

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

Original Application No.159 of 2023 (SZ)

Edwin Wilson,
No.28, Parthasarathy Street,
Purasaiwalkam, Chennai – 600 084,
Tamil Nadu, India,
Mob No.98402 73445,
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...Appellant

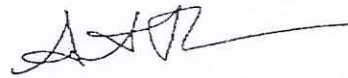
Versus

1. The District Collector,
Coimbatore District and 4 Others

...Respondents

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

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

Original Application No. 159 of 2023

Edwin Wilson,
No. 28, Parthasarathy Street,
Purasaiwalkam, Chennai – 600 084,
Tamil Nadu, India
Mob No. 9840273445,
Email Id- sandplegalattorneys@gmail.com

...Applicant

Vs

1. The District Collector,
Coimbatore District – 641 018.
2. The Chairman,
Tamil Nadu Pollution Control Board,
No.76, Mount Salai,
Guindy, Chennai – 600 032.
3. The District Environmental Engineer,
Coimbatore (South),
Tamil Nadu Pollution Control Board,
Coimbatore South, Plot No. E- 55A, SIDCO Industrial Estate,
Pollachi Main Road, Kuruchi
Coimbatore District – 641 021
4. VMS M-Sand,
Rep by its Proprietor,
Survey No. 80/F1,
Kalavathottam, Thekani, Pachapalayam Village,
Sulur Taluk, Coimbatore – 641 201.
5. P.R. M-Sand,
Rep by its Proprietor,
Survey No. 91/2D, 95/1A and 95/1B,
Kalavathottam, Thekani, Pachapalayam Village,
Sulur Taluk, Coimbatore – 641 201.

...Respondents

**ADDITIONAL REPORT FILED ON BEHALF OF THE SECOND AND
THIRD RESPONDENTS - TAMIL NADU POLLUTION CONTROL
BOARD.**

Alan
09/09/24
JOINT CHIEF ENVIRONMENTAL ENGINEER
TAMIL NADU POLLUTION CONTROL BOARD
No.76, MOUNT SALAI, GUINDY,
CHENNAI-600 032.

I, R.Sarasavani, D/o. J. Raghavan, Hindu, aged about 59 years, having my office at No.76, Mount Salai, Guindy, Chennai -600032, do hereby solemnly affirm and sincerely state as follows:-

1. I submit that I am working as the Joint Chief Environmental Engineer, Tamil Nadu Pollution Control Board, Chennai-600032 and I am authorized to file this report on behalf of the Second and Third Respondents (TNPCB) and as such I am well acquainted with the facts of the case from the available office records.
2. It is respectfully submitted that the Hon'ble NGT (SZ), Chennai vide order dated 02.04.2024, has directed the respondent Board to file an additional report as under:

"1. The Tamil Nadu Pollution Control Board (TNPCB) report mentions that the unit is operating without consent, but does not specify when and for how long the unit was operating without consent.

2. If the units were operating without consent, the compensation also has to be awarded depending on the pollution caused and for the period of operation without Consent to Operate. Therefore, the TNPCB is directed to file an additional report in this regard".

3. is respectfully submitted that as per the said orders, the additional report is submitted herein.

4. It is respectfully submitted that, the 4th respondent unit M/s VMS M-Sand, S.F No. 80/1F, Pachapalayam Village, Sulur Taluk, Coimbatore District has obtained Consent to Establish (CTE) vide Proc. dated 16.08.2022 valid upto 31.03.2027.

5. It is respectfully submitted that, vide proceeding dated 14.11.2023, the respondent Board has issued Show Cause Notice under section 25 of the water (Prevention & Control of Pollution) act, 1974 as amended and under section 21 of the Air (Prevention & Control of Pollution) act, 1981 as amended to the 4th respondent unit for operating without APC measures, without obtaining CTO -after CTE and for attracting public complaints.

dsr
04/9/24

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

Further, from the TANGEDCO records, it was observed that the unit has commissioned its operation from 23.02.2023, without obtaining Consent to Operate of the Board.

6. It is respectfully submitted that, the 5th respondent M/s. P R M-SAND, S.F No. 91/2D, 95/1A, 95/1B, Pachapalayam Village, Suler Taluk, Coimbatore District has obtained Consent to Establish (CTE) vide Proc. dated 01.12.2018 valid upto 31.03.2023.

