

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

Execution Application No. 08 of 2023

In Original Application No.08 of 2023

Selvaraju Duraisamy,
S/o. P. Duraisamy,
B1701 Radiance Icon,
1167 Poonamallee High Road,
Koyambedu, Chennai 600 107.
Email: ralphmaverickilp@gmail.com.

...Applicant

VS

The State of Tamil Nadu,
Rep. by the Secretary to Government,
Ministry of Environment and Forests,
Government of Tamil Nadu,
Fort St. George, Chennai - 600 003
Email: tforest@nic.in & Ors

...Respondents

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

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

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1. The State of Tamil Nadu,
Rep. by the Secretary to Government,
Ministry of Environment and Forests,
Government of Tamil Nadu,
Fort St. George, Chennai - 600 003
Email: tnforest@nic.in.
2. The Member Secretary,
State Level Environment Impact,
Assessment Authority (SEIAA),
Tamil Nadu Panagal Maaligai,
No.1 Jeenis Road,
Saidapet, Chennai - 600 015.
Email: monitoring-ec@nic.in
3. The Member Secretary,
Tamil Nadu Pollution Control Board,
76 Anna Salai, Guindy,
Chennai 600 032.
Email: grievance@tnpcb.gov.in
4. The Chennai Metropolitan Water Supply and Sewerage Board,
Rep. by its Managing Director,
No. 1, Pumping Station Road,
Chintadripet, Chennai - 600 031.
Email: md@cmwssb.in.
5. The Chennai Metropolitan Development Authority,
Rep. by its Member Secretary,
Thalamuthu Natarajan House,
01 Gandhi Irwin Road,
Ansari Estate, Egmore,
Chennai 600 008.
Email: mcmda@tn.gov.in

M. Vijayalakshmi 21/8/2024
ADDITIONAL CHIEF ENVIRONMENTAL ENGINEER
TAMIL NADU POLLUTION CONTROL BOARD
No.76, MOUNT SALAI, GUINDY,
CHENNAI-600 032.

6. M/s Radiance Realty Developers India Limited,
(Having CIN U45201TN2007PLC062662),
Represented by its' Managing Director,
/Chief Executive Officer,
Having registered office at
No.480, Khivraj Complex II,
Anna Salai, Nandanam,
Chennai-600 035.
Email: info@radiancefacilityforce.in.
7. M/s Radiance Facility Management,
Services Private Limited,
(Having CIN U4999TN2016PTC103884),
Represented by its' Managing Director/
Chief Executive Officer,
Having registered office at
1st Floor, Old Door No.110, New Door No.111,
33 Feet Road, Anna Salai,
Guindy, Chennai - 600 032.
Email: info@radiancefacilityforce.in
8. M/s Radiance Icon Owners Association (RIOA),
Represented by its' President/Secretary,
Bearing Reg. No. SRG/ Chennai Central/16/2022,
167 PH Road, Koyambedu, Chennai - 600 107.
Email: chennai@radiancerealty.in

.....Respondents

REPORT FILED ON BEHALF OF THE THIRD RESPONDENT

TAMIL NADU POLLUTION CONTROL BOARD.

I, M.Vijayalakshmi, D/o. K.R.Muthaiah, aged about 59 years, having office at No. 76, Mount Salai, Gindy, Chennai – 600 032, do hereby solemnly affirm and sincerely state as follows:-

1. I submit that I am working as the Additional Chief Environmental Engineer, Tamil Nadu Pollution Control Board, Chennai and I am authorized to file this report on behalf of the third respondent (TNPCB) and as such I am well acquainted with the facts of the case from the records available in our office.
2. It is respectfully submitted that the applicant has filed the Execution Application seeking a prayers that “to direct the third respondent to conduct an inspection of the STP plant installed in the project and file a report before the Hon’ble Tribunal, the second and third respondent to

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comply with the Tribunal's order passed on 20.02.2023 in OA No.8 of 2023 and also to pay environmental compensation by the sixth respondent as may be determined by the Hon'ble Tribunal for violations of Environmental clearance certificate dated 14.7.2017 and other certain prayers".

