

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

ORIGINAL APPLICATION No.189 of 2017 (SZ)

R.Gokulraj
Advocate,
No.197/8, J.N.Road,
Oil Mill, Thiruvallur 602001.

....Applicant

Vs

The Government of Tamil nadu,
Rep. by its Secretary,
Department of Environment and Forest,
Fort.St.George, Chennai-9 & 7 others.

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JOINT COMMITTEE DECISION ON THE WITHDRAWAL OF ENVIRONMENTAL COMPENSATION AS CALCULATED BY THE JOINT COMMITTEE CONSTITUTED BY THE HON'BLE NGT (SZ) IN THE MATTER OF ORIGINAL APPLICATION NO.189 OF 2017 (SZ) BASED ON THE COMPLIANCE REPORT FILED BY TIRUVALLUR MUNICIPALITY .

The Hon'ble NGT(SZ) in its order dated 24.01.2020 in O.A. No.189 of 2017 has issued the following directions among other things inter alia as follows.

" So considering the circumstances we feel it appropriate to get a report from a joint Committee to be appointed by this Tribunal comprising of District collector, Thiruvallur District, Commissioner, Thiruvallur Municipality, Executive Engineer of Thiruvallur Division, Executive Engineer of Tamilnadu Water and Drainage Board of Thiruvallur who is incharge of Thiruvallur District and TNSPCB to submit a status and action taken report and if there is any violation found regarding the operation of the STP in question.

Based on the Hon'ble NGT (SZ) order dated 24.01.2020, the committee has submitted the report dated 24.2.2020 with the following recommendations for implementation.

1. Tiruvallur Municipality shall stop discharge of treated sewage in Putlur Eri, after implementation of treated sewage Pipe line conveyance project for the disposal of entire quantity of treated sewage into Cooum river on the downstream of Check dam near Putlur as per the NOC issued by PWD and the same shall be commissioned within the stipulated time November 2020.
2. Tiruvallur Municipality shall obtain and operate the CSTP with valid Consent to Operate (CTO) from TNPCB.
3. Tiruvallur Municipality shall operate and maintain the CSTP efficiently and continuously to achieve the treated sewage discharge standards prescribed by TNPCB at all time. Ensure no discharge of untreated/ partially treated sewage into water body under any circumstances.
4. The PWD shall carryout regular maintenance of Putlur Eri to maintain the water quality.

Subsequently, the Hon'ble NGT(SZ) in its order dated 26.6.2020 in O.A. No.189 of 2017 has issued the following directions among other things inter alia as follows.

"So under such circumstances, we direct the joint committee to assess the environmental compensation payable by Municipality for the violation of condition and operating STP without obtaining necessary 'consent to operate' and submit further report in this regard. We also direct Tamil Nadu Pollution Control Board to file a separate independent report regarding the action taken on the basis of the

as directed by this Tribunal in several cases, where violation of conditions have been noticed and complying the guidelines provided by Central Pollution Control Board in this regard against the project proponent as well as local body for non compliance of pollution norms and pollution laws. Municipality is also directed to submit a status report regarding implementation of the recommendations given by the committee. Two months time is granted to the committee and also to the respondents to comply with the directions.

In due compliance of the Hon'ble NGT order dated 26.6.2020 in OA No.189 of 2017, the committee calculated the Environmental compensation based on Pollution Index due to non- compliance of discharge norms and operating without CTO

As per the direction of Hon'ble NGT(SZ) in its order dated 26.6.2020 in O.A. No.189 of 2017, the committee has calculated the Environmental Compensation as per the CPCB Guidelines following Environmental Compensation formula (EC) - $PI \times N \times R \times S \times LF$ based on the Pollution index

PI - Pollution Index for Red Category as per the CPCB Guidelines - 80

N - No. of days for which violation took place - 138 days (from the date of inspection to the unit on 10.10.2019 based on which SCN issued dated 25/10/2019 to till the day of inspection by Joint committee to the unit on 24.2.2020 as per the Hon'ble NGT order dated 24/01/2020 during which the treated sewage collected from the outlet of STP is meeting the prescribed discharge standard)

R - Factor in Rupees - Rs. 250

S - Scale of operation - 0.5 (The Commissioner, Tiruvallur Municipality vide letter dated 31.7.2020 has reported that CSTP with GFA of Rs.3.93 Crores falls under Red small category)

LF - Population is less than one million, hence location factor - 1

Environmental Compensation formula (EC) - $PI \times N \times R \times S \times LF$

$$= 80 \times 138 \times 250 \times 0.5 \times 1$$

$$= \text{Rs. } 13,80,000 \text{ /-}$$

Hence the Committee has submitted the report to the Hon'ble NGT on the Environmental Compensation calculated by the committee of Rs. 13,80,000 /-

In due Compliance of Hon'ble NGT(SZ) in its order dated 26.6.2020 in O.A. No.189 of 2017, TNPCB vide Board's letter dated: 04.09.2020 has imposed Environmental compensation of Rs.13,80,000 as calculated by the Joint Committee to the Commissioner, Tiruvallur Municipality .