7. It is respectfully submitted that, vide proceeding dated 14.11.2023, the respondent Board has issued Show Cause Notice under section 25 of the water (Prevention & Control of Pollution) act, 1974 as amended and under section 21 of the Air (Prevention & Control of Pollution) act, 1981 as amended to the 5th respondent unit for operating without APC measures, without obtaining CTO -after CTE and for attracting public complaints.

Further, from the TANGEDCO records, it was observed that the unit has commissioned its operation from 22.06.2023, without obtaining Consent to Operate of the Board.

8. It is respectfully submitted that; the Central Pollution Control Board has formulated the methodology to assess and recover compensation under "CPCB Methodology for assessing environmental compensation and action plan to utilize the fund" for the following cases as per the Hon'ble NGT (PB) order dated: 03.08.2018 in O.A. No.593/2017.

- a. Discharges in violation of consent conditions, mainly prescribed standards / consent limits.
- 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.

dlar
04/12/24
JOINT CHIEF ENVIRONMENTAL ENGINEER
TAMIL NADU POLLUTION CONTROL BOARD
No.76, MOUNT SALAI, GUINDY,
CHENNAI-600 032.

- e. Intentional discharges to the environment – land, water and air resulting into acute injury or damage to the environment.
- f. Injection of treated / partially treated / untreated effluents to ground water.

9. It is respectfully submitted that, it is evident that the unit has caused environmental damage by discharging emissions to the environment, without providing adequate air pollution control measures, thereby attracting public complaints.

10 It is respectfully submitted that, in view of the above and as per the Hon'ble NGT vide order dated 02.04.2024, environmental compensation to be levied for the 4th & 5th respondent units is calculated as per the "CPCB Methodology for assessing environmental compensation and action plan to utilize the fund" and show cause notice vide proceedings dated 31.07.2024 under Section 5 of the Environmental Protection Act, 1986 have been issued to M/s. VMS M-SAND, S.F No. 80/1F, Pachapalayam Village, Suler Taluk, Coimbatore District and to M/s P R M-SAND, S.F No. 91/2D, 95/1A, 95/1B, Pachapalayam Village, Suler Taluk, Coimbatore District as to why Environmental Compensation should not be imposed for the violations caused. (Copy enclosed)

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

04/9/24
 JOINT CHIEF ENVIRONMENTAL ENGINEER
 TAMIL NADU POLLUTION CONTROL BOARD
 No.76, MOUNT SALAI, GUINDY,
 CHENNAI-600 032.

VERIFICATION

I, R.Sarasavani, D/o. J. Raghavan, working as Joint Chief Environmental Engineer, Tamil Nadu Pollution Control Board, Chennai, do hereby verify that the contents of above report are true to the best of my knowledge through records.

04/9/24
 JOINT CHIEF ENVIRONMENTAL ENGINEER
 TAMIL NADU POLLUTION CONTROL BOARD
 No.76, MOUNT SALAI, GUINDY,
 CHENNAI-600 032.

By Speed Post



TAMIL NADU POLLUTION CONTROL BOARD

Proceeding No.: TNPCB / T1 / F.015798-1 / CBS / SCN / 2024, dated: 31.07.2024

Sub.: TNPCB – Industries – M/s VMS M-SAND, S.F No. 80/1F, Pachapalayam Village, Sulur Taluk, Coimbatore District – Show Cause Notice under Section 5 of Environment Protection Act, 1986 to levy Environmental Compensation for the violation caused – Issued – Regarding.

- Ref.:**
1. CPCB Methodology for assessing environmental compensation and action plan to utilize the fund vide circular dated 24.05.2019
 2. Proceeding No. F. CBS2695 / DEE / TNPCB / OS / W&A / 2023, Dated: 14.11.2023
 3. The Hon'ble NGT order dated 02.4.2024 in O.A.No.159/2023
 4. DEE's Lr. No.: DEE / TNPCB / CBS F.No.2695 / NGT / O.A No. 159 of 2023 / 2024, dated 03.07.2024

Whereas, vide reference 2nd cited, Show Cause Notice under section 25 of the water (Prevention & Control of Pollution) act, 1974 as amended and under section 21 of the Air (Prevention & Control of Pollution) act, 1981 as amended was issued to the unit M/s VMS M-SAND, S.F No. 80/1F, Pachapalayam Village, Sulur Taluk, Coimbatore District for operating without APC measures, without obtaining CTO -after CTE and for attracting public complaints.

