

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

ORIGINAL APPLICATION NO. 206 OF 2024 (SZ)
[EARLIER ORIGINAL APPLICATION NO. 596 OF 2024 (PB)]

IN THE MATTER OF

Suo Moto matter in respect of news item
appearing in 'The Hindu' dated 19.04.2024
titled "Irumankulam villagers boycott poll
as stone quarry near hamlet disrupts water
for irrigation"

.....Applicant

Vs

Tamil Nadu Pollution Control Board (TNPCB)
Through its Member Secretary, Chennai and Ors.

.... Respondent (s)

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Place: Chennai
Date: 17 Dec 2024

Counsel for Central Pollution Control Board

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.....Applicant

Vs

Tamil Nadu Pollution Control Board (TNPCB)
Through its Member Secretary, Chennai and Ors.

.... Respondent (s)

**REPLY ON BEHALF OF THE RESPONDENT NO. 2,
CENTRAL POLLUTION CONTROL BOARD (CPCB)**

1. That, Hon'ble NGT (PB) vide order dated 24.05.2024 registered Original Application No. 596 of 2024 (PB), on the basis of the News item published in The Hindu dated 19.04.2024 titled "Irumankulam villagers boycott poll as stone quarry near hamlet disrupts water for irrigation" and impleaded Central Pollution Control Board (hereinafter referred as CPCB) as Respondent No. 2 and sought the response in the instant matter. Thereby, the reply is made in this instant Original Application (hereinafter referred as OA) in succeeding paragraphs.



H. D. Varalaxmi
(एच.डि. वरलक्ष्मि) / H.D. Varalaxmi
क्षेत्रीय निदेशक / Regional Director
केंद्रीय प्रदूषण नियंत्रण बोर्ड
Central Pollution Control Board
क्षेत्रीय निदेशालय, गिंडी, चेन्नई-600 032
Regional Directorate, Guindy, Chennai-600 032

2. That at the outset, the Answering Respondent deny all claims, contentions, allegations and averments against answering respondent CPCB in the above OA contrary to anything stated or submitted in this reply. Nothing in the OA may be deemed to have been accepted or admitted by the Answering Respondent for want of a specific denial or on the ground of non-traverse, save and except any averment which has been expressly admitted hereinafter.
3. That, CPCB is a Statutory Board constituted under Section 3 of the Water (Prevention and Control of Pollution) Act, 1974. It performs the functions under the Water (Prevention and Control of Pollution) Act 1974, the Air (Prevention and Control of Pollution) Act 1981, and the Environment (Protection) Act, 1986.

REPLY

1. That, the matter is related to the news item about decision of Irumankulam residents to boycott the polls due to disruption of irrigation water by a stone quarry, published in The Hindu dated 19.04.2024 titled "*Irumankulam villagers boycott poll as stone quarry near hamlet disrupts water for irrigation*". As per the news item, a huge flex banner kept near the 12-foot-wide road branching out from the Sankarankovil - Puliyangudi highway to the sleepy hamlet of Irumankulam announces unequivocally the residents' decision of boycotting the poll and the reason behind it. The news item discloses that permission has been given for reopening a closed stone quarry and also for the operation of a blue metal crusher unit near the reopened quarry and in a land close to Paambukovil Santhai. The article alleges that the quarrying is going on in 15 acres of land in between two hillocks near Irumankulam and it has effectively stopped the flow of rainwater into two tanks, Periyakulam and Thonukaalkulam, which nourish crop raised on over 1,000 acres of land including paddy (if water is abundantly available in the tanks), cotton, maize etc. As per the news item, after permission was granted for

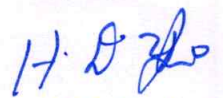


14.04.2024
(एच.डि. वरलक्ष्मी) / H.D. Varalaxmi
क्षेत्रीय निदेशक / Regional Director
केन्द्रीय प्रदूषण नियंत्रण बोर्ड
Central Pollution Control Board
क्षेत्रीय निदेशालय, गिन्डी, चेन्नई-600 032
Regional Directorate, Guindy, Chennai-600 032

quarrying, the flow of water to these two tanks almost stopped killing farming operations of Irumankulam.

