

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

ORIGINAL APPLICATION No. 19 OF 2024 (SZ)

[Earlier, OA No. 615 of 2022 (PB)]

IN THE MATTER OF:

S.K.Srivastava,
Rangareddy District,
Telangana

....

Applicant(s)

Versus

State of Telangana,
rep. by its Chief Secretary,
Telangana & Ors.

....

Respondent(s)

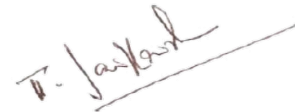
**REPORT OF THE TELANGANA POLLUTION CONTROL BOARD
(RESPONDENT No. 2)**

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Place: Hyderabad

Date: 18-12-2024.



COUNSEL FOR RESPONDENT No. 2

REPORT OF THE TELANGANA POLLUTION CONTROL BOARD IN O.A. No. 19 OF 2024 (EARLIER OA NO.615/2022 PB) IN THE MATTER OF M/s HESOLT OIL FILED BY SRI. S. K. SRIVASTAVA.

It is to submit that, the Hon'ble NGT, Principal Bench, New Delhi has registered SUO MOTO application O.A No. 615 of 2022 based on the mail sent by Sri. S. K. Srivastava regarding establishment of M/s Hesolt Oil, Sy No.116/91, Badangpet Municipal Corporation, Ranga Reddy District in the residential area & thereby causing pollution.

The Hon'ble NGT, Principal Bench, New Delhi in its Order dated 03.02.2023 has constituted a Joint Committee comprising of representatives of the Telangana Pollution Control Board (TGPCB) and the District Magistrate, Ranga Reddy and directed to meet within two weeks, undertake visits to the site, look into the grievances of the applicant, associate the applicant, verify the factual position and submit its Report within two months.

Accordingly, a Joint Committee comprising of Sri. S. Suraj Kumar, Revenue Divisional Officer (RDO), Kandukur Division, Ranga Reddy District and Sri. M. Venkat Narsu, Environmental Engineer, Ranga Reddy have inspected the unit & area and submitted report to Hon'ble NGT on 04.04.2023.

Further the Board has submitted report dated 11.03.2024 stating that the unit was vacated the premises and shifted to nearby notified industrial park. Subsequently the petition was transferred to Hon'ble NGT, South Zone and renumbered as OA No.19 of 2024 (SZ). The Hon'ble NGT vide order dated 23.08.2024 as directed the Board to verify for how long the industry has been operating at the previous location without obtaining the Consents of the Board to levy compensation for past violation and file report before the Tribunal.

In this regard the following is submitted:

As per the Directions of the Hon'ble NGT, the Board has verified the date of establishment of M/s Hesolt Oil at Sy No.116/91, Badangpet Municipal Corporation, Ranga Reddy District and assessed the amount of Environmental Compensation to be levied for the past violation. Accordingly the Board issued notice dated 02.11.2024 for levying of Environmental Compensation of amount Rs.24,20,000/-(**ANNEXURE – I**).

it is to submit that M/s Hesolt Lubricants Pvt.Ltd. has submitted reply dt:16.11.2024(**ANNEXURE-II**) and stated as follows.

1. The unit humbly contests such levy of Environmental Compensation been no effluent or hazardous waste generate from the operation of packaging of oil by merely transferring it from one container to the other.
2. It is also submitted at the very outset that the purported notice dated 02.11.2024 is in the nature of directly imposing Environmental Compensation without giving any opportunity to Show Cause or providing any opportunity of being heard following the principle of natural justice.

3. It is submitted that even the order dated 23.08.2024 passed by the Hon'ble National Green Tribunal , hereinafter referred to "the Tribunal", only states that the TSPCB has to verify how long was the unit operating "**and if it is found**" that consent to operate was not obtained then let compensation be levied. Merely because of the above order, the TSPCB cannot turn the blind eye to the principles of natural justice and directly impose the compensation without verifying if at all an consent to operate was required by the undersigned and without granting a meaningful opportunity of hearing.
4. It is further submitted that the complaint, to begin with, filed before the Hon'ble Tribunal, wrongly assumed the undersigned to be indulging in blending/manufacturing of petroleum based oil when, in fact, no such activity is ever being carried out by the undersigned. Further, no consent to operate was required to be obtained nor is being given by the TSPCB.
5. It is highlighted that while the undersigned shifted to another location and for abundance precaution applied for a **Consent to operate** in the new location, vide acknowledgement date 12.04.2023, the Board has also affirmed that the unit was not covered under Schedule IV and II of the Water(Prevention and Control of Pollution) Rules,1994 and the Air (Prevention and Control of Pollution) Rules,1994, thereby denoting that no consent to operate was required to be obtained by the undersigned.

