust emissions from the vehicular population."

18. It is submitted that the Respondent has called the Appellant for a Personal Hearing on 06.02.2024, and after detailed discussion and hearing the unit, it was decided to levy the environmental compensation for the violations caused by the unit in respect of Air Pollution, and therefore, this Respondent in exercise of the powers conferred under Section 5 of Environment Protection Act, 1986, the unit of M/s. Chennai Petroleum Corporation Limited (DHDS Plant), Manali Village, Thiruvottiyur Taluk and Chennai District was directed to remit an amount of Rs. 54,45,000/- (Rupees Fifty Four Lakh Forty Five Thousand) towards interim environmental compensation vide Proc.No. T6/TNPCB/F.017544/018927/CHN ZONE/Misc/2021- 4/ Dated: 11.03.2024, for the exceedances of the emission during the period between 01.04.2019 to 26.12.2020.

19. It is respectfully submitted that subsequently, the Appellant vide letters dated: 25.03.2024, 22.04.2024 and 06.06.2024 has requested TNPCB to consider all the above said nine Divisions of the Appellant manufacturing Facility as a single entity as Chennai Petroleum Corporation Limited, as all the facilities are operating in a single premises, requested review the

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Environmental Compensation levied, for the reason that there is no exceedance as per the CPCB Protocols for Online Continuous Effluent and Emission Monitoring System(OCEMS) dated 13.03.2018 for the stack emission exceedance for the period from 01.04.2019 to 26.12.2020. It was not accepted the above said claim put forth by the Appellant, in view of the reason that this Hon'ble Tribunal, in the orders dated 20.07.2023 in O.A. No.: 256 of 2020, opined that

“44. the norms prescribed for exceedance are very liberal and give huge elbowroom for the industries to discharge emissions beyond the norms for certain periods of a day”

and directed CPCB to revise the protocol and also directed as follows

“15. the environmental compensation imposed following due process should be collected”.

The same was communicated to the Appellant vide proceedings No.: T6/TNPCB/ F.017544/018927/2023-4 Dated: 24.02.2025, that the request of the Appellant for the revision of the Environmental Compensation levied vide proceedings dated 11.03.2024 could not be conceded, and directed the Appellant to remit the Environmental Compensation within seven days.

20. It is respectfully further submitted that the cumulative Environmental Compensation payable by the Appellant, levied for their five Divisions is worked out to be Rs. 6,23,70000/- (Rupees Six Crores, twenty three Lakhs and seventy thousands only) of which 50% amount has been remitted, totaling Rs.3,11,85000/- (Rupees Three Crores Eleven Lakhs and Eighty Five thousands only) and preferred appeals against the proceedings dated 24.02.2025 of the first respondent, before this Hon'ble Tribunal.
21. It is respectfully further submitted that the Hon'ble Tribunal vide its order dated 15.12.2020, in O.A. No.: 256 of 2020 constituted a Joint Committee comprising of representatives from (i) Ministry of Environment, Forest and Climate Change (MoEF&CC) (ii) Central Pollution Control Board (iii)


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Tamil Nadu Pollution Control Board and (iv) Department of Environmental Engineering, Anna University to inspect the area in question and to submit a factual report as well as an action taken report. Further, it is submitted that based on the exceedance of the emission, based on the data logged in the Care Air Centre of TNPCB, from the OCEMS provided by the respective industries, it was decided to impose Environmental Compensation to the industries.

22. It is submitted that the Appellant had submitted all relevant documents showing that all emission norms were well within the prescribed standards in the Appellant unit and that there were no violations, and without considering the above, first respondent, once again, subsequent to the already issued show cause notice dated 25.08.2021, arbitrarily again issued directions under Section 5 of the Environment (Protection) Act, 1986, on 11.03.2024, and that the directions imposing "interim environmental compensation" is unwarranted, arbitrary due to the reason that the said proceedings do not cite any detailed reasoning, as to how the Respondent came to the conclusion that the norms were allegedly exceeded and environment damaged and moreover, without considering the Appellant's documents and reply to show cause notice, showing that there were no alleged exceedance of norms, has erroneously relied upon and misinterpreted the direction of this Hon'ble Tribunal in O.A. No.: 256 of 2020 is false and hence denied. The notion that the impugned order levying environmental compensation is only based on the orders of this Hon'ble Tribunal dated 20.07.2023 is completely misconceived, which could be inferred due to the fact that the show-cause notice intimating the intention of levying the environmental compensation was issued way back in August 2021, after perusing the data on OCEMS that the emission exceedance conditions occurred on 121 days between 01.04.2019 and 26.12.2020. As already stated in earlier paras, in the reply to the show cause notice, the Appellant himself has not refuted the charge that the emission levels were exceeded; but only attributed the same to instrument failure, start-up, shut-down and so on. The argument put forth by the Appellant that exceedances

