

**BEFORE THE NATIONAL GREEN TRIBUNAL
SOUTHERN ZONE BENCH AT CHENNAI**

Appeal No. 4 of 2026 (SZ)
Along with
Appeal No. 67, 68 of 2025(SZ)

IN THE MATTER OF

M. KAVITHA VELAN BUILDERS JV,
Rep by its Partner Ms. M. Kavitha

...APPELLANT

VERSUS

The Tamil Nadu Pollution Control Board,
Rep by its Member Secretary and 1 Other.

... RESPONDENTS

**COMPREHENSIVE ARGUMENT NOTES WITH DATES AND EVENTS
FILED BY THE COUSEL FOR APPELLANT**

It is respectfully submitted that, the appellant unit M/s. M. Kavitha Civil Engineering Contractor, a Proprietorship and M/s. Velan Builders Pvt Ltd., a company, have jointly entered into a Joint Venture agreement in the name and style of M/s M Kavitha & Velan Builders (JV), who is the Appellant herein, and is engaged in the business of civil contracts for construction of Storm water drain and other project works for Government and private undertakings, and its other allied activities. The short argument notes for the appeals are contemplated below for the convenience of this Hon'ble Tribunal;

**I. TEMPORARY LAND ALLOTMENT AND FIRST CONSENT
REJECTION BY TNPCB:**

- 1. 21.10.2021** - The Water Resources Department - PWD, allotted temporary land admeasuring 12,400 Sq.ft. in S.F. No. 234 for 3 years on a rental basis vide Proceeding Order No. AEE/ABD/F.32/2021. **(ANNEXURE-A/2)**

2. **09.11.2021** – A subsequent Proceeding Order No. AEE/ABD/F.32/2021 was issued, granting land allotment for 7 years, valid until 08.11.2028 in S.F. No. 237 (ANNEXURE-A/3).
3. **25.06.2024** – The TNPCB rejected the Appellant's application for CTO - Direct for a Ready Mix Concrete Unit with a production capacity of 120 Tonnes/Day vide Proc. No. F.1081CHS/GS/DEE/TNPCB/2/W&A/2024 (ANNEXURE-A/4).
4. **Primary Ground for Rejection:** The rejection was based on TNPCB siting criteria guidelines which stipulate that RMC plants must not be permitted within 250 meters of residential areas or human settlements; furthermore, the project site was located within 50 meters abutting the Buckingham Canal, thereby attracting the provisions of the Coastal Regulation Zone Notification, 2011 (ANNEXURE-A/4).

II. GRANT OF CONSENT BY APPELLATE AUTHORITY:

5. **25.07.2024** – Aggrieved by the rejection, the Appellant challenged the initial rejection, and the Appellate Authority allowed Appeal Nos. 70 & 71 of 2024 vide an order directing TNPCB to grant consent to the unit. The Authority granted relief by considering the larger public interest and importance of the Greater Chennai Corporation storm water project, alongside the Appellant's undertaking to completely dismantle the temporary unit upon project completion (ANNEXURE-A/5).
6. **23.11.2024** – Pursuant to the Appellate Authority's Order, TNPCB granted the CTO - Direct valid up to 10.04.2025 vide Consent Order No. 2405261330140 and Proceedings No. F.1081CHS/GS/DEE/TNPCB/CHS/A/2024 (ANNEXURE-A/6).

7. **Specific Condition:** Specific restrictions requiring the unit to strictly comply with the CRZ Notification 2011, provide and maintain 20-foot high tin sheet barricades all around the periphery, continuously operate a water sprinkler system to arrest fugitive emissions, and ensure zero complaints from nearby residents was imposed (ANNEXURE-A/6).