Whereas, a petitioner filed an application before the Hon'ble NGT (SZ), vide OA No. 159 of 2023 against the operation of the unit and the Hon'ble NGT vide reference 3rd cited, has directed as follows:

"2. If the units were operating without consent, the compensation also has to be awarded depending on the pollution caused and for the period of operation without Consent to Operate. Therefore, the TNPCB is directed to file an additional report in this regard."

Whereas, the Central Pollution Control Board has formulated the methodology to assess and recover compensation under "CPCB Methodology for assessing environmental compensation and action plan to utilize the fund" for the following cases as per the Hon'ble NGT (PB) order dated: 03.08.2018 in O.A. No.593/2017.

- a) Discharges in violation of consent conditions, mainly prescribed standards / consent limits.
- 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.
- f) Injection of treated / partially treated / untreated effluents to ground water.

Whereas, it is evident that the unit has caused environmental damage by emitting pollutant to the environment, without providing adequate air pollution control measures, thereby attracting public complaints.

6

Whereas, vide reference 4th cited, the DEE, TNPCB, Coimbatore South has recommended that environmental compensation shall be imposed to the unit for the said violation and calculated as follows:

Environmental Compensation formulae = $PI \times N \times R \times S \times LF$

where;

Pollution Index (PI) – 50 (Orange Category Industries)

Number of days (N) for which violation took place – 216 days.

(Date of operation of the M-sand unit without valid consent from 23.02.2023 and date of stopping the operations 26.09.2023 as per TANGEDCO records).

Factor in Rupees (R) – Rs.250/-

Scale of operation (S) – 0.5 (Small scale unit)

Location Factor (LF) – 1.0

(Pachapalayam Village Population is 2,933 as per the 2011 census which is less than one million)

Hence, Environmental Compensation = $50 \times 216 \times 250 \times 0.5 \times 1 = \underline{\text{Rs. 13,50,000}}$

Environmental Compensation calculated for 216 days is Rs.13,50,000/-

(Rupees Thirteen Lakh and Fifty Thousand only)

Now, therefore, in view of the said facts, you are hereby directed to show cause within 15 days from the date of receipt of this notice as to why an interim environmental compensation computed as above of Rs. 13,50,000/- should not be imposed against your unit M/s VMS M-SAND, S.F No. 80/1F, Pachapalayam Village, Sulur Taluk, Coimbatore District under Section 5 of the Environmental Protection Act, 1986 and as per the guidelines issued by the CPCB for the violation caused by the unit.

It is informed that non receipt of any reply within 15 days from the date of receipt of this notice will be construed that you have no satisfactory explanation to offer for the said issue and further action will be initiated on merits in accordance with law.

The receipt of the proceedings shall be acknowledged.

[Signature]
For Chairperson 21/7/24

To
The Proprietor,
M/s VMS M-SAND,
S.F No. 80/1F, Pachapalayam Village,
Sulur Taluk, Coimbatore District – 641 201

Copy to

1. The Joint Chief Environmental Engineer (M),
Tamil Nadu Pollution Control Board,
Coimbatore
2. The District Environmental Engineer,
Tamil Nadu Pollution Control Board,
Coimbatore South

By Speed Post



TAMIL NADU POLLUTION CONTROL BOARD

Proceeding No.: TNPCB / T1 / F.015798-2 / CBS / SCN / 2024, dated: 31.07.2024

Sub.: TNPCB – Industries – M/s P R M-SAND, S.F No. 91/2D, 95/1A, 95/1B, Pachapalayam Village, Sulur Taluk, Coimbatore District – Show Cause Notice under Section 5 of Environment Protection Act, 1986 to levy Environmental Compensation for the violation caused – Issued – Regarding.