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தமிழ்நாடு மாநிலத் துறைமுகப் போர்டு
தமிழ்நாடு மாநிலத் துறைமுகப் போர்டு


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are always within the norms prescribed by CPCB, is only an afterthought, and this Respondent is having constraints in accepting that argument on two count; the first being that permitting emission in excess of the standard prescribed would adversely impact the air quality and consequently the health of the people and secondly that this Hon'ble National Green Tribunal (SZ), expressed its reservations in adopting that protocol, terming the same as very liberal and ordered for the revision of the same. The fact being, the reply furnished for the show cause notice and the deliberations during the personal hearing held on 06.02.2024 were duly considered before passing the impugned order of levying the Environmental Compensation, and the subsequent representations of the appellant are duly considered before passing the order for refusal of revision of the order already passed. That being the case, the charges by the appellant that the action of the Respondent is arbitrary, unwarranted and passed without considering the documents furnished are completely false, and misleading the Hon'ble Tribunal and therefore to be rejected.

23. It is submitted that paras 29 & 30 of the affidavit, it is respectfully submitted that as pointed out in the earlier para, that this Hon'ble National Green Tribunal (SZ), expressed its reservations in adopting that protocol, terming the same as very liberal and ordered for the revision of the same. Had the Appellant is of the view that the protocol prescribed by the CPCB is rational, the Appellant ought to have approached this Hon'ble Tribunal, and sought for the review of the relevant portions of the order dated 20.07.2023. The same has been clearly indicated in the proceedings dated 25.02.2025, as to why the argument of the Appellant could not be conceded.
24. It is submitted that averments made in paras 33, 34 & 35 of the affidavit that TNPCB failed to furnish a copy of the letter dated 28.06.2024 of the Joint Chief Environmental Engineer (Monitoring), Chennai, it is submitted that the said letter has no bearing on the matter of Environmental Compensation for the DHDS Plant; but related to the Refinery I, II and CPP.


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25. It is submitted that the averments made in para 36 that the impugned order is passed completely arbitrarily without assigning any reasoning as to how the Environmental Compensation was arrived is factually incorrect. The fact being, the First Respondent levied the Environmental Compensation to the Appellant, after duly issuing a show-cause notice, indicating reasoning for the intend for levying environmental compensation, and duly considering the reply furnished by the Appellant. The requests from the Appellant for the revision of the Environmental Compensation levied were refused, after giving the opportunity of being heard, and duly assigning the reasons for the refusal of the revision of the order. As regard the averment that there is no reasoning given as to how the compensation was arrived at is false. The fact being, the Environmental Compensation was arrived at following the methodology prescribed by Central Pollution Control Board, which was formulated based on the orders of the Hon'ble National Green Tribunal (NGT), Principal Bench in O.A. No. 593/2017, which was also mentioned in the show cause notice. Incidentally the Appellant is not challenging the methodology formulated by the Central Pollution Control Board, in assessing the Environmental Compensation; but only preferred to level a charge against the Respondents that no reasoning is given as to how the compensation was arrived at, is completely un-acceptable. Moreover, the methodology for levying of Environmental Compensation, as formulated by the Central Pollution Control Board, was clearly indicated in the show-cause notice dated 25.08.2021, and such being the case, the averment that the basis on which Environmental Compensation was levied is not mentioned would not hold any water. As already stated in the earlier paras, TNPCB has chosen not to adhere to the protocol prescribed by CPCB on stack exceedances is briefed, as the Hon'ble National Green Tribunal (SZ), expressed its reservations in adopting that protocol, terming the same as very liberal and ordered for the revision of the same.
26. It is submitted that in the case of levying of Environmental Compensation to the Appellant Company, all the due processes under the Principles of Natural Justice are adhered with and disposal of the representations of the