In view of the above, it is to submit that the Board will re-examine the issue before External Advisory committee duly providing opportunity to the unit and take decision.

Date: 17.12.2024

Place: Hyderabad.


ENVIRONMENTAL ENGINEER
ENVIRONMENTAL ENGINEER
Telangana Pollution Control Board,
Regional Office, Rangareddy.



TELANGANA POLLUTION CONTROL BOARD
REGIONAL OFFICE, RANGAREDDY DISTRICT
 H.No.6-3-1219, Block C, Ward No.91, 2nd Floor, Backside of Country
 Club, Kundanbagh, Umanagar, Begumpet, Hyderabad - 500016.

M. Venkat Narsu
 Environmental Engineer

Email:ee-rr1-tspcb@telangana.gov.in

Lr.No.O.A. No. 19 OF 2024/EC/PCB/RO-RRD/2024- 1050

Date:02.11.2024

Sub:- TGPCB – RO, RR District – M/s Hesolt Lubricants Pvt Ltd, Sy No.138, Badangpet, Saroornagar, Ranga Reddy District –Operated the industry without obtaining Consents of the Board - Levying of Environmental Compensation– NoticeIssued - Reg.

- Ref:-**
1. O.A. No. 615 of 2022 filed before the Hon'ble NGT, New Delhi.
 2. The Hon'ble NGT orders in O.A.No.615 of 2022, dated 03.02.2023.
 3. Show Cause Notice dated 03.03.2023.
 4. Inspection of the industry by the Joint Committee constituted by the Hon'ble NGT on 29.03.2023.
 5. Consent (Acknowledgement) obtained by the industry for new location at Plot No. 4/24,Sy No. 519,Industrial Park, IP Nadergul, Saroornagar (M), Rangareddy District vide Order, dt:12.04.2023.
 6. OA No.615 of 2022 (PB) transferred to Southern Zone, Chennai and renumbered as OA No.19 of 2024 (SZ) vide Order, dt:09.02.2024.
 7. The Hon'ble NGT orders in O.A.No.19 of 2024 (SZ) dated 23.08.2024.

* * *

1. **WHEREAS**, you have operated an industry in the name of M/s Hesolt Lubricants Pvt Ltd at Sy No.138, Badangpet, Saroornagar, Ranga Reddy District engaged in manufacture of Lubricating oil, greases & petroleum based products (only blending at normal temperature).
2. **WHEREAS**, vide reference 1st cited Sri. S. K. Srivastava has filed an Original Application No. 615 of 2022 in the matter of M/s Hesolt Oil, Sy No.116/91, Badangpet Municipal Corporation, Ranga Reddy District before the Hon'ble National Green Tribunal, Principal Bench, New Delhi.
3. **WHEREAS**, it was contended that you are operating the industry at Survey No. 116/91, Badangpet Municipal Corporation, Ranga Reddy District is releasing poisoned gas/smell due to which thousands of residents nearly some 12 colonies are suffering from breathing as well suffering from health issues, and that the company is adjacent to a school nearly in which around 1000 to 1500 children are studying. It was also mentioned that Hyderabad Metro Development Authorities has approved the land at Survey No. 116/91 for the Agricultural or Residential use and not for establishing industry.
4. **WHEREAS**, the Hon'ble NGT, Principal Bench, New Delhi vide reference 2nd cited, in its Order dated 03.02.2023 has constituted a Joint Committee comprising of representatives of the



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Telangana State Pollution Control Board (TSPCB) and the District Magistrate, Ranga Reddy and directed to meet within two weeks, undertake visits to the site, look into the grievances of the applicant, associate the applicant, verify the factual position and submit its Report within two months to submit a report.