3. It is respectfully submitted that on 20.02.2023, the Hon'ble National Green Tribunal has disposed off the OA No. 8 of 2023 by stating that as follows:

"4. the learned counsel for the applicant submitted that the association might have given a complaint to the authorities concerned. If that is so, we would only direct the authorities whoever had received the complaint from the 12th respondent to consider the same after affording an opportunity of hearing to the association and pass appropriate orders.

5. In the event, the association or even the applicant had not made any application to the authorities concerned, it is still open to them to make an application within a period of 10 (Ten) days and on receipt of the same, the authorities concerned are directed to consider the same after affording an opportunity of personal hearing to the applicant and pass appropriate orders within a period of 4 (Four) weeks thereafter".

4. It is respectfully submitted that M/s. Radiance Icon Owners Association has been issued with the consent of the Board for the residential building vide proc. dated: 23.04.2022 with valid upto 31.03.2027.
5. It is respectfully submitted that the Environmental Clearance was issued by State Level Environment Impact Assessment Authority - Tamil Nadu vide Letter No.SEIAA/TN/F.6395/EC/8(a)/527/2017 dated:14.07.2017.
6. It is respectfully submitted that as per B.P Ms. No.65, Dt:27.11.2019, the CTO granted under Sl. No.1063 for Building and Construction project more than 20,000 sq.m built up area and having waste water generation 100 KLD and above. Sl. No.2021 (Building and Construction project less than 20,000 sq.m built up area and having waste water generation less than 100 KLD) is no longer applicable,

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since the project is already completed. M/s. Radiance Icon Owners Association shall be required to apply for fresh consent to operate for the common utilities which includes Sewage Treatment Plant, DG sets, Organic Waste Converter etc., under the Water (P&CP) Act, 1974 and the Air (P & CP) Act, 1981. Further, the remittance of consent fees based on cost of Sewage Treatment Plant, DG Sets & Organic Waste Converter for Building and construction projects as Gross Fixed Asset value by the Society/ Welfare Associations while applying for renewal of consent under Water Act and Air Act under Red (S.No. 1063) Category and Orange (S No. 2021) category of the Board.

7. It is respectfully submitted that the CTO direct shall be issued for a period of five years on receipt of single fee each under Water (P&CP) Act, 1974 and the Air (P&CP) Act, 1981 for first time. Thereafter, M/s. RADIANCE ICON OWNERS ASSOCIATION should apply for renewal of consent once in five years along with the consent fees.
8. It is respectfully submitted that the unit, M/s. RADIANCE ICON OWNERS ASSOCIATION was issued with CTO Direct for residential apartment buildings of Block A - Ground Floor (Multipurpose Hall & Library) + First Floor(Gym & Indoor Games), Combined Basement for Block B & C, Block B - Stilt (Part) + Ground floor (Part) + 18 Floors with 266 Dwelling Units, Block C-Stilt + 8 Floors with 56 dwelling units with total built-up area of 39209.48 Sq.m and sewage generation of 210 KLD (Toilet flushing -75 KLD, Green belt development - 6 KLD, Evaporation loss - 5KLD, Untreated sewage to CMWSSB sewer - 124 KLD) and DG sets of 250 KVA - 2 No & 125 KVA - 1 No provided with acoustic enclosures with individual stacks.
9. It is respectfully submitted that the builder has obtained EC & CTE for providing STP of capacity 100 KLD. However, in CTO the builder has increased the capacity of STP as 220 KLD in MBBR Technology. The proponent has furnished STP Adequacy Certificate obtained from Dr.