Appellant on the revision of Environmental Compensation were passed after duly considering them in a proper perspective, giving adequate opportunity in the form of issuing show cause notice and an opportunity of hearing in person. These actions of the Respondent would clearly demonstrate that none of the action in this matter is taken in haste. The fact that the show-cause notice declaring the intention of levying Environmental Compensation, none of the action in this matter is taken in haste. Infact that the show cause notice declaring the intention of levying Environmental Compensation was issued way back in 25.08.2021, whereas the order of levying Environmental Compensation was passed only on 11.03.2024, would clearly demonstrate that this Respondent is not passing any order in haste.

27. It is submitted that averment made in ground "a" that the Impugned Order of levy of Environmental compensation by the 1st Respondent is arbitrary and unreasonable, it is submitted that it has been addressed in para 22 and other portions of this reply affidavit as to how the impugned order is passed duly following the procedure contemplated . That being the case, the action of the respondents levying Environmental Compensation could not be claimed to be arbitrary. It is submitted that "the emission data received at the Care Air Centre of the Tamil Nadu Pollution Control Board, where the data on the level of air pollutants discharged from the Appellant's DHDS Plant is received from the Online Continuous Emission Monitoring System (OCEMS) provided by the Appellant Plant and logged revealed that during the period between 01.04.2019 to 26.12.2020, showed exceedance of emission parameters, and hence decided to levy Environmental Compensation, in as much the above act fits in cases "a" and "e" prescribed/recommended for the levy of Environmental Compensation in the document of CPCB, and hence the second Respondent decided to levy Environmental Compensation, and issued a show-cause notice to the Appellant vide Proc.No.T6/TNPCB/F.017544/CHN ZONE/Misc/2021-4, Dated 25.08.2021, to show cause within 15 days from the date of receipt of the notice, as to why Environmental Compensation computed as above


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should not be imposed under Section 5 of the Environmental Protection Act, 1986 as per the guidelines formulated by the Central Pollution Control Board based on the directives of Hon'ble National Green Tribunal, for the violations as mentioned in the Notice". As such the action of the Respondents levying Interim Environmental Compensation is reasonable. This being the case, the averment that the same is arbitrary and unreasonable is not at all sustainable.

28. It is submitted that the averment made in grounds "b" and "c" that the Impugned Order of the 1st Respondent suffers from errors apparent on the face of the record and hence the impugned order is liable to be set-aside, and that it is submitted that the Impugned Order has been passed by the 1st Respondent mechanically, without application of mind and without appreciating the correct facts and circumstances of the case of the Appellant, and hence the impugned order is liable to be set-aside, is not at all acceptable, factually incorrect and hence denied. In para 22 of this reply affidavit, it is clearly deliberated that the Appellant industry has exceeded the emission standards, contrary to its claim that they have not exceeded the emission standards, as per the protocol prescribed by CPCB, as to why the protocol for CPCB on exceedance of emission standards was not accepted while passing the impugned order. As already stated in the earlier para, the Appellant has not claimed that there is no exceedance; but attributed the exceedances to instrument fault, start-up, shut down and so on. Further it is submitted that the submission by the appellant that during the steady state there would not be any exceedance and there would be no change in the operational conditions, and as such there would not be any change in emission conditions, was also factually not correct, in view of the reason exceedance occurred on 121 days out of 635 days, which is roughly about 20 percentage of days, as such the claim of the appellant that steady state condition, as far as emission is concerned is not acceptable. Thus being the case the claim that the order of levying of environmental compensation suffers from errors apparent on the face of the record and hence the impugned order is liable to be set-aside, and that the Impugned Order has

been passed by the 1st Respondent mechanically, without application of mind and without appreciating the correct facts and circumstances of the case of the Appellant and hence the impugned order is liable to be set-aside are not at all tenable.