2. That, it is humbly submitted that, The Hon'ble NGT (PB) in its order dated 24.05.2024 transferred the case to Hon'ble NGT Southern Zone, Chennai and was re-numbered as OA No. 206 of 2024 (SZ). The matter was taken up for hearing on 23.08.2024 and impleaded one more respondent and directed all respondents to file their reports.
3. That, it is humbly submitted that CPCB has pursued the said matter with Tamil Nadu Pollution Control Board (hereinafter referred as TNPCB) vide email and letter dated 02.08.2024 to submit Action Taken Report (ATR). A copy of the letter addressed to TNPCB is annexed as **Annexure-1**. The Action Taken Report submitted by TNPCB vide Letter No. TNPCB/LAW/LA-III/NGT/012345 dated 04.12.2024 is attached as **Annexure-2**.
4. That, it is submitted that, as per the Action Taken Report (ATR) dated 04.12.2024 received from TNPCB, the following are the key observations and action taken by TNPCB:
 - i. The unit, M/s. T. Premkumar Rough Stone Jelly and Gravel Quarry S. F. No. 430/2, 431/1A, 431/1B, 431/1C, 432/1A, 432/1B, 432/1C & 432/1D, Ariyur Village, Sivagiri Taluk, Tenkasi District is involved in the quarrying of rough stone, gravel and weathered rock in an area of 4.24Ha leased for 5 years.
 - ii. The unit has obtained Environmental Clearance from State Level Environmental Impact Assessment Authority - Tamil Nadu on **16.06.2020**.
 - iii. The unit has obtained clearance from the Member Secretary, Hill Area Conservation Authority (HACA)/Director of Town Panchayat and Country Planning, Chennai on **31.01.2020** for quarry lease for rough stone jelly.




(एच.डि. वरलक्ष्मि) / H.D. Varalaxmi
क्षेत्रीय निदेशक / Regional Director
केन्द्रीय प्रदूषण नियंत्रण बोर्ड
Central Pollution Control Board
क्षेत्रीय निदेशालय, गिन्डी, चेन्नई-600 032
Regional Directorate, Guindy, Chennai-600 032

- iv. The unit has also obtained No Objection Certificate from the District Forest Officer, Tirunelveli on **28.07.2020**.
- v. The unit has obtained Consent to Operate from TNPCB for the quarrying of rough stone, weathered rock and gravel on **30.08.2020** and is valid up to 31.03.2025.
- vi. TNPCB officials inspected the quarry site of M/s. T. Premkumar Rough Stone Jelly and Gravel Quarry located at Ariyur Village, Sivagiri Taluk, Tenkasi District on 12.11.2024 and observed the following:
- The Quarry was not under operation. No quarrying machineries were found within the premises.
 - The water was found to be stagnated within the quarry pit.
 - The unit has provided cornerstones along the boundary of the quarry site.
 - The Quarry has provided fencing along the North and North East directions.
 - The overburden excavated was found to be stored in the South and Southwest Directions.
 - The unit representatives stated that since the Hon'ble Madurai Bench of Madras High Court has passed the order on **29.08.2024** to restore the **Nilaviyal odais**, the unit has stopped the operation.
- vii. Public Interest Litigations were filed vide W.P (MD) No. 6407 of 2023 and W.M.P (MD) Nos. 6065, 6067 & 6068 of 2023 before the Hon'ble Madurai Bench of Madras High Court against this unit (**Respondent No. 5**). The writ petition was disposed of vide order dated **09.08.2023** (attached as **Annexure -3**), stating that:

“Rule 19(2)(c)(iv) of the Tamil Nadu Minor Mineral Concession Rules, 1959 stipulates that a safety distance of ten meters from a



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केंद्रीय प्रदूषण नियंत्रण बोर्ड
Central Pollution Control Board
क्षेत्रीय निदेशालय, गिन्डी, चेन्नई-600 032
Regional Directorate, Guindy, Chennai-600 032

stream course shall be left and maintained. Considering the topography of the area, we called upon the leaseholder to file an affidavit which will address the concerns expressed by the villagers. In the undertaking affidavit, the fifth respondent had stated that he would maintain the safety distance of 50 meters from the outer toe of the bank of the Odai. From the status report filed by the officials, it is seen that the quarry operator has completely fenced the quarry area on the side facing the Odai. The learned Additional Advocate General on instructions confirms that the safety distance of 50 meters is being maintained. Taking note of the fact that water flows from the nearby hills into the Odai, the fifth respondent has given a further undertaking that on account of the quarrying operations, the natural water flow into and in the Odai will not be impeded in any manner. The undertaking given by the fifth respondent is placed on record."

"6. It has not been shown that the process of granting quarry license in favour of the fifth respondent has been otherwise vitiated. Since no statutory violation has been brought to our notice, we decline to quash the impugned proceedings".