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A. Damodharan (NABET accredited Water Expert & Adjunct faculty, RMK Engineering College). The STP comprises of the following STP components;

Name of the Treatment Unit	No. of Units	Dimension
Bar screen chamber	1	1.20 x 1.00 x 1.00
Collection Tank	1	2.47x8.3x1.5+2.50FB
Equalization Tank	1	4.47x5.02x3.7x0.3FB
Aeration Tank(MBBR)	1	4.27x5.02x3.7x0.3FB
Secondary Settling Tank	1	4.25x3.62x2.4+0.5FB
Clarified Water Tank	1	Area 17.47x3.10+0.9m
Sludge Holding Tank	1	1.25x5.02x3.7+0.3FB
Pressure Sand Filter	1	1.2x1.0
Activated carbon filter	1	1.2x1.0
Hypo dosing tank	1	-
Filtered Water Tank	1	3.95x5.02x3.7+0.3FB
Ultra-Filtration	1	100KLD
UF Treated Water Tank	1	1.97x5.02x3.7+0.3FB

10. It is respectfully submitted that the inspection was carried out on 24.03.2023 by the AEE, Chennai, TNPCB. M/s. Radiance Icon Owners Association was instructed to operate the STP and to comply with the conditions stipulated in the consent order vide TNPCB letter dated 24.03.2023. However, no reply has been received by this Board from the Association.

11. It is respectfully submitted that the said unit was again inspected by AEE, Chennai, TNPCB on 27.04.2023. During inspection, the following observations were noticed:-

- a. The residential apartments were found to be occupied by the tenants.
- b. It was observed that except the collection tank, none of the units in Sewage Treatment Plant were found under working condition.
- c. Stagnation of effluent was noticed adjacent to the housing complex outside the unit premises.
- d. Odour nuisance was observed within the unit premises during inspection.

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- e. No log books were maintained in order to assess the operation of the STP.
12. It is respectfully submitted that a Show Case Notice was issued to M/s. Radiance Icon Owners Association vide proceeding dated 03.05.2023.
13. It is respectfully submitted that M/s. Radiance flat Association has sent reply letters to the TNPC Board on 10.05.2023 and 27.05.2023, stating that “the Sewage Treatment Plant is in operation and requested 6 months time to achieve full compliance on the conditions stipulated in TNPCB consent order”.
14. It is respectfully submitted that an execution application was filed by the applicant before the Hon’ble NGT(SZ) on 03.08.2023 by seeking a prayer “to direct the Third respondent to conduct an inspection of the STP plant installed in the project and file a report and other certain prayers”.
15. It is respectfully submitted that the residential complex was inspected again on 17.10.2023 by the JCEE (M) Chennai along with DEE, TNPCB Chennai and the following were observed and reported:
- a. The residential apartment was fully occupied by the tenants.
 - b. It was reported by the representative of the association that daily water consumption was met out by outsourcing through private tankers.
 - c. Only part of the sewage generated (100KLD of 210KLD) was found to be treated in the STP provided as per consent issued dated 23.4.2022.
 - d. The Sewage Treatment Plant (MBBR) was not under operation during inspection.
 - e. No log book was maintained in order to assess the operation of the STP.
 - f. It was found during inspection that private tanker was deployed for the collection and disposal of sewage. In this

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regard it was reported by the representative of the association that there is no sewer connection available for the disposal of sewage into the CMWSSB sewer system. The sewage generated is disposed to the nearby pumping station of CMWSSB through private tankers.

- g. It was reported by the representative of the association that the residential apartment is disposing the sewage generated through CMWSSB approved tanker lorries and has furnished the copy of the receipts, DD obtained in favour of CMWSSB and license issued by CMWSSB.
- h. No disposal of effluent was noticed both inside and outside the unit premises.
- i. The association had sent a letter dated 08.03.2023 to CMWSSB requesting the procedures for applying water / sewer connections. The CMWSSB had sent a letter dated 2.5.2023 to the association, stating the procedures to be followed for obtaining the water and sewer connections.
- j. The unit in its reply dated 27.05.2023 submitted to the Tamil Nadu Pollution Control Board has stated that the radiant Icon Owners Association took over the maintenance in April 2022 and unaware about the statutory and technical requirement of maintenance and required 6 month time to achieve full compliance.