29. It is submitted that the averment made in ground "d", that the 1st Respondent has completely failed to consider the volumes of document and data submitted by the Appellant, which evidences that the stack emissions of the Appellant were well within the prescribed standards, for the period that is alleged in the impugned order of the affidavit that, the same has been addressed in the earlier paras of this reply affidavit. It is submitted that, the Appellant requested to review the Environmental Compensation levied, on the claim that there is no exceedance as per the CPCB Protocols for Online Continuous Effluent and Emission Monitoring System (OCEMS) dated 13.03.2018 for the stack emission exceedance for the period from 01.04.2019 to 26.12.2020, whereas this Respondent preferred not to accept the above said claim put forth by the Appellant, in view of the reason that this Hon'ble Tribunal, in the orders dated 20.07.2023 in O.A. No.: 256 of 2020, opined that "the norms prescribed for exceedance are very liberal and give huge elbowroom for the industries to discharge emissions beyond the norms for certain periods of a day" and ordered CPCB to revise the protocol, and also for the reason this Hon'ble Tribunal directed TNPCB (This Respondent) that "the environmental compensation imposed following due process should be collected", and the same was communicated to the Appellant vide proceedings No.: T6/TNPCB/F.017544/018927/2023-4 Dated: 24.02.2025, as to why the request of the Appellant for the revision of the Environmental Compensation levied vide proceedings dated 11.03.2024 could not be conceded, and directed the Appellant to remit the Environmental Compensation within seven days. Thus being the case, the claim made against the imposition of Environmental Compensation that the Respondents failed to consider the data furnished by the Appellant is incorrect and hence not acceptable.

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30. It is submitted that the averment made in ground "e", that the 1st Respondent ought to have considered that the Joint Committee appointed by the Hon'ble Tribunal in OA No. 256 of 2020, had categorically filed a report stating that there were no violations or exceedances in stack emission by the appellant and the same has been overlooked and therefore the impugned order is liable to be interfered with, it is submitted that the exceedances noted and reported in the Show cause notice/ orders is based on the incidences of spike in 15 minutes average values as being noticed in the OCEMS provided, whereas, the scenarios reported by the Appellant in this paragraph referred to different time periods and the said surveys were conducted on a handful of occasions only, and as such it would not be rational of comparing these scenarios. Therefore, the request of the Appellant in this count is to be summarily rejected.
31. It is submitted that regarding in ground "f", that the Impugned order suffers from vice of lack of proper reasoning or justification in imposing the Environmental Compensation, where the impugned order is completely bereft as to how the Environment was damaged, due to the alleged violations of stack emission by the Appellant, the same has been addressed in para 25 of this reply affidavit. As already stated the Environmental Compensation was arrived at following the methodology prescribed by Central Pollution Control Board, which was formulated based on the orders of the Hon'ble National Green Tribunal (NGT), Principal Bench in O.A. No. 593/2017. Incidentally the Appellant is not challenging the methodology formulated by the Central Pollution Control Board, in assessing the Environmental Compensation; but only preferred to level a charge against the Respondents that no reasoning is given as to how the compensation was arrived at completely in-correct. Moreover, the methodology for levying of Environmental Compensation, as formulated by the Central Pollution Control Board, was clearly indicated in the show cause notice dated 25.08.2021.

32. It is submitted that the averment made in ground "g", that the impugned order, despite acknowledging that the Appellant had submitted its reply to the show cause notice and proceedings, there is no discussion in the impugned order as to why the reply submitted by the Appellant could not be accepted and therefore, the Impugned order is liable to be interfered with, the same has been addressed in paras 21 and 25 of this reply affidavit. The show cause notice on the intention of levying Environmental Compensation was decided on the Appellant Unit, way back in August 2021, after perusing the data on OCEMS that the emission exceedance conditions occurred on 121 days between 01.04.2019 and 26.12.2020. All the replies furnished by the Appellant were duly considered before passing orders. In fact the Appellant, in the reply to the show cause notice, has not refuted the charge that the emission levels were exceeded; but only attributed the same to instrument failure, start-up, shut-down and so on. The argument put forth by the Appellant that exceedances are always within the norms prescribed by CPCB, is only an afterthought, and this Respondent is having constraints in accepting that argument on two counts; the first being that permitting emission in excess of the standard prescribed would adversely impact the air quality and consequently the health of the people and secondly that this Hon'ble National Green Tribunal (SZ), expressed its reservations in adopting that protocol, terming the same as very liberal and ordered for the revision of the same. Such being the case, this ground of the appellant is not at all acceptable.