Subsequently, the Hon'ble NGT in its order 24.11.2020 has directed the following.

" The Tamilnadu Pollution control Board is also directed to consider the compliance report submitted by the 7th respondent (Tiruvallur Municipality) and file a report as to whether any interference is required in the quantum of compensation fixed by them in this regard on the basis of the compliance report and the reasons stated by them in the compliance report. If any application for Consent to Operate filed by the 7th respondent is pending with them then they are directed to consider and pass appropriate order in that application in accordance with law, so that if any adverse order is passed the aggrieved party can approach the appropriate authority for redressal of their grievance instead of keeping the application with them, without passing any orders.

The Compliance report as filed by the 7th Respondent of Tiruvallur Municipality reads as follows:

3. At the outset it is submitted that the report is in contravention of the earlier reports submitted with regard to the method of discharge of the treated water into the Eri. As per the report dated 19. 5 .2020, in the conclusion, it is set out that the discharge of the treated water into the Pular Eri shall be stopped after the implementation of the pipeline work to convey the treated water to the downstream of the Putlur check Dam, which has been fixed as November2020. But at present, the compensation is being levied for even the period that is commencing from October 2019 which is much prior to the cut off date
4. It is submitted that the question of levying of Environmental compensation against the local bodies as set out by the orders of the National Green Tribunal are only with regard to the failure to establish the Sewage Treatment Plant (Cut off dated is 31.3.2020) and the failure to commence the treatment (Cut off date 31.3.2021). Both the said dates have not been violated. In fact the STP has been established with the CTE off the TNPCB in the year 2016 itself and it has commenced the operations. Only the question of Consent to Operate has been indeterminate due to various factors. The main reasons being that the initial CTE was for the establishment the discharge of treated water and a bar on the discharge of untreated or semi treated water into the water body.
5. But now the very discharge of the treated water is being considered as if it is a violation of the conditions. The modality of discharge now proposed is an entirely new measure compared to the original plans and design of the STP and there was no bar on the discharge of treated water into the Eri. But now due to the present application being filed the discharge of treated is to be done in a place that is 4.2 Kilometers and estimated cost of laying pipeline is Rs.4.5 crores

cannot be put against the municipality. Particularly when the report of the TNPCB clearly sets out in the conclusion that the discharged water is within the standards.

7. With regard to project for the laying of the pipeline. The DPR has already been prepared and submitted to the Sanctioning Authority namely the Government of Tamilnadu for administrative sanction and for sanctioning of funds.
8. Due to the funding of the project being bundled with 8 Other Municipalities with regard to similar projects, the work has been entrusted to the Tamilnadu Water Investment Company Limited (TWIC) . The same is now pending for Administrative Sanction and Financial Sanction.
9. As and when the said Administrative sanction and Technical sanction are accorded, the tender will be called for, the work will be entrusted to after following the due procedure.
10. Pending the above pipeline work , the treated Sewage which is meeting within the standards is being discharged into two final pits and the said pits are provide with 2 Motors of 25 HP capacity each and pipelines a total of 4 numbers are being used to convey the treated water to the Cooum River within the Municipal limits. The Overflow if any in the said two pits alone will reach the Putlur Eri. Therefore the main relief of the applicant is being addressed at present. Even the overflow of the treated water clearly meets standards and there is no damage to the environment.
11. Further the return of the application of the respondent for Consent to operate on 19.08.2020 due to the reason of non-implementation of the treated sewage pipeline project is improper. The Consent to operate is for the operation of the STP and the discharge to the alternate location is only a later development and the issuance of the CTO need await the subsequent developments in the project. Due to this return of the application, the TNPCB is acting prejudicial to public interest on the basis of the pendency of the present original application .Nowhere in the previous Consent to Establish or in the NOC of the PWD, was there a condition to convey the treated water to the Coovum river that too 4.2 Kilometers away. By the report of the TNPCB the financial outlay for the STP itself only Rs.3.93 crores .But now due to the subsequent developments in the form of PWDs NOC and the requirement for tertiary treatment the additional cost of Rs.7.54 Crores has been burdened on the Municipality.
12. If each authority keeps on adding to their requirements one after the other that too after the implementation of the project of the STP, the public revenue is being gravely affected. Mere treatment and discharge of water that needs standards has been now complicated into a huge project of more than three times its initial cost outlay. In this situation, the levying of the Environmental Compensation is not justified and it is prayed that this

Hon'ble Tribunal may be pleased to discharge the Respondent herein from such liabilities.

Now TNPCB vide it's memo No.T1/TNPCB/LAW/LA III/NGT/25856 /2020 dated 22.12.2020 has requested the DEE,TNPCB,Tiruvallur to place the request made by by Tiruvallur Municipality on withdraw of Environmental compensation levied to CSTP of Rs 13,80,000 before the Joint Committee meeting and to take a decision as the Environmental Compensation has been calculated by the joint Committee constituted by NGT in OA No.189 of 2017 .