- viii. A review petition was filed by Thiru P. Satish Kumar and Thiru S. Sundaraiah Rev.AW(MD) No.220 of 2023 in WP(MD) No. 6407 of 2023 and W.M.P. (MD) No.18553 of 2023 in Rev. Apl. W.(MD) No.SR 65159 of 2023, before the Hon'ble Madurai Bench of Madras High Court. The Hon'ble Court disposed the case by passing an order dated **29.08.2024** (Annexure -4) stating that:

"5. With this direction to restore the Nilaviyal Odais that originally existed and a further restraint order imposed on the quarry



H.D. Varalaxmi
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क्षेत्रीय निदेशक / Regional Director
केन्द्रीय प्रदूषण नियंत्रण बोर्ड
Central Pollution Control Board
क्षेत्रीय निदेशालय, गिन्डी, चेन्नई-600 032
Regional Directorate, Guindy, Chennai-600 032

leaseholder not to undertake any quarrying operations within the prohibited distance, this review application is disposed of. No costs. Connected miscellaneous petitions are closed."

5. That, in light of the above submission, it is respectfully submitted that this Answering Respondent, i.e. CPCB shall abide by any order(s) or direction(s) passed by this Hon'ble Tribunal in the instant OA.

Dated at Chennai on this 17th day of December, 2024.



Counsel for the 2nd Respondent

A handwritten signature in black ink, appearing to be a stylized name, is written over the seal and the text "Counsel for the 2nd Respondent".

H.D. Varalaxmi
2nd Respondent
(एच.डि. वरलक्ष्मी) / H.D. Varalaxmi
क्षेत्रीय निदेशक / Regional Director
केंद्रीय प्रदूषण नियंत्रण बोर्ड
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.....Applicant

Vs

Tamil Nadu Pollution Control Board (TNPCB)
Through its Member Secretary, Chennai and Ors.

.... Respondent (s)

AFFIDAVIT

I, H. D. Varalaxmi, D/o Shri H.S. Devaiah, Hindu, aged about 55 years and having office at the Regional Directorate - Chennai, Central Pollution Control Board, 40-E, 2nd Floor, BSNL Building, TVK Industrial Estate, CIPET Road, Chennai - 600 032, do hereby solemnly affirm and sincerely state as follows:

1. That the deponent is authorized representative to represent the Respondent CPCB in the present case, and as such, I am well conversant with the facts and circumstances of the present case on the basis of the information derived from the official records, and hence, I am competent and authorized to verify, sign and swear this affidavit on behalf of the Respondent CPCB.



2. That the accompanying reply may be read part and parcel of the present affidavit as I am competent to swear this affidavit.
3. That the accompanying reply has been drafted and filed under my instructions and authority the contents thereof of are true and correct on the basis of the record maintained during ordinary course of business of CPCB and available records and documents and the contents of the same are read over and explained to me and are not repeated herein for the sake of brevity.



Dated at Chennai on this 17th day of December, 2024.

H. D. Varalaxmi

DEPONENT
(एच.डि. वरलक्ष्मि) / H.D. Varalaxmi
क्षेत्रीय निदेशक / Regional Director
केन्द्रीय प्रदूषण नियंत्रण बोर्ड
Central Pollution Control Board
क्षेत्रीय निदेशालय, गिन्डी, चेन्नई-600 032
Regional Directorate, Guindy, Chennai-600 032

VERIFICATION

Verified at Chennai on this 17th day of December 2024 that the contents of the above reply are correct and true on the basis of the record of the cases as mentioned in the day to day affairs of the CPCB. Nothing has been concealed therefrom or mis-stated.

Verified at Chennai on this the 17th day of December 2024

COUNSEL FOR CPCB

H. D. Varalaxmi

DEPONENT
(एच.डि. वरलक्ष्मि) / H.D. Varalaxmi
क्षेत्रीय निदेशक / Regional Director
केन्द्रीय प्रदूषण नियंत्रण बोर्ड
Central Pollution Control Board
क्षेत्रीय निदेशालय, गिन्डी, चेन्नई-600 032
Regional Directorate, Guindy, Chennai-600 032



केंद्रीय प्रदूषण नियंत्रण बोर्ड
CENTRAL POLLUTION CONTROL BOARD
पर्यावरण, वन एवं जलवायु परिवर्तन मंत्रालय, भारत सरकार
MINISTRY OF ENVIRONMENT, FOREST & CLIMATE CHANGE, GOVT. OF INDIA

F. No. Tech/12/Gen(TN)/RDC/2024-25/

Date: 02.08.2024

To

The Member Secretary
Tamil Nadu Pollution Control Board
No.76, Mount Road, Guindy
Chennai-600032

Sub: Request to provide ATR in case of OA No. 596/2024 against reopening a closed stone quarry in a land close to Paambukovil Santhai, Irumankulam, Tamilnadu

Sir,

The Hon'ble National Green Tribunal, Principal Bench, Delhi has registered a Suo Motu case Original Application No. 596/2024 based on the News item published in the Hindu dated 19.04.2024, titled "Irumankulam villagers boycott poll as stone quarry near hamlet disrupts water for irrigation". This News item relates to the decision of Irumankulam residents to boycott the polls due to disruption of irrigation water by a stone quarry.