33. It is submitted that the averment made in ground "h", that the 1st Respondent, has mechanically cited the observations of the Hon'ble Tribunal in its orders in OA No. 256 of 2020, as the reason for imposing the Impugned order and compensation, however, the same is completely misplaced and erroneous, for the reason that the Hon'ble Tribunal had made certain observations based on the context of what was being argued and submitted at that relevant point in time and they cannot be considered as a direction for the 1st Respondent to base its actions on. Moreover, the Hon'ble Tribunal, vide its final order dated 20.07.2023, had directed CPCB to form a committee to


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examine the existing CPCB protocols for OCEMS and submit revised protocols and further the Hon'ble Tribunal had merely directed the 1st Respondent, to only "utilize" the Environmental Compensation imposed on the erring units for various purposes and the same ought not to have been taken as a blanket direction for the 1st Respondent to erroneously impose a huge amount as compensation, as an eye wash, just to show that some action is being taken, without there being any valid reasoning or scientific data backing or justifying the imposition of such amount and therefore, the impugned order is liable to be interfered with, is completely unacceptable. In fact, the presumption that this Respondent has levied Environmental Compensation, only based on the orders dated 20.07.2023 of this Hon'ble Tribunal itself is wrong. The fact being, this respondent decided to levy Environmental Compensation way back in August 2021, and a show cause notice was issued on 25.08.2021, directing the appellant to show cause as to why Environmental Compensation should not be levied, for which a reply was also furnished by the Appellant on 08.09.2021. However, this respondent kept the matter of levying the Environmental Compensation in abeyance, in as much as the matter of discharging of emission by the industries in Manali and Ennore areas was under the trial of this Hon'ble Tribunal, which was disposed off on 20.07.2023, after which this Respondent preferred to proceed with the levying of Environmental Compensation, after duly following the guidance given, and accordingly orders passed. Therefore the claim of the Appellant that the EC is levied after misconceiving orders of this Tribunal is not correct.

34. It is submitted that the averment made in ground "i" that the 1st Respondent, without even furnishing a copy of the JCEE's proceedings, wherein the revision as pleaded by the Appellant in its reply dated 25.03.2024 was considered, has proceeded on the basis that the unit has not obtained clarificatory order from this Hon'ble Tribunal and the same is in violation of principles of natural justice and is liable to be interfered with, the same has been addressed in para 23 of this reply affidavit. It is submitted that the said letter has no bearing on the matter of Environmental Compensation for the

DHDS Plant; but related to the Refinery I, II and CPP, and hence no bearing on the orders passed in the DHDS plant.

35. It is submitted that the averment made in ground "j", that the Respondents failed to understand that violation of environmental law and damage caused to the environment are two different issues and that there are separate penal provisions for both the issues and hence the Impugned Order is liable to be set aside, it is submitted that this Respondent is in full agreement with the view expressed that violation of environmental law and damage caused to the environment are two different issues; but only differing on as to how these two are to be dealt by the monitoring agencies and judicial forum. In the considered view of this Respondent violation of environmental law is a matter to be dealt with 'strict proof', whereas Environmental Compensation is to be dealt even with the 'Preponderance of Probability'. EC being a proactive tool in environmental protection, which is clearly indicated in the document of CPCB on the methodology of assessing the Environmental Compensation, which states that Environmental Compensation is a Policy Instrument for the protection of the environment which works on the Polluter Pay Principle, wherein 'strict proof' is not at all warranted, in exercising this tool.
36. It is submitted that to the claims made in Ground "k", that in any event, the amount of environmental compensation claimed is arbitrary, disproportional and in negation to various directions issued by the Hon'ble Tribunal in this regard, hence the Impugned Order is liable to be set-aside, it is already demonstrated in the earlier paras that as to how due opportunities were given to the Appellant to ventilate their views, the same were duly considered before passing the orders, and as such the action of this Respondent cannot be termed to be arbitrary. As regards to the claim that the amount levied is disproportional, it is submitted that the EC was levied on the basis of the methodology proposed by CPCB, the same was intimated in the show cause notice dated 25.08.2021 itself. That being the case, there is no merit to claim that the Environmental Compensation levied

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is disproportional. This Respondent respectfully submits that the action of levying of EC to the Appellant is in full conformity with the directives passed by Hon'ble National Green Tribunal on various occasions.

