

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,  
SOUTHERN ZONE AT CHENNAI  
Application No.98 of 2025**

Y.Pondurai,  
No.129, Usman Road,  
T.Nagar, Chennai,  
Tamil Nadu – 600017.

...Applicant

-Vs-

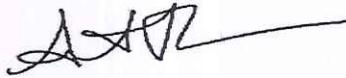
1. The State Environment Impact Assessment Authority (SEIAA),  
Rep by its Chairman,  
3<sup>rd</sup> Floor, Panagal Maaligai, No.1,  
Jeenis Road, Saidapet, Chennai – 600 015.

2. Tamil Nadu Pollution Control Board,  
Rep by its Chairperson,  
No.76, Mount Salai,  
Guindy, Chennai – 600032.

...Respondents.

**INDEX**

S.No	Description	Page No.
1.	Report filed on behalf of the second respondent – Tamil Nadu Pollution Control Board.	1 - 8
2.	Annexures	9 - 19



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



**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,  
SOUTHERN ZONE AT CHENNAI  
Application No.98 of 2025**

Y.Pondurai,  
No.129, Usman Road,  
T.Nagar, Chennai,  
Tamil Nadu – 600017.

...Applicant

-Vs-

1. The State Environment Impact Assessment Authority (SEIAA),  
Rep by its Chairman,  
3<sup>rd</sup> Floor, Panagal Maaligai, No.1,  
Jeenis Road, Saidapet, Chennai – 600 015.

2. Tamil Nadu Pollution Control Board,  
Rep by its Chairperson,  
No.76, Mount Salai,  
Guindy, Chennai–600032.

...Respondents.

**REPORT FILED ON BEHALF OF THE SECOND RESPONDENT -  
TAMIL NADU POLLUTION CONTROL BOARD**

I, S.Indiragandhi, D/o.A.Sounderarajan, aged about 58 years, having office at No.76, Mount Salai, Guindy, Chennai-32, do hereby solemnly affirm and sincerely state as follows:

2. I respectfully submit that I am working as the Joint Chief Environmental Engineer, Tamil Nadu Pollution Control Board, Chennai, and I am authorized to file this report on behalf of the Second respondent, and as such, I am well acquainted with the facts of the case from the records available in our office.

3. It is respectfully submitted that the OA has filed before the Hon'ble National Green Tribunal, SZ with the following prayer:

*“to direct the Respondents to refund the sum which is available with them, with interest, as the Applicant had already complied with the compensation that has to be made for the violation of the EIA Notification 2006, and obtained the Environmental Clearance for the impugned project by*

  
JOINT CHIEF ENVIRONMENTAL ENGINEER  
TAMIL NADU POLLUTION CONTROL BOARD  
76, MOUNT SALAI, GUINDY,  
CHENNAI - 600 032.

*following the Notifications dt. 14.03.2017 & 08.03.2018., and pass any other orders which this Hon'ble Tribunal may think fit and proper under the circumstances of the case and thus render justice.”*

4. It is respectfully submitted that as per the direction of the Hon'ble Tribunal the second respondent (TNPCCB) submits its report herein.
5. It is respectfully submitted that the applicant is having his office at No. 129, Usman Road, T. Nagar, Chennai and purchased the land bearing Old S.No. 31, 32/1, 2, 34/1,2, 35 & 37 of Padi Village, Ambattur Taluk and Chennai District from M/s Asiatic Oxygen limited on 09.05.2012. The Applicant has obtained planning permission for the above said land from CMDA on 31.12.2013 for 'the proposed construction of Main Block: Double Basement + Ground Floor + 9 Floors + 10th Floor part Commercial building with 1 dwelling unit at 10th floor- Service Block: Basement + Ground Floor + 2 Floor; MLCP: Double Basement + Ground + 4 levels at T.S.No. 2/2, Block No. 12, Ward-I of Ambattur- Old S.No. 31, 32/1, 2, 34/1,2, 35 & 37 part of Padi village, Door No. 13/4, Chennai-Thiruvallur High Road, Padi, Chennai-600 050'. The unit's construction activity attracts the provisions of the Environmental Impact Assessment (EIA) Notification, 2006 under the category of schedule 8(a). Hence, the unit applied for Environmental Clearance on 28.02.2014.
6. It is respectfully submitted that the Show Cause Notice was issued by the Board to the unit vide proceedings dated 12.07.2014 for violation of commencing construction activities without Environmental Clearance, Subsequently, a **stop work notice** was issued to the unit vide this office Proceedings No.**DEE/TNPCCB/AMB/NA/EC/EIA-2/STOPWORK NOTICE/2015,dated:02.04.2015**, directing the unit to halt the construction works.
7. It is respectfully submitted that earlier a **OA No. 37 of 2015** was filed by S.P. Muthuraman before the Hon'ble National Green Tribunal, Principal Bench at New Delhi, challenging the legality and correctness of three Office Memorandums issued by the Ministry of Environment, Forest and Climate Change dated 16.11.2010, 12.12.2012, and 27.06.2013, which provided

  
 JOINT CHIEF ENVIRONMENTAL ENGINEER  
 TAMIL NADU POLLUTION CONTROL BOARD  
 76, MOUNT SALAI, GUINDY,  
 CHENNAI - 600 032.

mechanisms for regularizing projects constructed without obtaining mandatory Environmental Clearance (EC). In OA No. 37 of 2015, the applicant, Y.Pondurai was added as a respondent along with six other development/construction projects.