In this connection, it is kindly requested to provide action taken report (ATR) to this office, at the earliest.

Yours faithfully

(H. D. Varalaxmi)
Regional Director

क्षेत्रीय निदेशालय (चेन्नई) : द्वितीय तल , 40-ई, बीएसएनएल बिल्डिंग, थिरु-वी-का औद्योगिक एस्टेट, सिपेट रोड, गिंडी, चेन्नई - 600032
दूरभाष: 044-29998683/044-29567019 ईमेल: rdchennai.cpcb@gov.in

Regional Directorate (Chennai): Second Floor, 40-E, BSNL Building, TVK Industrial Estate, CIPET Road, Guindy, Chennai - 600032
Phone: 044-29998683/044-29567019 Email: rdchennai.cpcb@gov.in

प्रधान कार्यालय : परिवेश भवन, पूर्वी अर्जुन नगर, दिल्ली -110 032

Head Office: Parivesh Bhawan, East Arjun Nagar, Delhi - 110032

दूरभाष /Telephone: 011-43102030, Fax : 22305793, 22307078, 22307079, 22301932, 22304948

ई-मेल / E-mail: cpcb@nic.in वैबसाइट / Website : www.cpcb.nic.in

फ़ा. नतक :./12/ जनरल(त.ना)/क्षे.नि.चे./2024-25/

दिनांक: 02.08.2024

सेवा में

सदस्य सचिव
तमिलनाडु राज्य प्रदूषण नियंत्रण बोर्ड
नंबर 76, माउंट रोड, गिंडी
चेन्नई-600032

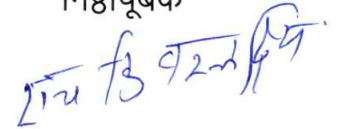
विषय तमिलनाडु के इरुमानकुलम में पाम्बुकोविल संधाई के निकट एक बंद पत्थर खदान को फिर से खोलने के विरुद्ध एटीआर प्रदान करने का अनुरोध

महोदय,

माननीय राष्ट्रीय हरित अधिकरण, दिल्ली की प्रधान पीठ ने 19.04.2024 के हिंदू में प्रकाशित समाचार आइटम के आधार पर एक स्वप्रेरणा मामला मूल आवेदन संख्या 596/2024 दर्ज किया है, जिसका शीर्षक है "इरुमानकुलम के ग्रामीणों ने मतदान का बहिष्कार किया क्योंकि गांव के पास पत्थर की खदान से सिंचाई के लिए पानी बाधित होता है"। यह समाचार आइटम पत्थर की खदान से सिंचाई के पानी के बाधित होने के कारण इरुमानकुलम के निवासियों द्वारा मतदान का बहिष्कार करने के निर्णय से संबंधित है।

इस संबंध में, कृपया अनुरोध है कि टीएनपीसीबी द्वारा की गई कार्रवाई की रिपोर्ट शीघ्रताशीघ्र इस कार्यालय को उपलब्ध कराई जाए।

निष्ठापूर्वक



(एच. डि. वरलक्ष्मी)
क्षेत्रीय निदेशक

By Speed Post



TAMIL NADU POLLUTION CONTROL BOARD



From
Er. R. Kannan, M.Tech.,
Member Secretary,
Tamil Nadu Pollution Control Board,
76, Mount Salai, Guindy,
Chennai – 600 032.

To
The Regional Director,
Central Pollution Control Board,
Regional Directorate (Chennai)
40 – E, BSNL Building,
TVK Industrial Estate, CIPET Road,
Guindy, Chennai – 600 032.

Letter No.TNPCB/LAW/LA – III/NGT/012345, Dated: 04.12.2024.

Madam,

Sub: TNPCB - Law - O.A No 596 of 2023(PB), taken as a Suo motu on 24.5.2024 based on the News item titled "Irumankulam villagers boycott poll as stone quarry near hamlet disrupts water for irrigation" appearing in The Hindu dated 19.04.2024 by the Hon'ble National Green Tribunal (PB), New Delhi – Action taken report sent herewith – reg.