5. **WHEREAS**, as per the Directions of the Hon'ble NGT, Principal Bench, New Delhi, a Notice was served to your industry M/s Hesolt Oil, Sy. No.138, Badangpet Municipal Corporation, Ranga Reddy District through the Collector & District Magistrate, Ranga Reddy on 04.03.2023. The Officials of the Regional Office-Ranga Reddy District, TSPCB has inspected your industry & surroundings on 02.03.2023 and accordingly, a Show Cause Notice was issued to the industry vide reference 3rd cited on 03.03.2023 for operating without obtaining the Consents of the Board as required under Water (Prevention and Control of Pollution) Amendment Act, 1988 & Air (Prevention and Control of Pollution) Amendment Act, 1987.
6. **WHEREAS**, during inspection, it was observed that your industry is engaged in packing of Lubricating oil, greases, & petroleum based products. In the same premises, another industry by the name of M/s. Royal Lubricants (sister concern of M/s Hesolt Oil) is engaged in blending of Coolant oils and packing (blending at normal temperature). The industry falls under Green category under the line of Activity "Lubricating oil, greases or petroleum based products (only blending at normal temperature)" at Sl. No. 27 as per CPCB Categorization of Industries, dt:07.03.2016.
7. **WHEREAS**, vide reference 4th cited, as per the Directions of the Hon'ble NGT, the Joint Committee members comprising of Sri. S. Suraj Kumar, Revenue Divisional Officer (RDO), Kandukur Division, Ranga Reddy District (Representative of District Magistrate, Ranga Reddy) and Sri. M. Venkat Narsu, Environmental Engineer, Ranga Reddy (Representative of Telangana State Pollution Control Board) have inspected your industry M/s Hesolt Oil, Sy. No.138, Badangpet Municipal Corporation, Ranga Reddy District and surrounding areas on 29.03.2023, along with the applicant, Sri. S. K. Srivastava to look into the grievances of the applicant. MRO, Balapur has also accompanied the Joint Committee.
8. **WHEREAS**, during inspection, it was observed that you have evacuated the premises and shifted the plant & machinery to other location. However, M/s. Royal Lubricants (sister concern of M/s Hesolt Oil) has not yet shifted the plant & machinery from the premises, and it was understood that they are in the process of shifting of Royal Lubricants also.
9. **WHEREAS**, you M/s Hesolt Oil has taken lease in Industrial Estate at Plot No: 4/24, Sy No : 519, Industrial Park, Nadergul, Saroomagar, Rangareddy District. The industry vide reference 5th cited has obtained Consent (Acknowledgement) of TGPCB for the new premises on vide Order, dt:12.04.2024.
10. **WHEREAS**, M/s Hesolt Oil, Sy. No.138, Badangpet Municipal Corporation, Ranga Reddy District has submitted a representation to the MRO, Balapur (M), Ranga Reddy District mentioning their flow chart and that they have obtained the permissions of the necessary authorities like Labour License, Legal Metrology, GST, Trade License, Certificate of

Incorporation, etc. Since their activity is only packaging and trading, they have not obtained Consents of the TSPCB. Further, they submitted that in view of the public concern and instructions of the TSPCB, they have shifted from the existing premises to industrial estate.

11. **WHEREAS**, the applicant, Sri. S. K. Srivastava has sent a mail to MRO, Balapur (M), Ranga Reddy District along with CC to the Registrar General (rg.ngt@nic.in), Administrative Section (admn.ngt@nic.in) of Hon'ble NGT & Environmental Engineer, Ranga Reddy, TSPCB that as per his observation, M/s Hesolt Oil has evacuated the premises of Sy. No.138, Badangpet Municipal Corporation, Ranga Reddy District (Annexure-III).
12. **WHEREAS**, vide reference 6th cited, the above case has been Suo Motu registered by the Principal Bench of the Hon'ble NGT, New Delhi as Original Application No.615 of 2022 (PB) based on the complaint received from Sri. S. K. Srivastava has been transferred to Southern Zone, Chennai and renumbered as Original Application No.19 of 2024 (SZ) vide Order, dt:18.03.2024 of Hon'ble NGT, Southern Zone, Chennai.
13. **WHEREAS**, vide reference 7th cited, the Hon'ble NGT, Chennai vide Order dt:23.08.2024 has directed the Board to verify for how long the industry has been operating at the previous location without obtaining the Consents of the Board to levy compensation for past violation and file report before the Tribunal.