8. It is respectfully submitted that on 07.07.2015, the Hon'ble National Green Tribunal has quashed the three Office Memorandums issued by the Ministry of Environment, Forest and Climate Change, thereby effectively stopping the post-approval process of Environmental Clearance (EC). The Operative portion of the order passed by the Hon'ble NGT, SZ inter alia are as follows:

*"... 163. In view of the above detailed discussion, we pass the following order and directions:*

- 1) We hold and declare the Office Memoranda dated 12th December, 2012 and 27 June, 2013 as ultra vires the provisions of the Act of 1986 and the Notification of 2006. They suffer from the infirmity of lack of inherent jurisdiction and authority. Resultantly, we quash both these Office Memoranda.*
- 2) Consequently, the above Office Memoranda are held to be ineffective and we prohibit the MOEF and the SEIAA in the entire country from giving effect to these Office Memoranda in any manner, whatsoever.....*
- 3) All the Project Proponents shall pay environmental compensation of 5 per cent of their project value for restoration and restitution of the environment and ecology as well as towards their liability arising from impacts of the illegal and unauthorized constructions carried out by them. They shall deposit this amount at the first instance, which shall be subject to further adjustment. Liability of each of the Respondents is as follows:*

*Mr. Y.Pondurai.: Rs. 7.4125 crores.*

*M/s Ruby Manoharan Property Developers Pvt. Ltd.: Rs. 1.8495 crores.*

*M/s Jones Foundations Pvt. Ltd.: Rs. 7 crores.*

*M/s SSM Builders and Promoters: Rs. 36 crores.*

*M/s SPR and RG Construction Pvt. Ltd.: Rs. 12.5505 crores.*

*Shubh*  
JOINT CHIEF ENVIRONMENTAL ENGINEER  
TAMIL NADU POLLUTION CONTROL BOARD  
76, MOUNT SALAI, GUINDY,  
CHENNAI - 600 032.

*M/s Dugar Housing Ltd.: Rs. 6.8795 crores.*

*M/s SAS Realtors Pvt. Ltd.: Rs. 4.5 crores.*

*4) The compensation shall be payable to the Tamil Nadu Pollution Control Board within three weeks from the date of the pronouncement of this judgment. The amounts shall be kept in a separate account and shall be utilised by the Boards for the above stated purpose and subject to further orders of the Tribunal.*

*5) The above environmental compensation is being imposed on account of the intentional defaults and the conduct attributable only to the Project Proponents. We direct that the Project Proponents shall not pass on this compensation to the purchasers/prospective purchasers, as an element of sale”*

9. It is respectfully submitted that based on the above order dated 07.07.2015, the applicant Y.Pondurai has remitted an environmental compensation amount of ₹7,41,25,000/- through demand drafts to the TNPCB. The payments were made ₹1,50,00,000 on 25.08.2015 and ₹5,91,25,000 on 11.09.2015.
10. It is respectfully submitted that as per the directions of the Government, C.C. No.168 of 2016 was filed by the District Environmental Engineer, Ambattur against the applicant before the Judicial Magistrate Court, Ambattur, for violation of the provisions of the Environment (Protection) Act, 1986, on 14.12.2015. The case was disposed of on 02.12.2023, with imposing a fine of ₹50,000 against the applicant.
11. It is respectfully submitted that in compliance with the order of the Hon'ble National Green Tribunal, Environmental Clearance (EC) was issued to the unit vide Letter No. SEIAA/TN/F.2371/EC/8(a)/438/2015 dated 31.12.2015 for the construction of a commercial building with a built-up area of 42,947.31 sq.m. Based on the EC, the unit has applied for Consent to Establish via OCMMS application no: 3728863 dated 09.01.2016 and the CTE was issued to the Applicant unit situated at S.F. Nos. 31, 32, 34/1, 35 & 37 of Padi Village, Ambattur Taluk, Tiruvallur District, vide Proceedings No.T5/TNPCB/F.0569 AMB/OL/AMB/A&W/2016 dated 29.04.2016, for the following:

  
 JOINT CHIEF ENVIRONMENTAL ENGINEER  
 TAMIL NADU POLLUTION CONTROL BOARD  
 76, MOUNT SALAI, GUINDY,  
 CHENNAI - 600 032.

Product:

Commercial building consisting of Main building (Basement 2+ Basement 1 + Ground + 10 Floors), Service Block (Basement + Ground + 2 floors) and MLCP Block (Basement 2+ Basement 1 + Ground + 4 Floors) with a total built up area 42947.31 sq.m.

Point source emission with stack:

DG Set - 2000 kVA - 6 Nos – Acoustic enclosure with stack 17 m above GL.