Ref: 1. Letter received from the Regional Director, CPCB, Chennai dated 02.08.2024.
2. A Public interest litigation W.P (MD) No. 6407of 2023 and W.M.P (MD) Nos. 6065, 6067& 6068 of 2023 before the Hon'ble Madurai Bench of Madras High Court.
3. Review petition was filed by Thiru P.Sathish Kumar and Thiru S.Sundaraiah Rev.A W(MD) No.220 of 2023 in WP(MD)No. 6407of 2023 and W.M.P. (MD) No.18553 of 2023 in Rev.Apl.W.(MD)No.SR 65159 of 2023, before The Hon'ble Madurai Bench of Madras High Court.

In the reference first cited, it was requested to provide Action taken report (ATR) in case of OA No.206 of 2024(SZ), regarding "Irumankulam villagers boycott poll as stone quarry near hamlet disrupts water for irrigation".

In this regard, it is informed that the O.A No 596 of 2024 was taken as a Suo motu case on 24.5.2024, based on the News item titled "Irumankulam villagers boycott poll as stone quarry near hamlet disrupts water for irrigation" appearing in The Hindu dated 19.04.2024 by the Hon'ble National Green Tribunal, (PB), and on the same day the Hon'ble Tribunal has transferred the OA to the Hon'ble National Green Tribunal, (SZ), Chennai. The Hon'ble National Green Tribunal, (SZ), Chennai has renumbered the OA as OA No.206 of 2024 and taken the OA on 23.8.2024. In this connection, the quarry site of M/s.T. Premkumar Rough Stone Jelly and Gravel Quarry located at Ariyur Village, Sivagiri Taluk and Tenkasi District was inspected by the TNPCB officials on 12.11.2024. and during inspection, the following were observed:

- a. The Quarry was not under operation. No quarrying machineries were found within the premises.
- b. The groundwater was found to be stagnated within the quarry pit.
- c. The unit has provided cornerstones along the boundary of the quarry site.
- d. The Quarry has provided fencing along the North and North East directions.
- e. The overburden excavated was found to be stored in the South and Southwest Directions.
- f. When inquired, the unit's representatives stated that since the Hon'ble Madurai Bench of Madras High Court has passed the order to restore the nilaviyal odais, The unit has stopped the operation.

It is further informed that a letter has been addressed to the Assistant Director, Department of Geology & Mining and the Tashidhar, Sankarankovil, Tenkasi District, with a request to furnish whether any action has been taken against this unit and also furnish the current status of the unit of M/s T. Premkumar Rough Stone Jelly and Gravel Quarry vide T.O letter dated 18.11.2024.

In addition to that the following information are furnished regarding the earlier action on M/s.T. Premkumar Rough Stone Jelly and Gravel Quarry located at Ariyur Village, Sivagiri Taluk and Tenkasi District

1. The unit of M/s T. Premkumar Rough Stone Jelly and Gravel Quarry S.F.NO: 430/2, 431/1A, 431/1B, 431/1C, 432/1A, 432/1b, 432/1C & 432/1D, Ariyur Village, Sivagiri Taluk and Tenkasi District is involved in the quarrying of rough stone and gravel and weathered rock over and extent of 4.24.0 Ha Patta for 5 years. T
2. The unit has obtained Environmental Clearance from State level Environment Impact Assessment Authority-Tamil Nadu vide Lr.No SEIAA -TN/F.no:7095/1 (a) E.c.No: 4226/2020 dated: 16.06.2020.
3. The unit has obtained HACA clearance from the Member Secretary, Hill Area Conservation Authority/Director of Town Panchayat and Country Planning, Chennai vide letter.No.13859/ 2018/ HACA dt.31.01.2020 for quarry lease for Rough stone jelly
4. The unit has also obtained No Objection Certificate from The District Forest Officer, Tirunelveli vide letter C.No.P/4700/2020 dt.28.07.2020.
5. The unit has obtained Consent to Operate of the Board for the quarrying of rough stone, weathered rock and gravel vide Proc.No.F.3068TNV/ TNV/RS/ DEE/TNPCB/TNV/W &A/ 2020 dt 30.08.2020 valid for a period up to 31.03.2025.



TAMIL NADU POLLUTION CONTROL BOARD



6. A Public interest litigations were filed vide W.P (MD) No. 6407of 2023 and W.M.P (MD) Nos. 6065, 6067& 6068 of 2023 before the Hon'ble Madurai Bench of Madras High Court against this unit. **The writ petition was disposed of** vide order dated 09.08.2023, stating that

“It has not been shown that the process of granting quarry license in favour of the fifth respondent has been otherwise vitiated. Since no statutory violation has been brought to our notice, we decline to quash the impugned proceedings”.