In view of the above, Environmental Compensation is levied herewith and the details of no. of days of which violation took place is mentioned below:

Date of Establishment of the unit as per New Trade License issued by Badanpet Municipal Corporation	30.11.2021	No. of days of violation is 484 days
Industry observed to be closed by the Board	29.03.2023	

Environmental Compensation to be levied:

$$\text{Environmental Compensation(EC)} = \text{PI} \times \text{N} \times \text{R} \times \text{S} \times \text{LF}$$

Where,

PI – Pollution index of industrial sector

N - No of days of violation took place

R – A factor in Rupees for EC

S – Factor for scale of operation

LF – Location factor

PI is taken as 25 duly considering the category of the industry i.e., Green Category.

N taken as 484 days for which period violation took place.

R is suggested to be considered as 250

S is taken as 0.5 considering the unit is small scale industry

LF is taken as 1 considering the Municipal Corporation population is less than 1 million in which the industry is existing

Hence, the Environmental Compensation per day is $25 \times 250 \times 0.5 = \text{Rs.}3125/-$ per day.

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However, as per CPCB methodology for assessment of EC, in any case, the minimum Environmental Compensation shall be considered as Rs.5000/day.

Hence, the Environmental Compensation is $5000 \times 484 = \text{Rs.}24,20,000/-$

In view of the above, you are hereby directed to pay the Environmental Compensation **Rs.24,20,000/- (Rupees Twenty Four Lakh Twenty Thousand only)** as per Hon'ble NGT, Chennai vide Order dt:23.08.2024 within a period of 3 weeks. Your reply or objections to the above notice, if any shall reach this office within **Seven (7) days** from the date of receipt of this notice which shall be reviewed before the Task Force Committee of the Board for taking suitable action.


ENVIRONMENTAL ENGINEER
ENVIRONMENTAL ENGINEER
Telangana Pollution Control Board,
Rangareddy.

Copy submitted to the JCEE, Zonal Office, Hyderabad for kind information.

2/11/2024.
WLS
G. SUMAN [FACTORY CONSULTANT]
8686 550018

Date: 16.11.2024

To,

1. **Chairman**
Telangana Pollution Control Board
Paryavarana Bhavan, A-3,
Industrial Estate, Sanathnagar,
Hyderabad – 500018
2. **Member Secretary**
Telangana Pollution Control Board
Paryavarana Bhavan, A-3,
Industrial Estate, Sanathnagar,
Hyderabad – 500018
email :ms-tspcb@telangana.gov.in
3. **Joint Chief Environmental Engineer**
Zonal Office,
H.No.6-3-1219, Ward.No.91,
2nd Floor, Begumpet,
Umanagar, Back side of Country Club,
Hyderabad-500016
email : ses-zhyd-tspcb@telangana.gov.in
4. **Environmental Engineer**
Telangana Pollution Control Board
Regional Office,
H.No.6-3-1219, Ward.No.91,
2nd Floor, Begumpet,
Umanagar, Back side of Country Club,
Hyderabad-500016
email : ee-rrl-tspcb@telangana.gov.in



Sub: TGPCB-RO, RR District- M/s Hesolt Lubricants Pvt. Ltd. Sy No. 138, Badangpet, Saroornagar, Ranga Reddy District-Operated the industry without obtaining consents of the board-Levying of Environmental Compensation- Notice dated 02.11.2024 in light of the order dated 23.08.2024 passed by NGT Southern Zone, Chennai in Original Application No. 19 of 2024 (SZ)- REPLY.

Sir,

With due respect the undersigned is submitting the reply in reference to the captioned Notice dated 02.11.2024 issued by the Environmental Engineer, Regional Office, Telangana Pollution Control Board, as following:

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1. The undersigned humbly contests such levy of Environmental Compensation as there had been no effluent discharge or hazardous waste generated from the operation of packaging of oil by merely transferring it from one container to the other.
2. It is also submitted at the very outset that the purported notice dated 02.11.2024 is in the nature of directly imposing Environmental Compensation without giving any opportunity to Show Cause or providing any opportunity of being heard following the principles of natural justice.
3. It is submitted that even the order dated 23.08.2024 passed by the Hon'ble National Green Tribunal, hereinafter referred to "the Tribunal", only states that the TSPCB has to verify how long was the unit operating "*and if it is found*" that consent to operate was not obtained then let compensation be levied. Merely because of the above order, the TSPCB cannot turn a blind eye to the principles of natural justice and directly impose the compensation without verifying if at all a consent to operate was required by the undersigned and without granting a meaningful opportunity of hearing.
4. It is further submitted that the complaint, to begin with, filed before the Hon'ble Tribunal, wrongly assumed the undersigned to be indulging in blending/manufacturing of petroleum based oil when, in fact, no such activity is ever being carried out by the undersigned. Further, no consent to operate was required to be obtained nor is being given by the TSPCB.
5. It is highlighted that while the undersigned shifted to another location and for abundance precaution applied for a **consent to operate** in the new location, vide acknowledgement dated 12.04.2023, the Board has also affirmed that the unit was not covered under Schedule IV and II of the Water (Prevention and Control of Pollution) Rules, 1994 and the Air (Prevention and Control of Pollution) Rules, 1994, thereby denoting that no consent to operate was required to be obtained by the undersigned.
6. It is also submitted that the Environmental Compensation being imposed is entirely premised on the presumption that the undersigned was supposed to obtain a Consent for Establishment/Operate. It is relevant to highlight that the very website of the Board provides as under: (Link: <https://tspcb.cgg.gov.in/Pages/FAQs.aspx>)

"Consent for Establishment (CFE) of TGPCB under Water (Prevention & Control of Pollution) Act, 1974 and Air (Prevention & Control of Pollution) Act, 1981 is required for setting up of an industrial unit and

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Consent for Operation (CFO) of TGPCB for starting operations. For the projects specified in the EIA Notification, 2006, Environmental Clearance (EC) of MoEF, Govt. of India is also required. The SSI units (investment less than Rs. 5 crores) other than 66 category of polluting units are exempted from CFE & CFO of the Board. The District Industries Center (DIC) is authorized to issue Acknowledgement to these SSI units which is treated as Consent of the Board. The related information is available on the websites of TGPCB, CPCB and MoE&F."

7. It is submitted that in view of the fact that no Consent for Establishment (CFE) or Consent for Operation (CFO) was required to be obtained by the undersigned therefore no presumption can be made that the undersigned was supposed to obtain a Consent for Establishment/Operate thus the occasion for levying Environmental Compensation does not arise at all. The subsequent acknowledgment dated 12.04.2023 also establishes that the unit of the undersigned is under the SSI units (investment less than Rs. 5 crores) other than 66 category of polluting units are exempted from CFE & CFO of the Board and therefore clearly neither required any CFE/CFO nor can be stated to have violated any of the guidelines of the CPCB.
8. It is also vital to note that the undersigned is not involved in any manufacturing or effluent emitting activities. This fact can be acknowledged by two modes, firstly in the report dated 11.03.2024 submitted by the Telangana State Pollution Control Board to the Hon'ble Tribunal wherein it is clearly stated that the undersigned M/s. Hesolt Oil had already vacated the site and was only packaging petroleum based oil without any element of manufacturing or blending. Secondly, the GST tax invoices of the product go to indicate that there is no change in the product as the same product is being resold in saleable units after labelling and packaging. Therefore, no environmental damage can occur at all due to the limited activity of packaging of a product.
9. That apart from the aforesaid legal proposition in respect of imposition of Environmental Compensation, it is necessary and desirable to submit that the State Board is the body of autonomous character as defined under section 2(f) and constituted under section 4 of the Air Act, 1981, meaning thereby it can exercise only those powers which are specifically conferred upon it under the environmental enactments but not otherwise and it will have to function under the provisions of environmental enactments under which it has been created for securing the object sought to be achieved by the legislation in question

(10)

especially when none of the environmental enactments confers any sort of inherent power even to impose environmental compensation in absence of any statutory provision of law and thus in absence of any specific provision to impose environmental compensation, the authority cannot assume jurisdiction not mandated by law.

