

BEFORE THE NATIONAL GREEN TRIBUNAL (SZ), CHENNAI

I.A.No. 16 of 2024

in

Appeal No. 28 of 2023

A.Thiyagaraj,
S/o, K. Arogasamay,
4/231, Nagarkalaindi Pirivu,
Dasanaicken palayam Post,
Malaipalayam Village, Sulur Taluk,
Coimbatore Disrtict – 642 202
PH: 98650 30794

...Applicant/ Proposed 4th Respondent

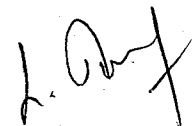
Vs.

M/s. Remmy Substrates India (P) Ltd.,
Rep. by its Managing Director,
No. 299/2, Kattampatti Post,
Kinathukadavu Taluk,
Coimbatore District – 642 202 & 3 others

...Respondents/ Respondents

**REPLY FILED BY THE 1ST RESPONDENT TO THE REJOINER FILED
BY THE APPLICANT**

1. It is submitted that the 1st Respondent vehemently denies each and every allegation made in the rejoinder filed by the Applicant and the Applicant is put to strict proof of the same. The Applicant has suppressed various material facts in order to mislead this Hon'ble Court for getting a favourable order. Non-denial of any averments would not amount to admission and the 1st Respondent reserve their rights to deny the same if the need arises.
2. It is submitted that the Applicant filed the rejoinder, in order to improvise his case and also to fill up the lacune and therefore, this Hon'ble Tribunal has to dismiss the petition in limine. The Applicant in paragraph 3 of his rejoinder stated that there was no reply on his side to the para 1 and 2 of the 1st Respondent's counter statement. It is pertinent to state that the 1st Respondent in para 2 of their counter statement has raised the issue of the maintainability of the impleadment petition and the erroneous invocation of the provisions of the NGT Act in filing the petition. However, the Applicant has expressly refused to reply to the said submissions, which is deemed to be admitted by him as per law. Therefore, the impleadment petition is liable to be dismissed on the ground of maintainability.

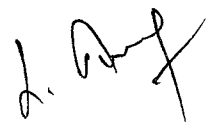


3. With regard to the paragraphs 3 and 4, I vehemently deny the averments and the Applicant is put to strict proof of the same. It is vehemently denied that based on his complaints only, the proceedings for closure of the industry came to be passed. However, it is pertinent to note that in the closure orders passed by the official Respondents under the Air and Water Acts respectively, there was no reference of the alleged complaints/ representations of the Applicant and therefore, the said allegation is erroneous, which has been made in order to mislead this Hon'ble Tribunal.
4. It is further submitted while disposing of the Appeal nos. 70, 71 and 72 of 2021, *this Hon'ble Tribunal, vide its order dated 08.10.2021 had directed the Board to consider the applications for revocation of closure orders and also consents to operate after giving an opportunity of hearing, if required by the parties in accordance with law.* Based on the same, a personal hearing notice dated 22.10.2021 was issued to the applicant with regard to revocation of closure orders and not for any other reasons as alleged by the Applicant. It is pertinent to note that the said hearing notice was issued within a period of 13 days from the date of the order of this Hon'ble Tribunal. Infact, in the said personal hearing notice, there was no reference with regard to the levying of environmental compensation.
5. It is submitted that in contrary, the Applicant in his rejoinder alleged that during personal hearing, he had submitted a detailed representation as to the levying of environmental compensation for the alleged damaged caused. The said copy was not served to the 1st Respondent. Further, the alleged representation had not borne any proof of submission to the official Respondents. Therefore, the Applicant must prove first with substantiated evidences that the same alleged representation had been submitted to the official Respondent during the personal hearing. Without doing the same, the alleged representation should not be relied on by the Applicant in support of his application, despite the fact that the same were not relevant to the above Appeal.
6. It is submitted that it is vehemently denied that based on the Applicant's alleged representation only, the order imposing environmental compensation has been passed. It is pertinent to note that in none of the proceedings relating to the levy of environmental compensation, there has been no reference with regard to the Applicant's alleged representation and the said statement was made by the Applicant in order to misled this Hon'ble Tribunal. Even assuming without conceding, it is

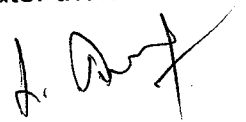


pertinent to note that the Applicant in his alleged representation, he himself mentioned in page no. 79 of his typed set of papers that as per his calculation, the alleged amount payable by the 1st Respondent is Rs. 46,87,500/-. However, the said alleged calculation has been intentionally hide-out and suppressed by the Applicant in his application for the reason that the Board, vide its impugned order has imposed an amount of Rs. 69.75 Lakhs for the alleged damages caused. It is much more than the amount quoted by the Applicant.