7. A review petition was filed by Thiru P.Sathish Kumar and Thiru S.Sundaraiah Rev.AW(MD) No.220 of 2023 in WP(MD)No. 6407of 2023 and W.M.P. (MD) No.18553 of 2023 in Rev.Apl.W.(MD) No.SR 65159 of 2023, before the Hon'ble Madurai Bench of Madras High Court. The Hon'ble Court has passed an order dated 29.08.2024 (**Copy enclosed**), stating that:

“5. With this direction to restore the nilaviyal odais that originally existed and a further restraint order imposed on the quarry leaseholder not to undertake any quarrying operations within the prohibited distance, this review application is disposed of. No costs. Connected miscellaneous petitions are closed.”

This is submitted for kind information.

Selva P. 10/12/24

For Member Secretary

Selva P. 10/12/24

*W.P.(MD)No.6407 of 2023***BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****DATED: 09.08.2023****CORAM****THE HON'BLE MR.JUSTICE G.R.SWAMINATHAN
and
THE HON'BLE MR.JUSTICE B.PUGALENDHI****W.P(MD)No.6407 of 2023****and****W.M.P(MD)Nos.6065, 6067 & 6068 of 2023**

Thonukaalkulam Neerinaipayanpaduthuvor
Sangam,
Rep.by its President,
S.Karuthapandian S/o.Sangaiya,
South Street, Irumankulam,
Vadakkupudhur,
Sankarankovil,
Tenkasi District.

... Petitioner

Vs.

- 1.The District Collector,
Tenkasi District, Tenkasi.
- 2.The Assistant Director,
Geology and Mining,
Tenkasi District, Tenkasi.
- 3.State Level Environment,
Impact Assessment Authority,
3rd Floor, Panagal Maaligai,
No.1, Jennis Road, Saidapet,
Chennai – 600 015.
- 4.The Revenue Divisional Officer,
T.V.Salai, Sankarankovil,
Tenkasi District.

5.Premkumar

6.Rajasekar

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order in RC.No. M1/36678/2017 dated 07.09.2020 on the file of the second respondent and quash the same as illegal and consequently direct the first respondent to take necessary action against the 5th and 6th respondents on basis of the petitioner's petition dated 09.11.2022.

For Petitioner : Mr.T.Lajapathi Roy, Senior Counsel

For Respondents : Mr.R.Baskaran
Additional Advocate General
Assisted by Mr.K.Balasubramani
Special Government Pleader
for R.1, R.2 & R.4

Mr.N.Dilipkumar for R.3

Mr.V.Raghavachari, Senior Counsel
for Mr.S.Ramesh for R.5 & R.6

ORDER

Heard the learned Senior Counsel on either side.

2. The writ petitioner is a registered Water Users Association. They challenge the proceedings dated 07.09.2020 issued by the Assistant Director of Geology and Mining, Tenkasi granting quarry lease in favour of the fifth respondent in respect of the petition-mentioned survey numbers. It is not in dispute that the quarry lease is in respect of patta lands.

3. The ground of attack is two fold : a) the existence of a channel (Odai) on the southern side of the quarry area has been suppressed and b) the quarry operations affect the natural flow of water into the Odai.

4. It is true that there has been a misdescription of the boundaries. This has been strongly highlighted in Paragraph 17 of the affidavit filed in support of this writ petition. That there has been a misdescription is conceded in Paragraph 5 of the counter affidavit filed by the District Collector, Tenkasi District. It is undertaken that the mistake in the village accounts as well as FMB will be rectified. Be that as it may, the impugned order dated 07.09.2020 has taken into account the actual topographical features. It notes that a Odai is passing on the southern side of the lease applied area. Rule 19(2)(c)

(iv) of the Tamil Nadu Minor Mineral Concession Rules, 1959 stipulates that a safety distance of ten meters from a stream course shall be left and maintained. Considering the topography of the area, we called upon the leaseholder to file an affidavit which will address the concerns expressed by the villagers. In the undertaking affidavit, the fifth respondent had stated that he would maintain the safety distance of 50 meters from the outer toe of the bank of the Odai. From the status report filed by the officials, it is seen that the quarry operator has completely fenced the quarry area on the side facing the Odai. The learned Additional Advocate General on instructions confirms that the safety distance of 50 meters is being maintained. Taking note of the fact that water flows from the nearby hills into the Odai, the fifth respondent has given a further undertaking that on account of the quarrying operations, the natural water flow into and in the Odai will not be impeded in any manner. The undertaking given by the fifth respondent is placed on record.