Treated sewage disposal:

60 KLD utilized for toilet flushing, 4 KLD for gardening, 16 KLD for HVAC requirement.

12. It is respectfully submitted that in the meantime, SEIAA has withdrawn the Environmental Clearance issued to the unit. Further, SEIAA authority has requested the Respondent Board that further action may be taken in this regard. Hence, Board Vide Proceeding.No.T5/TNPCB/F.0569/AMB/OL/AMB/W&A /2016 dated 29.08.2016 has withdrawn the consent to establish issued to the unit of M/s.Y.Pondurai, S.F.No. 31, 32, 34/1, 35 & 37, Padi Village, Ambattur Taluk, Chennai District.
13. It is respectfully submitted that in the meanwhile, the Original Application in OA No. 37 of 2015 was disposed of by the Hon'ble National Green Tribunal vide order dated 11.01.2019, recording the order of the Hon'ble Apex Court dated 17.07.2018 and the Notification dated 14.03.2017.
14. It is respectfully submitted that the process for appraisal of TOR/EC projects under violation of the EIA Notification, 2006, as per the Notification dated 14.03.2017 and 08.03.2018, issued by the Ministry of Environment, Forest and Climate Change, provided a one-time opportunity for regularization of non-EC projects. This mechanism was intended for the grant of Terms of Reference and Environmental Clearance to projects which have started the work on site, expanded the production beyond the limit of environmental clearance or changed the product mix without obtaining prior environmental clearance. Based on the notification, the unit has again applied for environmental clearance through online mode. The unit was issued with Environmental clearance vide Letter No. SEIAA-IN/F.No.6723/EC/8(a)/879/2022 dated:

  
 JOINT CHIEF ENVIRONMENTAL ENGINEER  
 TAMIL NADU POLLUTION CONTROL BOARD  
 76, MOUNT SALAI, GUINDY,  
 CHENNAI - 600 032.

01.11.2022. In the meanwhile, the unit got completion certificate from CMDA for completion of construction dated 13.04.2016. Based on the Environmental clearance, the unit applied for CTO Direct vide OCMMS Application No: 50540470 dated 08.02.2023 and was issued with CTO direct vide PROCEEDINGS NO.T2/TNPCB/F.0569AMB/OL/AMB/A/2023 DATED: 28/04/2023 valid upto 31.03.2028 for the following:

Product:

Commercial building consisting of Main building (Basement 2+ Basement 1 + Ground + 10 Floors), Service Block (Basement + Ground + 2 floors) and MLCP Block (Basement 2+ Basement 1 + Ground + 4 Floors) with a total built up area 42947.31sq.m.

Point source emission with stack :

DG Set - 2000 kVA –5 Nos – Acoustic enclosure with stack 17 m above GL.

Treated sewage disposal:

62 KLD utilized for toilet flushing, 4 KLD for gardening, 20 KLD for HVAC requirement.

15.It is respectfully further submitted that M/s Jones Foundation Pvt. Ltd., upon whom environmental compensation of ₹7 crores had been imposed in Original Application No. 37 of 2015, filed by Mr. S.P. Muthuraman before the Hon'ble National Green Tribunal, one of the respondents, apart from Y.Pondurai, has filed an M.A. No. 11 of 2023 in the said Original Application No. 37 of 2015, seeking refund of a part of the compensation levied by the Tribunal.

Further, The Hon'ble NGT has disposed the M.A. No. 11 of 2023 vide order dated 24.03.2023(**Order copy attached in the annexure**), as follows:

*“12. We thus do not find any merit in the application which is dismissed.”*

16.It is respectfully submitted that the applicant sent a request letter to the Respondent Board dated 26.07.2024 seeking a refund of the excess compensation amount of ₹7,41,25,000, which had been paid to the Tamil Nadu Pollution Control Board, as the final penalty amount had already been paid after assessment by SEAC. The Board, vide letter No.T2/TNPCB/F

  
JOINT CHIEF ENVIRONMENTAL ENGINEER  
TAMIL NADU POLLUTION CONTROL BOARD  
76, MOUNT SALAI, GUINDY,  
CHENNAI - 600 032.

.0569/OL/AMB/2024 dated 08.08.2024,(copy enclosed) denied the request for refund, citing the following reasons:

- A. The Environmental Compensation deposited by the appellants (Viz M/s.Pondurai) cannot be refunded or adjusted for the reason that the Hon'ble National Green Tribunal has imposed the Compensation on their disobedience and non-compliance of the Environmental Laws.
- B. The assessment of 5% by the Hon'ble NGT was independent of the assessment by the SEAC and therefore not entitled to refund. Further 25% of the amount collected has already been deposited by the TNPCB to the CPCB on 24.02.2017 and as such any order of refund at this stage would be unjust to the TNPCB.

17.It is respectfully submitted that based on the following order passed by the Hon'ble National Green Tribunal, (PB) dated 7.7.2015, stated that

*“All the Project Proponents shall pay environmental compensation of 5 per cent of their project value for restoration and restitution of the environment and ecology as well as towards their liability arising from impacts of the illegal and unauthorized constructions carried out by them. They shall deposit this amount at the first instance, which shall be subject to further adjustment. Liability of each of the Respondents is as follows:*

*Mr.Y.Pondurai.: Rs.7.4125 crores”,*

Hence, based on the above order passed by the Tribunal, the Environmental Compensation deposited by the appellants (Viz M/s.Pondurai) cannot be refunded or adjusted.