III. SUBSEQUENT STOP NOTICE AND REJECTION OF CTO RENEWAL

8. **09.04.2025** - The TNPCB District Environment Engineer issued a stop notice via Lr.No. DEE/TNPCB/CHS/Kavithavelan/GS/2025 although the CTO was valid till 10.04.2025 (ANNEXURE-A/10).
9. **18.04.2025** - The Appellant filed online Application No. 66773554 seeking to renew the existing Consent to Operate - Direct for the RMC unit.
10. **24.04.2025** - TNPCB rejected the renewal application via Proc. No. F.1081CHS/GS/DEE/TNPCB/2/W&A/2025 (ANNEXURE-A/11).
11. **Reason for Rejection:** The renewal was refused on the *same grounds* as the first rejection, noting the site was within 250 meters of residential units and abutting the Buckingham Canal within 50m, thereby violating CRZ Notification 2011 (ANNEXURE-A/11).
12. **08.05.2025 & 24.07.2025** - The GCC allotted further storm water drain improvement works to the Appellant vide Work Order B.R.R.C No.B2/0474-25/2025 and B.R.R.C No. B2/1318-47/ 2025 respectively (ANNEXURE-A/8 & ANNEXURE-A/9).

IV. APPEAL DISMISSAL AND ISSUANCE OF DISMANTLE NOTICE

13. **15.09.2025** – While the renewal appeals bearing Appeal Nos 51 & 52 of 2025 were pending, the Appellate Authority and TNPCB officials conducted a joint physical inspection of the other site not the present appellant site. They observed the unit was located directly on the Buckingham canal bank with deposited slurry and RMC rejects causing air and water pollution.
14. **05.11.2025** – Relying on the findings of the physical inspections, the Appellate Authority dismissed the Appellant's Appeal Nos. 51 & 52 of 2025 (**ANNEXURE-A/12**).
15. **Reason for Appeal Dismissal:** Relief was denied because the unit lacked valid consent and its continued operation near the canal was deemed detrimental to the environment and nearby residents (**ANNEXURE-A/12**).
16. **20.11.2025** – Following the dismissal of the appeals, TNPCB issued a formal instruction bearing Lr.No.DEE/TNPCB/CHS/Kavitha velan/ ordering the Appellant to dismantle the RMC batching plant and DG sets, and vacate the premises within one week (**ANNEXURE-A/13**).
17. **26.11.2025** – The Appellant filed NGT Appeal Nos. 67 & 68 of 2025 to challenge the Appellate Authority's 05.11.2025 dismissal order and the subsequent dismantle notice. These appeals were officially admitted on 01.12.2025.
18. **08.12.2025** – The Appellant formally intimated the TNPCB authorities that the NGT appeals were pending, which the authorities acknowledged (**ANNEXURE-A/14**).

V. IMPUGNED APPELLATE AUTHORITY ORDER & CLOSURE ORDER AND CONNECTED APPEALS:

19. **05.11.2025** - Relying on the findings of the physical inspections, the Appellate Authority dismissed the Appellant's Appeal Nos. 51 & 52 of 2025. Relief was denied because the unit lacked valid consent and its continued operation near the canal was deemed detrimental to the environment and nearby residents (**ANNEXURE-A/12**).
20. **21.01.2026** - Despite knowing about the pending NGT appeals, TNPCB issued directions under Section 33A of the Water Act. This proceeding bearing No. TNPCB/T6/F.034972/CHS/W/2026 ordered the immediate closure of the unit, disconnection of power supply, and sealing of the 140 KVA DG set and premises (**ANNEXURE-A/1**).
21. Thus, present Appeal No. 67, 68 of 2025 (SZ) and Appeal No. 4 of 2026(SZ) was filed by the Appellant before the Hon'ble NGT specifically to stay and set aside the Appellate Authority Appeal Nos. 51 & 52 of 2025 dated 05.11.2025 (**ANNEXURE-A/12**) and TNPCB closure order dated 21.01.2026. (**ANNEXURE-A/1**)

VI. GROUNDS FOR APPEAL:

- a. That the impugned order is erroneous, unsustainable and contrary to the established principles of law. Hence, the Impugned order is liable to be interfered with. That the impugned order has been passed without granting due weightage to the settled position of law and the Appeal No. 70 & 71/2024 order dated 25.07.2024 (**ANNEXURE-A/5**) in this regard and the prevalent facts and circumstances of this case and thus suffers from

non-application of mind and the applicable law. Hence, the Impugned order is liable to be interfered with.