5. We direct the officials to ensure that this undertaking is honoured in letter and spirit. In the event of there being any breach of this undertaking, the officials shall take prompt action in accordance with law.

6. It has not been shown that the process of granting quarry license in favour of the fifth respondent has been otherwise vitiated. Since no statutory violation has been brought to our notice, we decline to quash the impugned proceedings.

7. This writ petition is disposed of accordingly. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

[G.R.S., J.] & [B.P., J.]
09.08.2023

NCC : Yes / No
Internet : Yes / No
Index : Yes / No
Mga/Skm

To

1.The District Collector, Tenkasi District, Tenkasi.

2.The Assistant Director, Geology and Mining, Tenkasi District, Tenkasi.

3.State Level Environment, Impact Assessment Authority,
3rd Floor, Panagal Maaligai, No.1, Jennis Road, Saidapet, Chennai –
600 015.

4.The Revenue Divisional Officer, T.V.Salai, Sankarankovil, Tenkasi District.

W.P.(MD)No.6407 of 2023

G.R.SWAMINATHAN, J

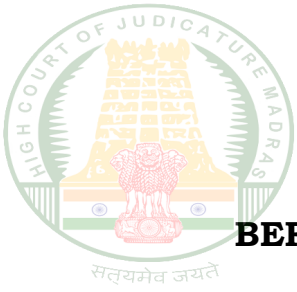
and

B.PUGALENDHI, J.

Mga/Skm

W.P(MD)No.6407 of 2023

09.08.2023



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

RESERVED ON : 20.08.2024

PRONOUNCED ON : 29.08.2024

CORAM

**THE HON'BLE MR.JUSTICE G.R.SWAMINATHAN
and
THE HON'BLE MR.JUSTICE B.PUGALENDHI**

**Rev A Writ (MD)No.220 of 2023
and
W.M.P(MD)Nos.18553 & 22933 & of 2023**

1.P.Sathish Kumar

2.S.Sundaraiah

... Petitioners

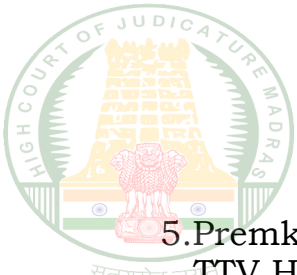
Vs.

1.The District Collector,
Tenkasi District, Tenkasi.

2.The Assistant Director,
Geology and Mining,
Tenkasi District, Tenkasi.

3.The State Level Environment
Impact Assessment Authority,
3rd Floor, Panagal Maaligai,
No.1, Jeenis Road, Saidapet,
Chennai – 15.

4.The Revenue Divisional Officer,
T.V.Salai, Sankarankovil,
Tenkasi District.



5.Premkumar

TTV High Tech Chambers,
Ariyur.

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6.Rajasekar,

TTV High Tech Chambers,
Ariyur.

7.Thonukaalkulam Neerinaipayanpaduthuvor

Sangam,

Rep.by its President,

S.Karuthapandian S/o.Sangaiya,

South Street, Irumankulam,

Vadakkupudhur,

Sankarankovil,

Tenkasi District.

... Respondents

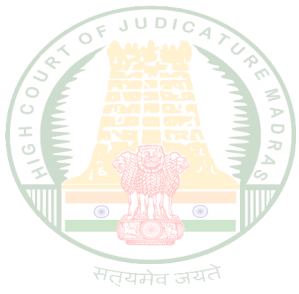
Prayer: Review Application filed under Order XLVII Rule 1 of CPC to review the impugned order dated 09.08.2023 in WP(MD)No.6407 of 2023 passed by this Court.

For Petitioner : Mr.N.Subramaniam for Mr.G.Mutharasu

For Respondents : Mr.R.Baskaran
Additional Advocate General
Assisted by Mr.K.Balasubramani
Special Government Pleader for R1 to R4

Mr.N.Anantha Padmanabhan
Senior Counsel for Mr.S.Srikanth
for R5 & R.6

Mr.V.Navaneetha Krishnan for R7

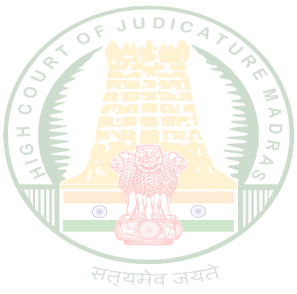


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ORDER

Heard both sides.