18.Further, it is submitted that as per the Order passed by the Hon'ble NGT, PB in OA No.24 of 2011 stated inter alia that

*“ ...The State Board who have filed their Affidavits and have received directly or indirectly the Environmental compensation or other penalty under the orders of the*

  
JOINT CHIEF ENVIRONMENTAL ENGINEER  
TAMIL NADU POLLUTION CONTROL BOARD  
76, MOUNT SALAI, GUINDY,  
CHENNAI - 600 032.

***Tribunal should pay 25% of the amount so received to the Central Pollution Control Board within two weeks”.***

Based on the above order passed by the Tribunal, 25% of the amount collected has already been deposited by the TNPCB to the CPCB on 24.02.2017 and as such any order of refund at this stage would be unjust to the TNPCB.

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

  
JOINT CHIEF ENVIRONMENTAL ENGINEER  
TAMIL NADU POLLUTION CONTROL BOARD  
76, MOUNT SALAI, GUINDY,  
CHENNAI - 600 032.

#### **VERIFICATION**

I, S.Indiragandhi, working as the Joint Chief Environmental Engineer, Tamil Nadu Pollution Control Board, Chennai – 600 032, having office at No.76, Mount Salai, Guindy, Chennai – 32, do hereby verify that the contents of above report are true to the best of my knowledge through records.

  
JOINT CHIEF ENVIRONMENTAL ENGINEER  
TAMIL NADU POLLUTION CONTROL BOARD  
76, MOUNT SALAI, GUINDY,  
CHENNAI - 600 032.

Item No. 01

Court No. 1

**BEFORE THE NATIONAL GREEN TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI****(BY VIDEO CONFERENCING)**M.A. No. 11/2023  
IN  
Original Application No. 37/2015

S.P. Muthuraman

Applicant

Versus

Union of India &amp; Ors.

Respondent(s)

M/s Jones Foundations Pvt. Ltd.  
Madipakkam, Chennai .....

Applicant in MA

Date of hearing: 24.03.2023

**CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON  
HON'BLE MR. JUSTICE SUDHIR AGARWAL, JUDICIAL MEMBER  
HON'BLE DR. A. SENTHIL VEL, EXPERT MEMBER**

Applicant: Ms. Rohini Musa, Advocate for Applicant in M.A No. 11/2023

**ORDER**

1. The matter has been put up in pursuance of order of the Hon'ble Supreme Court dated 16.08.2022 in *Civil Appeal No. 4663 of 2019, M/s Jones Foundations Pvt. Ltd. vs. Union of India & Ors.* By the said order, the Hon'ble Supreme Court set aside earlier order of this Tribunal dated 24.01.2019 in *M.A. No. 10/2019 in O.A. No. 37/2015, S.P. Muthuraman vs. Union of India & Ors.* It will be appropriate to reproduce the operative part of the order of the Hon'ble Supreme Court which is as follows:-

"3. A number of Original Applications came to be filed before the learned NGT challenging the Office Memorandums dated 12th December, 2012 and 27th June, 2013 issued by the Ministry of Environment, Forest and Climate Change in furtherance of the Notification issued by the State of Tamil Nadu dated 14th

September, 2006 titled the 'Environmental Clearance Regulation, 2006'. Learned NGT, by a detailed order dated 7th July, 2015 set aside the said Office Memorandums and vide the same order, the learned NGT also constituted a Committee for ensuring compliance with the resolution/orders passed by the SEIAA and passed other directions in the said order. The Committee was required to inspect all the projects in question and submit a comprehensive report to the tribunal.

4. Vide sub-paragraph 10 of paragraph 163 of the impugned order, all the Project Proponents were required to pay environmental compensation of 5% of their project value. In the said sub-paragraph, the NGT had also specified the amount to be paid by each of the Project Proponents. It was also provided that the said amount was to be deposited at the first instance, which would be subject to further adjustment. Insofar as the present appellant is concerned in Civil Appeal No.4663/2019, the liability was earmarked at Rs.7 crores and for the appellant in Civil Appeal No. 8046/2019 the liability was earmarked at Rs.6.8795 crores.

5. The said order was challenged before this Court. Though notice was issued, subsequently the petitions were withdrawn with liberty to the parties to adjudicate their grievances before the appropriate forums.

6. In pursuance to the orders passed by the learned NGT, the State Environmental Assessment Committee (SEAC) considered the inspection reports, ecological damage, project plan, compliance etc. and found that the appellants were liable to pay Corporate Environment Responsibility @ 2% of the project cost towards the aforesaid factors.

7. It is the contention of the appellant that the amount deposited by him was much higher i.e. @ 5% whereas the assessment by the SEAC was only @ 2%. As such the appellant was entitled to refund of the excess amount deposited with the authorities.