- b. That the impugned order is passed without reference to the Appeal No. 67 & 68/2025 pending against the appellate authority order and its consequential dismantle notice, despite intimation was given to the authorities, without reference to the appeal pending, directions for closure and stoppage of power supply order was issued. Thus the impugned order is liable to be interfered with, and liable to be struck down.
- c. That the Impugned order passed by the Appellate Authority has jurisdiction over only the Water Act, 1974 and the Air Act, 1981 and it is not empowered under the CRZ notification, 2011 to verify whether the site is falling within the CRZ or not is without jurisdiction and powers vested under the CRZ notification, 2011. The project site is in SF No. 237 (ANNEXURE-A/3) and it is not in CRZ notified area. **The site is near to CRZ-II, yet there is no prohibition or falls under No Development Zone or prohibition to put up a temporary structure.** The impugned order is arbitrary, without jurisdiction, violative of law and liable to be set aside.
- d. That the impugned order failed to note that without any allegations against the appellant unit and it is mentioned that there are several other units functioning without consent from the board whereas the present appellant unit has valid consent to operate till 10.04.2025 and abutting buckingham canal is already decided in the earlier rounds of litigation in Appeal No. 70 & 71/2024 order dated 25.07.2024 (ANNEXURE-A/5). The impugned order should be project specific and thus the order is liable to be set aside.

- e. That the impugned order and the 2nd respondent failed to note that, there was no public complaint against the appellant unit and thus the impugned order is liable to be set aside.
- f. That the subject unit is a Batch Plant and is not a permanent unit and will only be in operation for a limited period, pursuant to the work order issued by the Greater Chennai Corporation. On a perusal of the guidelines, it is seen that the same cannot be strictly applied to the subject unit for the reason that it is only being operated for a limited period and not permanently and the machineries will be vacated as soon as the work is completed.
- g. That the impugned order failed to consider the fact that the Appellant unit is well within its rights and in compliance of all the procedures, to operate the unit and is not in violation of any criteria as the rejection grounds are interfered by the appellate authority in earlier rounds of litigation in Appeal No. 70 & 71/2024 order dated 25.07.2024 . Hence, the Impugned order is liable to be interfered with.
- h. That the impugned order issued by the Appellate Authority has failed to note that there was additional conditions which as imposed while granted the Consent to Operate direct was followed by the appellant without any deviation and no violations during the past permitted period and failed to note that there won't be any permanent structures or units in the subject land and this Appellant is ready and willing to install all pollution control measures and any additional safety measures as suggested by the Board as mentioned in the Consent to operate-Direct. **(ANNEXURE-A/6). The respondent failed to note that the guidelines is still in the draft stage, which does not have any legal validity to reject the application.**

- i. That, pursuant to the order in Appeal No. 51 & 52/2025 order dated 05.11.2025 signed on 19.11.2025, instruction was issued by the 2nd respondent to dismantle the RMC batching plant and its DG sets and to vacate the premises within a week time without referring to the statutory appeal period permitted in the statutory Act.
- j. That the impugned order is in total violation of Articles 14 and 21 of the Constitution of India.
- k. That the impugned order ought to have considered the fact that the reasons cited in the impugned order cannot be relied upon since the Appellant unit is compliance with the requirements for obtaining consent and has filed the required documents along with the application and therefore, the reason adduced in the impugned proceedings for rejecting the consent application is arbitrary and unreasonable. On this ground alone, the order impugned is liable to be set aside.
- l. That since the Appellant unit is a temporary unit and will in operational until the allotted work is completed however, it is only a guideline to ensure optimal protection from the stipulated areas, the 2nd Respondent ought to have considered relaxing the siting criteria for the temporary period and imposed any additional safety requirements or protection measures for the appellant unit and ought not to have rejected the application and hence the impugned order is liable to be interfered with.
- m. That the Appellant is ready and willing to comply with stringent conditions that may be imposed by the Board. The Appellant undertakes to install all required statutory water, air and noise pollution control

measures and subject to any other conditions imposed by the Respondent Board in this regard.

Dated at Chennai on this the 26th day of March, 2026.

A handwritten signature in blue ink, appearing to read 'G. J. J. J.', is positioned above the printed title.

COUNSEL FOR APPELLANT