2.The Assistant Director of Geology and Mining Tenkasi issued proceedings bearing R.C No.M1/36678/2017 dated 07.09.2020 granting quarry lease in favour of T.Premkumar in respect of the petition mentioned patta lands measuring an extent of 4.76.5 hectares. Questioning the same, Thonukaalkulam Neerinaipayanpaduthuvor Sangam filed WP(MD)No.6407 of 2023. The writ petition was disposed of on 09.08.2023 by us. We declined to quash the quarry lease since no statutory violation was brought to our notice. The process of granting quarry license was also not shown to have been vitiated. During the course of hearing, an undertaking was obtained from the leaseholder that on account of the quarry operations, the natural flow of water into the water bodies will not be impeded in any manner. Contending that an incorrect status report was submitted before us by the officials, this review application came to be filed.



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3. On 05.03.2024, the following order was passed :

“2. The learned counsel appearing for the review applicant alleges that the officials did not present the correct facts before this Court on the earlier occasion and that the true dimensions of the water bodies running in the area in question were suppressed.

3. In order to test the veracity of the allegation, we direct the District Collector, Tenkasi to conduct inspection in the quarry site and the surrounding area and submit a report along with sketch before this Court. Report shall indicate if the Odais found in the original topo sketch combining FMB report are still in existence and whether they have been destroyed on account of quarry operations. It may also be confirmed if the quarry operator is still maintaining the safety distance.”

Pursuant to the aforesaid direction, the District Collector filed status report. It is stated therein that the Odais found in the original topo sketch in Survey Nos.429, 430/2, 432/1D and 431/1A are not in existence as on date. The region has witnessed quarry operations earlier also. It is quite possible that the odais got obliterated on such operations. It is well settled that a water body should be maintained as such for all times to come. It is the duty of the District Administration to ensure that the water bodies are restored.



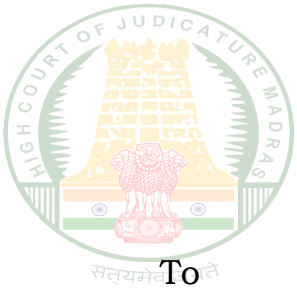
4. We, therefore, direct the restoration of the nilaviyal odais

whose existence is mentioned in the original topo sketch. The leaseholder cannot carry on any quarry operations within the prohibited distance. This should address the concerns expressed by the learned counsel appearing for the review applicant. A review application cannot be argued like an appeal in disguise. After a careful perusal of the entire materials on record, we are satisfied that the order disposing of the writ petition does not suffer from any error apparent on the face of record.

5. With this direction to restore the nilaviyal odais that originally existed and a further restraint order imposed on the quarry leaseholder not to undertake any quarrying operations within the prohibited distance, this review application is disposed of. No costs. Connected miscellaneous petitions are closed.

[G.R.S., J.] & [B.P., J.]
29.08.2024

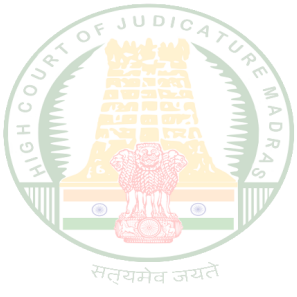
NCC : Yes / No
Internet : Yes / No
Index : Yes / No
Skm



To

WEB COPY

- 1.The District Collector, Tenkasi District, Tenkasi.
- 2.The Assistant Director, Geology and Mining, Tenkasi District, Tenkasi.
- 3.State Level Environment, Impact Assessment Authority,
3rd Floor, Panagal Maaligai, No.1, Jennis Road, Saidapet, Chennai –
600 015.
- 4.The Revenue Divisional Officer, T.V.Salai, Sankarankovil, Tenkasi District.



WEB COPY

G.R.SWAMINATHAN, J

and

B.PUGALENDHI, J.

Skm

Rev A Writ (MD)No.220 of 2023

and

W.M.P(MD)Nos.18553 &

22933 & of 2023

29.08.2024

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

**ORIGINAL APPLICATION NO. 206 OF 2024 (SZ)
[EARLIER ORIGINAL APPLICATION NO. 596 OF 2024 (PB)]**

IN THE MATTER OF

Suo Moto matter in respect of news item
appearing in 'The Hindu' dated 19.04.2024
titled "Irumankulam villagers boycott poll
as stone quarry near hamlet disrupts water
for irrigation"

.....Applicant

Vs

Tamil Nadu Pollution Control Board (TNPCB)
Through its Member Secretary, Chennai and Ors.

.....Respondent (s)

**REPLY ON BEHALF OF THE
RESPONDENT NO. 2,
CENTRAL POLLUTION
CONTROL BOARD (CPCB)**

Advocate N Nathami
Counsel for the 2nd Respondent
(CPCB)