8. Mr. Sundaram, learned senior counsel further submitted that insofar as the other Project Proponents are concerned, though they too were directed to deposit 5% of the amount by the NGT, they had deposited lesser amount which was thereafter adjusted by the SEAC in the calculation of Corporate Environment Responsibility. He therefore submits that discrimination was meted out by the SEAC to the appellants herein.

9. Learned senior counsel further submits that now that the environmental clearance as required under the Environment Protection Act has already been issued and the possession of the tenements is handed over to the allottees, the appellants are entitled to refund.

10. Mr. Amit Anand Tiwari, learned Additional Advocate General appearing on behalf of the respondent-State submits that the assessment of 5% by the learned NGT was independent of the assessment by the SEAC and therefore the appellants are not entitled to refund. He submits that 25% of the amount collected has already been deposited by the Tamil Nadu Pollution Control Board to

*the Central Pollution Control Board on 24th February, 2017 and as such, any order of refund at this stage would be unjust to the Tamil Nadu Pollution Control Board.*

*11. Prima facie, we do not find any merit in the contention of Mr. Tiwari, learned counsel. Sub-paragraph 10 of paragraph 163 of the impugned order specifies the amount on adhoc basis @ 5% and further clarifies that the said deposit would be at the first instance and the same shall be subject to further adjustment.*

*12. In any case, when a specific contention to that effect was made, the learned NGT was expected to consider this aspect. However, by a non-reasoned order, the learned NGT has rejected the claim of the appellants.”*

2. We have heard learned Counsel for the applicant and with her assistance gone through the record.

3. Prayer in the application is to refund part of the compensation levied by this Tribunal in the light of view of EAC levying lesser amount of compensation in respect of another project.

4. It is undisputed that the applicant set up housing project without requisite EC which was mandatory. Thus, no impact assessment could be conducted and no mitigation measures could be taken as required for protection of environment. Reliance was placed on an OM exempting requirement of EC. The Tribunal found such course impermissible and directed the project to pay 5% compensation for restoration of the environment. This was subject to adjustment, if need arose. Compensation was duly paid and no occasion arose to revisit the order of the NGT. Operative part of judgment dated 07.07.2015 is as follows:-

*“163.....xxx.....xxx.....xxx*

*1) We hold and declare the Office Memoranda dated 12th December, 2012 and 27th June, 2013 as ultra vires the provisions of the Act of 1986 and the Notification of 2006. They suffer from the infirmity of lack of inherent jurisdiction and authority. Resultantly, we quash both these Office Memoranda.*

*2) Consequently, the above Office Memoranda are held to be ineffective and we prohibit the MoEF and the SEIAA in the*

entire country from giving effect to these Office Memoranda in any manner, whatsoever.

- 3) We hold and declare that the resolution/orders passed by the SEIAA, de-listing the applications of the Project Proponents, do not suffer from any legal infirmity. These orders are in conformity with the provisions of the Act of 1986 and the Notification of 2006 and do not call for interference.
- 4) We hereby constitute a Committee of the following Members:
  - a) Member Secretary of SEIAA, Tamil Nadu.
  - b) Member Secretary, Tamil Nadu Pollution Control Board.
  - c) Professor from Department of Civil Engineering, Environmental Branch, IIT Bombay.
  - d) Representative not below the rank of Director from the Ministry of Environment and Forest (to be nominated in three days from the date of pronouncement of this judgment).
  - e) Representative of the Chennai Metropolitan Development Authority.
- 5) Member Secretary of the Tamil Nadu Pollution Control Board shall be the Nodal Officer of the Committee for compliance of the directions contained in this judgment.
- 6) **The above Committee shall inspect all the projects in question and submit a comprehensive report to the Tribunal. This comprehensive report shall relate to the illegal and unauthorized acts and activities carried out by the Respondents. It shall deal with the ecological and environmental damage done by these projects. It would further deal with the installation of STP's and other antipollution devices by the Project Proponents, including the proposed point of discharge of sewage and any other untreated waste. The Expert Committee would also state in regard to the source of water during operation phase and otherwise, use of energy efficient devices, ecologically and environmentally sensitive areas and details of alteration of and its effect on the natural topography, the natural drainage system etc. The Committee shall also examine the adequacy of rainwater harvesting system and parking area and if at all they have been provided. The report shall also deal with the mechanism provided for collection and disposal of municipal solid waste at the project site.**
- 7) The Committee shall further report if the conditions stated in the planning permission and other permissions granted by various authorities have been strictly complied with or not.
- 8) The Committee shall also report to the Tribunal if the suggestions made by the SEIAA in its meetings adequately

takes care of environment and ecology in relation to these projects.