16. It is respectfully submitted that on 16.11.2023, the DEE, Chennai has recommended to issue Direction under section 33A of the Water (Prevention and Control of Pollution) Act, 1974 and under section 31 A of the Air (Prevention and Control of Pollution) Act 1981 to M/s. Radiance Icon Owners Association for compliance of certain conditions.

17. It is respectfully submitted that the TNPCB was issued directions vide proceeding dated 20.11.2023 under Section 33-A of the Water (Prevention and Control of Pollution) Act, 1974 and Section 31-A of

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Air (Prevention and Control of Pollution) Act, 1981 to the Secretary of M/s. Radiance Icon Owners Association to comply with the following instructions and to furnish the action taken report to the TNPCB as follows:-

- a. The conditions stipulated in the Environmental Clearance (EC) issued by the SEIAA-TN vide Lr No. SEIAA/TN/F.6395/EC/8(a)/527/2017 dated 14.07.2017 shall be complied with at all times. Half-yearly (six months) status report on compliance of EC conditions shall be furnished to SEIAA-TN and TNPCB regularly.
- b. The Association shall operate and maintain the STP efficiently and continuously for the treatment of sewage so as to satisfy the discharge standards prescribed by the Board.
- c. The Association shall reuse the treated sewage for toilet flushing & Green Belt Development, and shall ensure that no untreated sewage is discharged outside the premises or the nearby pond owned by the CMRL either directly or indirectly under any circumstances.
- d. The Association shall obtain sewer line connection from the CMWSSB for the disposal of effluent in the CMWSSB sewer within 45 days time.
- e. The Association shall provide sludge management system for proper collection, dewatering, treatment and disposal of sludge.
- f. The Association shall analyze the treated effluent in the TNPCB laboratory and to furnish the ROA within 30 days time.
- g. The Association shall maintain log book for operation and maintenance of STP.
- h. The Association shall maintain log book for the disposal of sewage in to the CMWSSB and furnish the bills given by the CMWSSB to the TNPCB every 15 days.

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Further, it is also instructed that failure to comply with the above said directions will lead to issue of further directions for closure and stoppage of power supply to the unit under Section 33A of the Water (Prevention and Control of Pollution) Act, 1974 and under Section 31A of the Air (Prevention and control of pollution) Act, 1981. An action taken report shall be furnished to this respondent's office within one month without fail.

18. It is respectfully submit that on 20.12.2023, a reply was received from M/s. Radiance Icon Owners Association to the DEE, Chennai for the Board's proceeding dated 20.11.2023 stating that the Environment Clearance Certificate (EC) dated:14.07.2017 issued for this project states that the entire requirement of fresh water would be met by water drawn from CMWSSB. The excess untreated sewerage of 124 KL should be disposed of again through CMWSSB. The Affidavit submitted by the applicant (Builder) towards compliance with the information furnished while making application for the EC is as follows:-

- a) The Radiance Realty Developers India Limited ("Builder") has committed to the SIEAA in affidavit that the total fresh water requirement for the project will be met through CMWSSB and the required permission from the competent authority will be obtained before the handing over or obtaining completion certificate, whichever is earlier.
- b) The Radiance Realty Developers India Limited ("Builder") has committed to the SIEAA in affidavit that untreated waste water of 124 KLD will be disposed of through the sewer lines of CMWSSB and assured that the permission from the competent authority in this regard will be obtained before the handing over or obtaining completion certificate, whichever is earlier.
- c) The Radiance Realty Developers India Limited ("Builder"), has given a clear assurance that they are liable for operation and maintenance of the STP for a **period of 10 years** from the date

G. Anand 21/12/2024
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of operation of the project. Specific Conditions in the EC clearly states that the Project Proponent, that is the applicant (Builder) in this case, should ensure compliance with the EC conditions before the facility is handed over for occupation.

Further, the Specific Conditions in the EC states that:

“The Implementation of Environmental Management Plan in regard to operation and maintenance of STP, reuse and disposal of untreated sewage, Solid waste management and CSR activities shall be carried out, as proposed and committed.”