10. That from the bare reading of the relevant provision of the NGT Act, 2010, it transpires that the power to impose Environmental Compensation/damages due to pollution is exclusively exercisable by Hon'ble NGT under the aforesaid Act in its original jurisdiction not by State Board and as such the order for imposition of Environmental compensation at the end of State Board is wholly unwarranted and is also without jurisdiction having regard to the fact that there is no provision in Water Act, 1974, Air Act, 1981 and Environmental (Protection) Act, 1986 as well as under the Rules framed thereunder empowering the Board to impose environmental compensation/damages and as such any order passed either by State Board or its functionaries is wholly without jurisdiction and is also without any authority of law in absence of any statutory provision to this effect.
11. That it is seen that various orders which are mandated to be passed by State Board itself are passed by other functionaries of the Board, in purported exercise of delegation of power which is not permissible even delegating authority (State Board) or the delegate himself is not empowered to further delegate its power to another in absence of specific provision of sub- delegation under the relevant enactment to this effect as section 11-A of Water Act, 1974 does not permit sub-delegation in any manner whatsoever.
12. That from the bare reading of the purported notice dated 02.11.2024 passed by the Environmental Engineer and not by the Board is without any authority of law; and as such the order so passed by the authority is nullity and *non est* in the eyes of law.

Therefore, in view of the law and facts, it is most humbly requested that the Board may kindly be pleased to withdraw/drop the said notice dated 02.11.2024 issued against the undersigned.

Regards,
Yours Sincerely

HESOLT LUBRICANTS PVT. LTD

Authorised Signatory

Item No.11:-**BEFORE THE NATIONAL GREEN TRIBUNAL
SOUTHERN ZONE, CHENNAI**

(Through Video Conference)

Original Application No.19 of 2024 (SZ)

[Earlier O.A. No. 615/2022 (PB)]

IN THE MATTER OF:

S.K. Srivastava,
Rangareddy District,
Telangana.

...Applicant(s)

State of Telangana,
Through its Chief Secretary,
Telangana and Ors.

...Respondent(s)

Date of hearing: 23.08.2024.

CORAM:

HON'BLE Smt. JUSTICE PUSHPA SATHYANARAYANA, JUDICIAL MEMBER

HON'BLE Dr. SATYAGOPAL KORLAPATI, EXPERT MEMBER

For Applicant(s): None.

For Respondent(s): Mr. Mohammed Aathic represented
Mrs. H. Yasmeen Ali for R1 & R3.
Ms. C.P. Kavitha Renjini represented
Mr. T. Sai Krishnan for R2.
Mrs. S. Yogalakshmi for R4.

ORDER

1. Today, there is no representation for the applicant.

2. Though the reports of the 2nd Respondent, 4th Respondent and the Joint Committee are before us, the details regarding the erring company and how long it has been in operation before they shifted in the month of March 2023 are not available.

3. Let the Telangana State Pollution Control Board (TGPCB) verify how long they have been operating in the previous place and if it is found that they have been operating without the consent, let the compensation be levied for the past violation and file a report before the date of next hearing.

4. Post the matter on 01.10.2024.

Sd/-

Smt. Justice Pushpa Sathyanarayana, JM

Sd/-

Dr. Satyagopal Korlapati, EM

O.A. No.19/2024 (SZ),
23rd August, 2024. AD.

Item No.26:-

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

(Through Video Conference)

Original Application No.19 of 2024 (SZ)

[Earlier O.A. No. 615/2022 (PB)]

IN THE MATTER OF:

S.K. Srivastava,
Rangareddy District,
Telangana.

...Applicant(s)

State of Telangana,
Through its Chief Secretary,
Telangana and Ors.

...Respondent(s)



Date of hearing: 01.10.2024.

CORAM:

HON'BLE Smt. JUSTICE PUSHPA SATHYANARAYANA, JUDICIAL MEMBER

HON'BLE Dr. SATYAGOPAL KORLAPATI, EXPERT MEMBER

For Applicant(s): None.

For Respondent(s): Ms. E. Nivedhitha represented
Mrs. H. Yasmeen Ali for R1 & R3.
Ms. C.P. Kavitha Renjini represented
Mr. T. Sai Krishnan for R2.

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ORDER

1. For filing the reports, post the matter on 20.12.2024.

Sd/-
Smt. Justice Pushpa Sathyanarayana, JM

Sd/-
Dr. Satyagopal Korlapati, EM

O.A. No.19/2024 (SZ),
01st October, 2024. AD.