- 9) What measures and steps, including demolition, if any, or raising of additional structures are required to be taken in the interest of environment and ecology?
- 10) **All the Project Proponents shall pay environmental compensation of 5 per cent of their project value for restoration and restitution of the environment and ecology as well as towards their liability arising from impacts of the illegal and unauthorized constructions carried out by them. They shall deposit this amount at the first instance, which shall be subject to further adjustment. Liability of each of the Respondents is as follows:**
- Mr. Y. Pondurai.: Rs. 7.4125 crores.
- M/s Ruby Manoharan Property Developers Pvt. Ltd.: Rs. 1.8495 crores.
- M/s Jones Foundations Pvt. Ltd.: Rs. 7 crores.
- M/s SSM Builders and Promoters: Rs. 36 crores.
- M/s SPR and RG Construction Pvt. Ltd.: Rs. 12.5505 crores.
- M/s Dugar Housing Ltd.: Rs. 6.8795 crores.
- M/s SAS Realtors Pvt. Ltd.: Rs. 4.5 crores.
- 11) **The compensation shall be payable to the Tamil Nadu Pollution Control Board within three weeks from the date of the pronouncement of this judgment. The amounts shall be kept in a separate account and shall be utilised by the Boards for the above stated purpose and subject to further orders of the Tribunal.**
- 12) **The above environmental compensation is being imposed on account of the intentional defaults and the conduct attributable only to the Project Proponents. We direct that the Project Proponents shall not pass on this compensation to the purchasers/prospective purchasers, as an element of sale.**
- 13) *After submission of the report by the Expert Committee, the Tribunal would pass further directions for consideration of the matter by SEIAA in accordance with law.*
- 14) *All the project proponents are hereby prohibited from raising any further constructions, creating third party interest and/or giving possession to the purchasers/prospective purchasers without specific orders of the Tribunal, after submission of the report by the Expert Committee."*

5. Main contention of the applicant is that SEAC, Tamil Nadu, in its 114<sup>th</sup> Meeting held on 20.06.2018, dealing with project of M/s SPR & RG Construction Pvt. Limited, recommended compensation of 2 per cent in view of OM of MoEF&CC dated 01.05.2018 towards Corporate Environment Responsibility (CER). Thus, the said precedent should be followed for the project of the applicant also.

6. We are unable to accept the submission. In effect the applicant is seeking review of order of the Tribunal on the basis of view of SEAC in another matter. Minutes of the SEAC in question are as follows:-

**“.....As per the OM of MOEF & CC dated: 01.05.2018, the SEAC deliberated the fund allocation for Corporate Environment Responsibility which shall be to a maximum of 2% of the project cost.**

In view of the above and based on the Inspection report & the Ecological damage, remediation plan and natural & community resource augmentation plan furnished by the proponent, **the SEAC decided the fund allocation for Ecological remediation, natural resource augmentation & community resource augmentation and penalty by following the below mentioned criteria.**

<i>Level of damages</i>	<i>Ecological remediation cost (% of project cost)</i>	<i>Natural resource augmentation cost (% of project cost)</i>	<i>Community resource augmentation cost (% of project cost)</i>	<i>CER (% of project cost)</i>	<i>Total (% of project cost)</i>
<i>Low level Ecological damage</i>	0.25	0.10	0.15	0.25	0.75
<i>Medium level Ecological damage</i>	0.35	0.15	0.25	0.5	1.25
<i>High level Ecological damage</i>	0.50	0.20	0.30	1.00	2.00

*The Committee observes that the project of M/s. SPR & RG Construction Private Limited at. S.F. No. 137/1, 138/1, 148/5A & 148/7A of Karambakkam Village, Maduravoyal Taluk, Thiruvallur District comes under the "High level Ecological damage category". The Committee decided to recommend the proposal to SEIAA for*

grant of post construction EC subject to the following conditions in addition to the normal conditions:

1. The amount prescribed for Ecological remediation (Rs. 125.50 lakh) natural resource augmentation (Rs. 50.20 lakhs) & community resource augmentation (Rs. 75.30 lakhs), totaling Rs. 251 lakhs (Rs.2.51 Crore) shall be remitted in the form of bank guarantee to Tamil Nadu Pollution Control board, before obtaining Environmental Clearance and submit the acknowledgement of the same to SEIAA-TN. The funds should be utilized for the remediation plan, Natural resource augmentation plan & Community resource augmentation plan as indicated in the EIA/EMP report
2. The amount specified for CER activities is Rs, 2.51 Crores. The proponent has paid Rs. 1.50 Crores to TNPCB out of Rs. 12.5505 Crores levied as Environment Compensation by the Hon'ble NGT, PB, New Delhi order dated: 07.07.2015. The Environmental Compensation fund of Rs.1.50 Crores already paid is permitted to be adjusted against the Rs. 2.51 Crores to be paid, thus leaving a balance of Rs. 1.01 Crores as the net amount to be paid. For Rs. 1.01 Crores, the amount shall be remitted in the form of DD before issue of EC for the following activities and submit the acknowledgement of the same to SEIAA-TN:

Sl. No.	Activities	Name and Address of the beneficiary	Amount & DD favouring	Purpose
1.	Forest Conservation and protection	District Forest Officer, Forest Division, Cattle Farm Mathigiri (P.O) Hosur 635110	Rs. 1.01 Crore, DD favouring "Forest Development Agency", payable at Hosur	Steel wire rope fencing / stone wall fencing along the reserve forest of Cauvery Wildlife Sanctuary to mitigate Human and Animal especially Elephant Conflict

3. The SEAC recommends that SEIAA may look into any other legal and regulatory issues that are applicable before issuing the post construction EC."