- d) The proposal and commitment to this effect to the EC by way of an Affidavit. On perusal of the factual submissions made in the above paragraphs it is clear that the applicant (Builder) has not complied with the Assurances given and conditions prescribed in the EC to the captioned project.
- e) Further, the Specific Conditions to the EC, it is clear that the handing over of this project to the occupants is yet to be completed as the same cannot be completed without the Builder obtaining the fresh water and waste water disposal permission from the CMWSSB as stated in the Affidavit.
- f) Further post the effective handing over, the Builder has to undertake Operations and Maintenance of the STP for a period of 10 years.
- g) It is under these circumstances that Mr. Selvaraju filed a case in NGT seeking direction from the competent authority asking the Builder to comply with the assurances given and conditions prescribed in the EC issued for the captioned project.
- h) Further as submitted above, Mr. Selvaraju also asserted in the complaint that handing over cannot be said to be completed by the Builder more so in view of non-compliance of assurances as per Annexure -2 of the EC in Part-C of the Specific

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Conditions, that needs to be completed prior to the handing over.

- i) Meanwhile with a view to hoodwink the competent authorities into believing that the handing over is complete, the Builder had fraudulently applied for renewal of the CTO in the name of the Secretary, Radiance Icon Owners Association so that the competent authority would direct all future instruction and findings with the Association being the holder of the CTO.
- j) But the fact is that, the none of the Office Bearers of the Radiance Icon Owners Association made any application to the TNPCB for renewal of the CTO since no handing over of Assets has taken place from the Builder to the Association as is evident from our explanations in the above paragraphs and that the Builder is actually liable for operation and maintenance of the Assets for a period of 10 years from the date of handing over.

In the light of the above submissions, we now proceed to respond to the points raised in the above referred proceedings for the kind consideration of your good office.

With respect to the findings during the inspection conducted by the JCEE(M), Chennai along with the DEE, TNPCB, Chennai on the 17th October, 2023 we submit herewith the following;

- a. The STP is in full operation now being done through a Bio-chemical process which is being used in many places in the city. We enclose herewith the Test report of the treated water conducted on 08.11.23 at the Chennai Testing Laboratory Private Limited for your perusal and records. The quality of the treated water is in compliance prescribed by the TNPCB in this regard.
- b. The treated water is being used for flush purposes and also for the gardening a maintenance of greenery within the project area.

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- c. The Log book giving complete details of treatment of sewage water on daily basis is being maintained and is available for inspection at any point of time.
- d. The disposal of untreated sewage through private tankers as the Builder is yet to obtain permission from CMWSSB for clearance of sewerage through its sewer lines. However, the quantum of untreated sewerage being disposed is within the limits 124 KLD prescribed in the EC.
- e. With reference to Point No.9 in the observations during the inspection on 17.10.2023, we would like to clarify that the said letter dated 08.03.2023 was in fact sent by the Builder, M/s Radiance Realty India Limited upon a direction from the Hon'ble TNRERA in their Order dated 2nd March, 2023 in C. Nos. 88, 90 and 92/2022.

The following facts have come out very clearly from the above submission:

- a) As per the EC issued by the SIEAA for the project on 14.07.2017 (enclosed as Schedule – 1, to this letter the responsibility of obtaining permission for fresh water supply and disposal of sewerage through CMWSSB clearly lies with the Builder.
- b) It is clear from Point No.1 of Part-C of the Specific conditions in the above EC that handing over is completed only when the Builder fulfills his assurances and stipulations in the EC.
- c) Even after the handing over is completed the Builder is liable to operate and maintain the STP for a period of 10 years from the date of handing over.
- d) Further there is an Order of the Hon'ble TNRERA in C Nos. 88 & 90 to 92/2022 dated 2nd March, 2023, wherein the para No.25 of the Order clearly directs the Builder M/s.Radiance Realty India Limited to file applications for obtaining Metro water and sewerage connections from CMWSSB and obtain the connections on or

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before the 30.06.2023. A copy of the Order is attached as Schedule - 2 to this letter for perusal.