37. It is respectfully submitted since this being an appeal matter the right of bringing any new evidence, which were not presented off during the process of passing the orders and the subsequent requests for revision is impermissible. However, this Respondent leave the same to the decision of the Hon'ble Tribunal.
38. It is submitted that the submission made by the Appellant in paras 39, 40 and 41, it is submitted that they are in no way connected with the process of levying of Environmental Compensation and as such do not have any bearing on the matter being discussed.

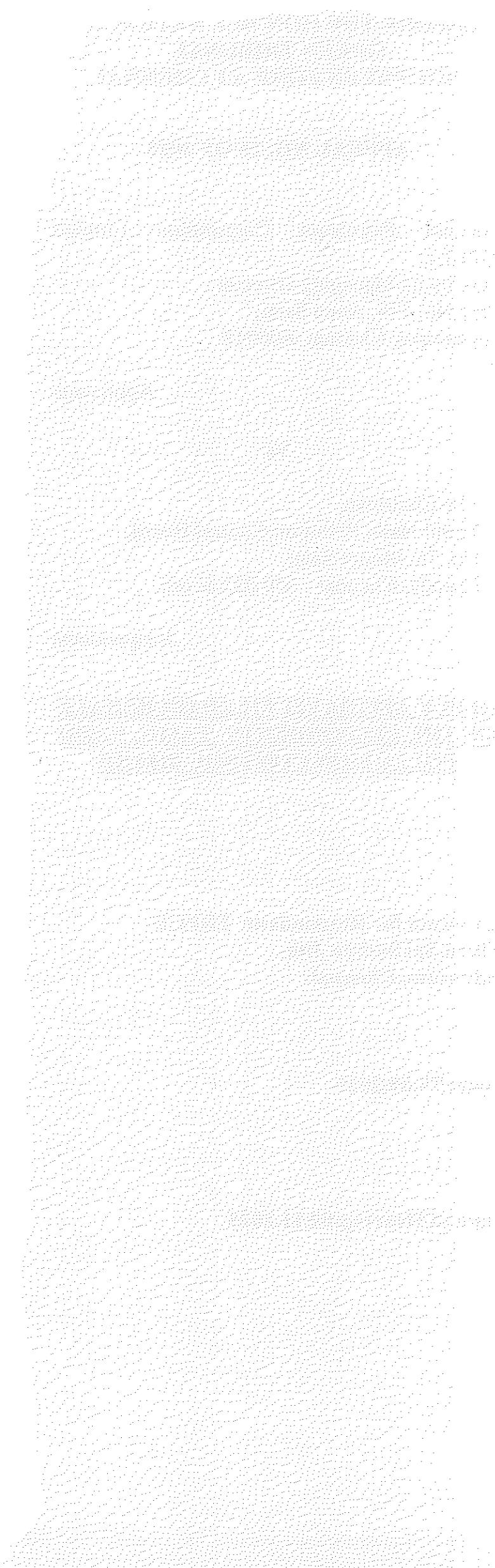
Therefore, it is humbly prayed that this Hon'ble National Green Tribunal (Southern Zone) may be pleased to pass such further or other orders as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of this case and thus render justice.


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VERIFICATION

I, S. Indiragandhi, D/o. A.Sounderarajan, working as the Joint Chief Environmental Engineer, Tamil Nadu Pollution Control Board, Chennai having office at No.76, Mount Salai, Guindy, Chennai 600 032, do hereby verify that the contents of above report are true to the best of my knowledge through records.


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**BEFORE THE HON'BLE NATIONAL
GREEN TRIBUNAL
SOUTHERN ZONE AT CHENNAI**

APPEAL NO. 25 OF 2025

Chennai Petroleum Corporation Limited
(CPCL),
Rep. by its Managing Director,
New No. 536, Anna Salai,
Teynampet, Chennai -600018.

...Applicants

Vs

1. The Chairman,
Tamil Nadu Pollution Control Board,
No. 75, Mount Salai,
Guindy, Chennai - 600 032 & ors.

....Respondents

**REPLY AFFIDAVIT FILED ON BEHALF
OF THE RESPONDENTS -TAMIL NADU
POLLUTION CONTROL BOARD**

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

Date: 22.09.2025

Date of Hearing:04.11.2025