7. The above view cannot be a ground for the Tribunal to revisit its earlier order merely because of observation in the order of the Tribunal that compensation will be subject to adjustment. Stipulation for adjustment did not refer to view of SEAC, as assumed but recommendation of the Committee, if any. No such recommendation has been made for increase or decrease of compensation. Further, as per

binding precedents, 5% is normal rate of compensation in such cases. In *M/s. Goel Ganga Developers India Pvt. Ltd. V. Union of India*, (2018) 18 SCC 257, it was observed:

“64. Having held so we are definitely of the view that the project proponent who has violated law with impunity cannot be allowed to go scot-free. **This Court has in a number of cases awarded 5% of the project cost as damages. This is the general law.** However, in the present case we feel that damages should be higher keeping in view the totally intransigent and unapologetic behaviour of the project proponent. He has maneuvered and manipulated officials and authorities. Instead of 12 buildings, he has constructed 18; from 552 flats the number of flats has gone upto 807 and now two more buildings having 454 flats are proposed. The project proponent contends that he has made smaller flats and, therefore, the number of flats has increased. He could not have done this without getting fresh EC. With the increase in the number of flats the number of persons, residing therein is bound to increase. This will impact the amount of water requirement, the amount of parking space, the amount of open area etc.. Therefore, in the present case, we are clearly of the view that the project proponent should be and is directed to pay damages of Rs.100 crores or 10% of the project cost whichever is more. We also make it clear that while calculating the project cost the entire cost of the land based on the circle rate of the area in the year 2014 shall be added. The cost of construction shall be calculated on the basis of the schedule of rates approved by the Public Works Department (PWD) of the State of Maharashtra for the year 2014. In case the PWD of Maharashtra has not approved any such rates then the Central Public Works Department rates for similar construction shall be applicable. We have fixed the base year as 2014 since the original EC expired in 2014 and most of the illegal construction took place after 2014. In addition thereto, if the project proponent has taken advantage of Transfer of Development Rights (for short ‘TDR’) with reference to this project or is entitled to any TDR, the benefit of the same shall be forfeited and if he has already taken the benefit then the same shall either be recovered from him or be adjusted against its future projects. The project proponent shall also pay a sum of Rs. 5 crores as damages, in addition to the above for contravening mandatory provisions of environmental laws.”

8. Same view was taken in *M.C. Mehta vs. Union of India & Ors.* (2018) 18 SCC 397:-

“134. The Polluter Pays Principle is a wholesome principle that has been universally accepted and also adopted and applied in our country through several decisions of this Court. In this context, we may draw attention to among two of the earliest decisions rendered by this Court, namely, *Indian Council for*<sup>1</sup> and *Vellore Citizens' Welfare Forum v. Union of India*.<sup>2</sup> The law having been settled for more than two decades, we are of the view that it must be applied in a case such as the present. The damage caused to the Aravalli hills, as already noted, is irreversible. However, perhaps some of the damage could be remedied -at least we hope so. According to *R. Kant & Co.* it has expended ₹ 50 crore in developing Kant Enclave. We do not know the exact or accurate figure but proceed on the basis as stated. In our opinion, **it would be reasonable to require R. Kant & Co. to deposit 10% of this amount (that is, ₹ 5 crore) for rehabilitation of the damaged areas.** This amount should be deposited by *R. Kant & Co.* in the Aravalli Rehabilitation Fund within one month and in any case on or before 31st October, 2018. The matter be listed only for compliance of this direction in the first half of November 2018.”

9. In *Alembic Pharmaceuticals Ltd v. Rohit Prajapati & Ors.*, (2020) 17 SCC 157, the Hon'ble Supreme Court held as follows:-

“49. ....At the same time, the Court cannot be oblivious to the environmental degradation caused by all three industries units that operated without valid ECs. **The three industries have evaded the legally binding regime of obtaining ECs. They cannot escape the liability incurred on account of such noncompliance. Penalties must be imposed for the disobedience with a binding legal regime. The breach by the industries cannot be left unattended by legal consequences. The amount should be used for the purpose of restitution and restoration of the environment. Instead and in place of the directions issued by the NGT, we are of the view that it would be in the interests of justice to direct the three industries to deposit compensation quantified at ₹ 10 crores each.** The amount shall be deposited with GPCB and it shall be duly utilised for restoration and remedial measures to improve the quality of the environment in the industrial area in which the industries operate. Though we have come to the conclusion, for the reasons indicated, that the direction for the revocation of the ECs and the 42 closure of the industries was not warranted, we have issued the order for payment of compensation as a facet of preserving the environment in accordance with the precautionary principle.”