In view of the above submission of facts, it is humbly prayed to your good offices to kindly withdraw the directions issued to Radiance Icon Owners Association and instead request your good offices to issue a Notice to the to the Builder, M/s Radiance Realty India Limited insisting upon them to comply with the directions issued under the captioned proceedings.

The Radiance Icon Owners Association is a victim to the non-compliance with the conditions of EC by the Builder, M/s Radiance Realty India Limited and the actual liability to comply with the directions issued by your good offices under these proceedings lies with the Builder.

19. It is respectfully submitted that based on the above representation of the Radiance Icon Owners Association, DEE, Chennai vide letter dated:12.07.2024 (copy enclosed) recommended to the Board that, a fresh direction under Section 33-A of the Water (Prevention and Control of Pollution) Act, 1974 as amended & Section 31-A of Air (Prevention and Control of Pollution) Act, 1981 as amended may be issued to the builder "M/s. Radiance Realty Developers India Limited", 1st Floor, Old No.110, New No.111, 33 Feet Road, Guindy, Chennai 600 032.

20. It is respectfully submitted that based on instruction of the TNPC Board vide memo dated:22.07.2024 (Copy enclosed) , JCEE(M) , Chennai conducted a Personal hearing meeting with the authorities / representatives of M/s. Radiance realty developers India limited, Guindy, M/s. Radiance Icon owners Association, no.1167, Poonamallee high road, Koyambedu and Mr. D.Selvaraju (complainant) on 05.08.2024 and 08.08.2024. Minutes of the personal hearing is enclosed.

21. It is respectfully submitted that based on JCEE(M), TNPCB, Chennai recommendation vide letter dated:12.08.2024 (Copy enclosed), the

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TNPCB vide Proceeding No:T2/TNPCBd/F.004791/CHN/W&A/2023 Dated: 13.08.2024 (Copy enclosed) has issued direction under Section 33 A of the Water (P&CP) Act, 1974 as amended , TNPCB issues the following directions to M/s. Radiance Realty Developers India Limited, 1st Floor, Old No.110, New No.111, 33 Feet Road, Anna Salai, Guindy, Chennai – 600 032 to comply the following within a period of one month,

1. *The promoter shall operate and maintain the Sewage Treatment Plant (STP) for the treatment of sewage for the period of 10 years (from the date of operation of the project) as committed before the SEIAA-TN while obtaining Environmental clearance for the project.*
2. *The promoter shall furnish the in principal approval obtained from CMWSSB for the supply of fresh water to the project and disposal of excess treated sewage as committed before the SEIAA.TN while obtaining Environmental clearance for the project.*

Failure to comply with the above said directions, further action will be initiated on merits in accordance with law.

For the reasons stated above, it is therefore humbly prayed that this Hon'ble Tribunal may be pleased pass such orders or further orders as this Hon'ble Tribunal may deem fit and necessary in the circumstances of the case and thus render justice.

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M. Vijayalakshmi 21/8/2024
 ADDITIONAL CHIEF ENVIRONMENTAL ENGINEER
 TAMIL NADU POLLUTION CONTROL BOARD
 No.76, MOUNT SALAI, GUINDY,
 CHENNAI-600 032.

VERIFICATION

I, M.Vijayalakshmi, D/o. K.R.Muthaiah, working as Additional Chief Environmental Engineer, TNPCB, No, 76, Mount Salai, Guindy, Chennai – 32, do hereby verify that the contents of above report are true to the best of my knowledge through records.

M. Vijayalakshmi 21/8/2024
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**BEFORE THE NATIONAL GREEN
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In Original Application No.08 of 2023

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VS

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Rep. by the Secretary to Government,
Ministry of Environment and Forests,
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**REPORT FILED ON BEHALF OF
THIRD RESPONDENT - TAMIL
NADU POLLUTION CONTROL
BOARD.**

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

Date:21.08.2024

Date of hearing on:22.08.2024.