The above subject on withdrawal of the Environmental compensation imposed to CSTP was discussed in the joint committee meeting held on 9.3.2021.

As per the request by Tiruvallur Municipality, the Environmental compensation earlier imposed to Tiruvallur Municipality of Rs.13, 80,000 may be withdrawn for the following reasons.

1.Tiruvallur Municipality was issued with Consent to Establish vide TNPCB Proc.No.: F.TLR1088/RL/DEE/TNPCB/TLR/W&A/2014 dated 05/12/2014 to establish Common Sewage Treatment plant for UGSS at RS.No.720/2, Periakuppam Village, Thiruvallur Taluk, Thiruvallur District to treat the sewage of 6.208 MLD .Further ,Tiruvallur Municipality has established it's Common STP (CSTP) during 2016 well before the cut -off date of Commencement of Setting up of STPs-31.3.2020 as per Hon'ble NGT ,Principal Bench, New Delhi in order dated 2.7.2020 in O.A.No.606/2018 .

2.Also, Tiruvallur Municipality has commissioned its CSTP on 20.6.2016 well before the cut -off date of Commissioning of STPs-31.3.2021, as per Hon'ble NGT ,Principal Bench, New Delhi in order dated 2.7.2020 in O.A.No.606/2018 .

3. It is informed that the Environmental Compensation was calculated considering the period of violation as from the date of inspection to the CSTP on 10.10.2019 based on which SCN issued dated 25/10/2019 to till the day of inspection by Joint committee to the unit on 24.2.2020 as per the Hon'ble NGT order dated 24/01/2020.During these periods and thereafter the Report of analysis of the treated sewage sample collected from the out let of CSTP by TNPCB on 30.9.2020, 30.11.2020,22.12.2020 & 18.02.2021 reveals that the parameters such as pH, TSS & BOD are meeting the treated sewage standards prescribed for disposal into water body as per the MoEF & CC Notification dated 13.10.2017. The ROA: of the treated sewage samples collected from CSTP are enclosed as Annexure 1to 4.

4. Tiruvallur Municipality has resubmitted the retrieved application for CTO on 02.03.2021.In this regard the TNPCB vide Lr.No.-DEE/TNPCB/RS/TLR 1088/W & A/2020 dated 9.3.2021,addressed to the Commissioner, Tiruvallur Municipality has

- 45 was placed before the Zonal Level Consent Clearance Committee (ZLCCC) meeting held on 4.3.2021. The ZLCCC decided to defer the subject as Tiruvallur Municipality has not implemented the treated sewage conveyance pipe line project for the disposal of entire quantity of treated sewage of Common Sewage Treatment Plant (CSTP) into Cooum river on the downstream of Check dam near Putlur as per the NOC issued by PWD within the stipulated time of November 2020 as per the directions issued to the Commissioner, Tiruvallur Municipality, under Section 33A of Water (P&CP) Act 1974 as amended and under Section 31A of Air (P&CP) Act 1981 vide Board's Proceedings No.T1 /TNPCBd/LAW/LA III /NGT / 25856/ W&A/ 2020 dated: 4.9.2020.

Hence the application for CTO was returned to the Commissioner, Tiruvallur Municipality with a request to resubmit the application on implementation of treated sewage conveyance pipe line project for the disposal of entire quantity of treated sewage of Common Sewage Treatment Plant (CSTP) into Cooum river on the downstream of Check dam near Putlur as per the NOC issued by PWD as stipulated in the directions issued vide Board's Proceedings No.T1 /TNPCBd/LAW/LA III /NGT / 25856/ W&A/ 2020 dated: 4.9.2020.

In this regard, the Commissioner, Tiruvallur Municipality vide its letter dated 9.3.2021 (copy enclosed) has reported that Tamilnadu Water Investment Company (TWIC) has submitted Detailed Project Report (DPR) for implementing the treated sewage conveyance pipeline project for the disposal of entire quantity of treated sewage into Cooum river on the downstream of check dam near Putlur as per NOC issued by PWD at a cost of Rs.9.54 Crores to the Commissioner of Municipal Administration, Chennai on 27.11.2020. Also, reported that Tiruvallur Municipality has proposed to implement the said project before September 2021 on obtaining Administrative and Financial approval from Government of Tamilnadu.


District Collector,
Tiruvallur District.


Commissioner,
Tiruvallur Municipality


Executive Engineer, PWD,
Kosasthalaiyar Basin
Division, WRD, Tiruvallur


Executive Engineer, Tamilnadu Water
supply and Drainage Board, RWS
Division, Tiruvallur


District Environmental Engineer,
TNPCB, Tiruvallur

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**Advocate for Respondent: TNPCB
Thiru.Kasi Rajan,
Advocate, Chennai.**

Date:31.03.2021.

Date of hearing on:16.04.2021