10. In *Keystone Realtors Pvt. Ltd v. Shri Anil V Tharthare & Ors.*, (2020) 2 SCC 66, the Supreme Court held as follows:-

<sup>1</sup> (1996) 3 SCC 212 (1996) 5 SCC 647

<sup>2</sup> (1996) 5 SCC 647

**“21.....By completing the construction of the project, the appellant denied the third and fourth respondents the ability to evaluate the environmental impact and suggest methods to mitigate any environmental damage. At this stage, only remedial measures may be taken. The NGT has already directed the appellant to deposit Rupees one crore and has set up an expert committee to evaluate the impact of the appellants project and suggest remedial measures.”**

11. Needless to say that the Tribunal in exercise of jurisdiction under Section 15 of the NGT Act is not bound by a precedent of SEAC in respect of some other project. In *Mantri Techzone Pvt. Ltd. v. Forward Foundation and Ors.*, (2019) 18 SCC 494, the Hon'ble Supreme Court held that orders of this Tribunal have overriding effect under Section 33 of the NGT Act. The observations are quoted below:-

*“43. Section 15(1)(c) of the Act is an entire island of power and jurisdiction read with Section 20 of the Act. The principles of sustainable development, precautionary principle and polluter pays, propounded by this Court by way of multiple judicial pronouncements, have now been embedded as a bedrock of environmental jurisprudence under the NGT Act. Therefore, wherever the environment and ecology are being compromised and jeopardized, the Tribunal can apply Section 20 for taking restorative measures in the interest of the environment.*

*44. The NGT Act being a beneficial legislation, the power bestowed upon the Tribunal would not be read narrowly. An interpretation which furthers the interests of environment must be given a broader reading. (See *Kishsore Lal v. Chairman, Employees' State Insurance Corpn.* (2007) 4 SCC 579, para 17). The existence of the Tribunal without its broad restorative powers under Section 15(1)(c) read with Section 20 of the Act, would render it ineffective and toothless, and shall betray the legislative intent in setting up a specialized Tribunal specifically to address environmental concerns. The Tribunal, specially constituted with Judicial Members as well as with Experts in the field of environment, has a legal obligation to provide for preventive and restorative measures in the interest of the environment.*

*45. Section 15 of the Act provides power & jurisdiction, independent of Section 14 thereof. Further, Section 14(3) juxtaposed with Section 15(3) of the Act, are separate provisions for filing distinct applications before the Tribunal with distinct periods of limitation, thereby amply demonstrating that jurisdiction of the Tribunal flows from these Sections (i.e. Sections 14 and 15 of the Act) independently. The limitation provided in Section 14 is a period of 6 months from the date on which the cause of action first arose and whereas in Section 15 it is 5 years. Therefore, the legislative intent is clear to keep Section 14 and 15 as self contained jurisdictions.*

46. Further, Section 18 of the Act recognizes the right to file applications each under Sections 14 as well as 15. Therefore, it cannot be argued that Section 14 provides jurisdiction to the Tribunal while Section 15 merely supplements the same with powers. As stated supra. the typical nature of the Tribunal, its breadth of powers as provided under the statutory provisions of the Act as well as the Scheduled enactments, cumulatively, leaves no manner of doubt that the only tenable interpretation to these provisions would be to read the provisions broadly in favour of cloaking the Tribunal with effective authority. An interpretation that is in favour of conferring jurisdiction should be preferred rather than one taking away jurisdiction.

47. Section 33 of the Act provides an overriding effect to the provisions of the Act over anything inconsistent contained in any other law or in any instrument having effect by virtue of law other than this Act. This gives the Tribunal overriding powers over anything inconsistent contained in the KIAD Act, Planning Act, Karnataka Municipal Corporations Act, 1976 ("KMC Act"); and the Revised Master Plan of Bengaluru, 2015 ("RMP"). A Central legislation enacted under Entry 13 of List I Schedule VII of the Constitution of India will have the overriding effect over State legislations. The corollary is that the Tribunal while providing for restoration of environment in an area, can specify buffer zones around specific lakes & water bodies in contradiction with zoning regulations under these statutes or the RMP."

12. We thus do not find any merit in the application which is dismissed.

Adarsh Kumar Goel, CP

Sudhir Agarwal, JM

Dr. A. Senthil Vel, EM

March 24, 2023  
M.A. No. 11/2023 In  
Original Application No. 37/2015  
SN





**BEFORE THE HON'BLE NATIONAL  
GREEN TRIBUNAL, SOUTHERN  
ZONE AT CHENNAI  
Application No.98 of 2025**

Y.Pondurai,  
No.129, Usman Road,  
T.Nagar, Chennai,  
Tamil Nadu – 600017.

...Applicant

-Vs-

1. The State Environment Impact Assessment Authority (SEIAA),  
Rep by its Chairman,  
3<sup>rd</sup> Floor, Panagal Maaligai, No.1,  
Jeenis Road, Saidapet,  
Chennai – 600 015.
  
2. Tamil Nadu Pollution Control Board,  
Rep by its Chairperson,  
No.76, Mount Salai,  
Guindy,  
Chennai–600032.

...Respondents.

**REPORT FILED ON BEHALF OF  
THE SECOND RESPONDENT -  
TAMIL NADU POLLUTION  
CONTROL BOARD.**

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

Date: 31.12.2025

Date of hearing on:02.01.2026