Ref.: 1. CPCB Methodology for assessing environmental compensation and action plan to utilize the fund vide circular dated 24.05.2019
2. Proceeding No. F. CBS2035 / DEE / TNPCB / OS / W&A / 2023, Dated: 14.11.2023
3. The Hon'ble NGT order dated 02.4.2024 in O.A.No.159/2023
4. DEE's Lr. No.: DEE / TNPCB / CBS F.No.2035 / NGT / O.A No. 159 of 2023 / 2024, dated 03.07.2024

Whereas, vide reference 2nd cited, Show Cause Notice under section 25 of the water (Prevention & Control of Pollution) act, 1974 as amended and under section 21 of the Air (Prevention & Control of Pollution) act, 1981 as amended was issued to the unit M/s P R M-SAND, S.F No. 91/2D, 95/1A, 95/1B, Pachapalayam Village, Sulur Taluk, Coimbatore District for operating without APC measures, without obtaining CTO -after CTE and for attracting public complaints.

Whereas, a petitioner filed an application before the Hon'ble NGT (SZ), vide OA No. 159 of 2023 against the operation of the unit and the Hon'ble NGT vide reference 3rd cited, has directed as follows:

"2. If the units were operating without consent, the compensation also has to be awarded depending on the pollution caused and for the period of operation without Consent to Operate. Therefore, the TNPCB is directed to file an additional report in this regard."

Whereas, the Central Pollution Control Board has formulated the methodology to assess and recover compensation under "CPCB Methodology for assessing environmental compensation and action plan to utilize the fund" for the following cases as per the Hon'ble NGT (PB) order dated: 03.08.2018 in O.A. No.593/2017.

- a) Discharges in violation of consent conditions, mainly prescribed standards / consent limits.
- 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.
- f) Injection of treated / partially treated / untreated effluents to ground water.

Whereas, it is evident that the unit has caused environmental damage by emitting pollutant to the environment, without providing adequate air pollution control measures, thereby attracting public complaints.

Whereas, vide reference 4th cited, the DEE, TNPCB, Coimbatore South has recommended that environmental compensation shall be imposed to the unit for the said violation and calculated as follows:

Environmental Compensation formulae = $PI \times N \times R \times S \times LF$

where;

Pollution Index (PI) – 50 (Orange Category Industries)

Number of days (N) for which violation took place – 128 days.

(Date of operation of the M-sand unit without valid consent from 22.06.2023 and date of stopping the operations 27.10.2023 as per TANGEDCO records).

Factor in Rupees (R) – Rs.250/-

Scale of operation (S) – 0.5 (Small scale unit)

Location Factor (LF) – 1.0

(Pachapalayam Village Population is 2,933 as per the 2011 census which is less than one million)

Hence, Environmental Compensation = $50 \times 128 \times 250 \times 0.5 \times 1 = \underline{\text{Rs. 8,00,000/-}}$

Environmental Compensation calculated for 128 days is Rs. 8,00,000/-

(Rupees Eight Lakh only)

Now, therefore, in view of the said facts, you are hereby directed to show cause within 15 days from the date of receipt of this notice as to why environmental compensation computed as above of Rs.8,00,000/- should not be imposed against your unit M/s P R M-SAND, S.F No. 91/2D, 95/1A, 95/1B, Pachapalayam Village, Sulur Taluk, Coimbatore District under Section 5 of the Environmental Protection Act, 1986 and as per the guidelines issued by the CPCB for the violation caused by the unit.

It is informed that non receipt of any reply within 15 days from the date of receipt of this notice will be construed that you have no satisfactory explanation to offer for the said issue and further action will be initiated on merits in accordance with law.

The receipt of the proceedings shall be acknowledged.

To
The Proprietor,
M/s P R M-SAND,
S.F No. 91/2D, 95/1A, 95/1B,
Pachapalayam Village, Sulur Taluk,
Coimbatore District – 641 021

Copy to

1. The Joint Chief Environmental Engineer (M),
Tamil Nadu Pollution Control Board,
Coimbatore
2. The District Environmental Engineer,
Tamil Nadu Pollution Control Board,
Coimbatore South

Devi. N
21/7/24
For Chairperson
PI
21/7/24

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

Original Application No.159 of 2023 (SZ)

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**ADDITIONAL REPORT FILED ON
BEHALF OF THE SECOND AND
THIRD RESPONDENTS – TAMIL
NADU POLLUTION CONTROL
BOARD.**

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

Date:05.09.2024

Date of hearing on:12.09.2024