7. It is submitted that at this juncture, the Applicant filed this petition for impleadment and has alleged that the Board calculated the damages for name sake and not truly representing the actual damages and hence, wants to challenge the imposition of compensation. As already submitted in paragraph 4 of the counter statement filed by the 1st Respondent, the Applicant if being aggrieved by the impugned order, he has to challenge the same in the manner known to law and not by a way of filing impleadment petition in the statutory appeal filed by the 1st Respondent.
8. It is submitted that the Applicant has to show his locus-standi for impleadment in the statutory appeal filed by the 1st Respondent. Mere allegation that the Applicant has affected by operation of the 1st Respondent has to be substantiated by sufficient evidences. Further, the applicant has to elaborate as to how and what way he has affected by the alleged pollution. Without substantiating the same with concrete evidences, the Applicant should not raise bald allegations.
9. It is submitted that on 16.10.2024, to the shock and surprise, the 1st Respondent has come to know from the Rejoinder statement filed by the applicant that after dismissal of the condone delay applications in I.A.Nos. 25 to 30 of 2024 (6 Appeals) by this Hon'ble Tribunal, the Applicant filed Review Application nos. 1,2,3,4,6 of 2024 to review the order and the same were allowed. It is pertinent to state that the 1st Respondent was not aware about the filing of the said review applications by the Applicant and also the orders passed and no copies have been served. Further, the said orders were passed without any notice to the 1st Respondent, despite the fact that the 1st Respondent had vehemently contested the condone delay petitions. Therefore, the allegation that the 1st Respondent has suppressed the fact of pending appeals is erroneous for the reasons stated above.



10. It is submitted that as already stated in the counter statement filed by the 1st Respondent, the Applicant is taking dual-stand that he had earlier alleged that the industry was running without a valid consent. Thereafter, when the 1st Respondent obtained consents from the Board, the Applicant questioned the same before the Hon'ble Appellate Authority of TNPCB. The above is sufficient to affirm the said dual-stand of the Applicant.
11. It is submitted that if the Applicant is being aggrieved by the non-imposition of compensation for the past violations, the Applicant has to challenge the same in the manner known to law. Further, the Applicant did not state or file any documents about his steps taken prior to the past alleged violations and the details of alleged past violations by the industry.
12. It is submitted that the Applicant has to demonstrate with sufficient official documents as to where, when and by whom a pre-condition was imposed for revocation of closure orders. Without substantiating the same, the Applicant should not repeatedly raise the same set of bald allegations in every proceeding. Infact, in the counter affidavit filed by the Board, there was no mentioning of such condition. Further, neither in the revocation of closure orders nor in the consents granted to the 1st Respondent, there was no such condition. The said allegation was made by the Applicant only with an intention to mislead this Hon'ble Court, which is in clear abuse of the process of Court.
13. It is submitted that after the 1st Respondent raised the fact of Applicant's alleged residence from the industry, the Applicant has now alleged that he is residing extremely close to the industry, which has been now made to improvise the case and to fill up the lacune. Even now, the Applicant did not state the approximate distance of his alleged house from the 1st Respondent Industry. Though, the Applicant claimed in his application that the 1st Respondent industry was established in the year 2005, the Applicant did not state or assign reasons as to why he remained silent for all these years without any allegation of pollution by the 1st Respondent.
14. It is vehemently denied that the 1st Respondent has been caught red-handed by PAP officials for theft of PAP canal water. The Applicant has suppressed the vital fact that the orders passed by the PAP officials against the 1st Respondent was for non-obtaining the track rent permission for carrying the water for agriculture. The Applicant has also intentionally suppressed the fact that there was no allegation of water theft in

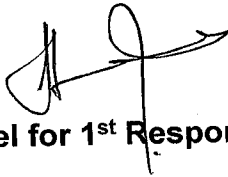


the order. Infact, the said order had already been challenged and the single judge of the Hon'ble High Court had disposed of the bath of cases consisting of morethan 70 in numbers, vide the common order. Challenging the same, Writ Appeal has been preferred and the Division Bench of the Hon'ble High Court has granted an order of interim protection and the same is in force as on today. The Applicant has also appeared for all the hearings through his Counsel in the said Appeals.

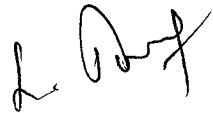
15. The submissions made in the counter statement by the 1st Respondent may be treated as part and parcel to the present reply to the rejoinder statement. The 1st Respondent is aware about the filing of the rejoinder statement by the Applicant is on 16.10.2024 only.

For the foregoing reasons, it is prayed that this Hon'ble Tribunal may be pleased to dismiss the petition in I.A.No. 16 of 2024 filed for impleadment in Appeal no. 28 of 2023 with costs and thus render justice.

Dated at Chennai on this the 17th day of October, 2024



Counsel for 1st Respondent



1st Respondent

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TRIBUNAL (SZ), CHENNAI**

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in
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RESPONDENT TO THE REJOINER
FILED BY THE APPLICANT**

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