

**BEFORE THE NATIONAL GREEN TRIBUNAL (SZ) AT CHENNAI**

**ORIGINAL APPLICATION No. 88 of 2023**

**BETWEEN**

N. Sivamurugeswara Pandian,  
S/o, G.K. Narayanasamy,  
185/B 10, Sadayalpatti, Kodankipatti Village,  
Bodi Taluk, Theni District – 625 534

**...Applicant**

**AND**

Ministry of Environment, Forest and Climate Change,  
Rep., by its Secretary,  
Indira Paryavaran Bhawan,  
Jarbagh Road, New Delhi – 110 003 & 5 others

**....Respondents**

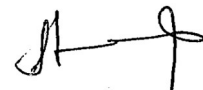
**ADDITIONAL INDEX TO TYPED SET OF PAPERS**

<b>SN</b>	<b>DATE</b>	<b>DESCRIPTION OF DOCUMENTS</b>	<b>PAGE NO</b>
17	29.01.2021	Order of Rejection of the CTE of the Appellant's Unit passed by the TNPCB	91 – 92
18	15.02.2021	Appeal nos. 10 & 11 under the Air & Water Acts filed by the Appellant's unit before the Hon'ble Appellate Authority	93 – 108
19	April, 2021	Common Counter filed by the TNPCB in Appeal Nos. 10 & 11 of 2021	109 – 114
20	15.04.2021	Implead Petition in I.A.No. 61 & 62 of 2021 filed by the 6 <sup>th</sup> Respondent industry in Appeal Nos. 10 & 11 of 2021	115 – 126
21	April, 2021	Common reply filed by the Appellant's unit to the implead petitions in I.A.No. 61 & 62 of 2021	127 – 130
22	June, 2021	Counter filed by the 6 <sup>th</sup> Respondent Industry in Appeal Nos. 10 & 11 of 2021	131 – 152
23	10.08.2021	Writ Affidavit & Petition in W.P(MD) No. 14415 of 2021 filed by the Appellant's Unit before the Madurai Bench of Hon'ble Madras High Court	153 – 160

24	16.08.2021	Orders passed in the W.P (MD).No. 14415 of 2021 by the Hon'ble Madras High Court	161 - 164
25	06.10.2021	Final orders passed by the Hon'ble Appellate Authority in Appeal Nos. 10 & 11 of 2021	165 - 184
26	Oct, 2021	Appeal Nos. 73 & 74 of 2021 filed by the 6 <sup>th</sup> Respondent Industry before the Hon'ble NGT, Chennai	185 - 214
27	Dec, 2021	Counter filed by the Applicant's unit in Appeal Nos. 73 & 74 of 2021	215 – 222
28	Dec, 2021	Rejoinder filed by the 6 <sup>th</sup> Respondent in Appeal Nos. 73 & 74 of 2021	223 – 230
29	28.01.2022	Final Orders passed by the Hon'ble NGT, Chennai in Appeal Nos. 73 & 74 of 2021	231 – 264
30	13.01.2023	Consent to Establish issued to the Appellant's unit under Air & Water Acts	265 – 273
31	20.05.2023	Consent to Operate issued to the Appellant's unit under Air & Water Acts	274 – 287
32	05.06.2023	Appeals filed by the 6 <sup>th</sup> Respondent Industry before the Hon'ble Appellate Authority challenging the consent granted to the Appellant's unit	288 – 298
33	July, 2023	Common counter filed by the TNPCB in Appeal Nos. 65 & 66 of 2023 on the file of Hon'ble Appellate Authority	299 - 311
34	---	Photographs	312 – 316

*// Certified to be true copies of the Original Documents //*

Dated at Chennai on this the 21<sup>st</sup> day of June, 2023



**Counsel for Applicant**

**Proc. NO.F.0836TEN/OS/DEE/TNPCB/25/W&A/2021 DATED: 29/01/2021**

**SUB:** Tamil Nadu Pollution Control Board- M/s. GKN FOOD PRODUCTS , S.F. No. 892/3A, KODANKIPATTI village, Bodinaickanur Taluk and Theni District - Applied for CTE-NEW of the Board under Water(P&CP) Act 1974, as amended and Air (P&CP) Act 1981, as amended- Application rejected- Reg.

**REF:** 1. Unit's OCMMS Application No. 35115377 Dated 10/10/2020, latest resubmission on 04/12/2020  
2. IR.No : F.0836TEN/OS/AE/TEN/2021 dated 27/01/2021  
3. Minutes of the DLCCC Meeting held on 27/01/2021 (Item No. 145-05)

In the reference 1st cited, your unit of

**GKN FOOD PRODUCTS**

892/3A

KODANKIPATTI village, Bodinaickanur Taluk

Theni District

has applied for the consent of the Tamil Nadu Pollution Control Board for the following products under the Water(P&CP) Act 1974, as amended and Air (P&CP) Act 1981, as amended

Sl. No.	Description	Quantity	Unit
<b>Product Details</b>			
1.	Jaggery Powder	80	Tons/Month
2.	Jaggery Blocks	40	Tons/Month

In the reference 3rd cited, The DLCCC decided to reject the "Consent To Establish - New" application filed by the unit of M/s. GKN Food Products, S.F.No. 892/3A of Kodangipatti Village, Bodinaickanur Taluk, Theni District, under Section 25 of the Water (Prevention and Control of Pollution) Act, 1974 as amended and Section 21 of Air (Prevention and Control of Pollution) Act, 1981 for the following reasons -

1. The unit started its construction activities to establish their industrial plant in an Agricultural land without obtaining "Consent To Establishment" of the Board.
2. The unit has not furnished any approved building plan/building permit obtained from Competent Authority to establish the industry, at S.F.No. 892/3A of Kodangipatti Village, Bodinaickanur Taluk, Theni District, which is a non-planned area as per the letter issued by the Assistant Director, Directorate of Town and Country Planning, Theni dated 09/11/2020
3. The unit's site is located adjacent to three numbers of houses with a build-up area of approximately 250 - 350 sq. feet each, on western side, and a distance of 40 m from the Sadayalpatti area of Kodangipatti revenue village on southern side, which is having population of nearly about 500 numbers.

Hence, it is informed that the unit's application for consent of the Board is hereby rejected. As such no further representation can be entertained by the Board. The Board also cannot review its own decision.

You are also informed that if you are aggrieved by the decision of the Board, you can prefer an appeal before the Appellate Authority, Tamil Nadu Pollution Control Board, No.51, Gangadeeswarar Koil Street, Purasawalkam, Chennai-600084 as per the provisions of section 28 of the Water (Prevention and Control of Pollution) Act, 1974 as amended and the provisions of section 31 of the Air (Prevention and Control

of Pollution) Act, 1981 within 30 days from the date of receipt of this order against the above decision of the Board

R JAYAMURUGAN Digitally signed by R  
JAYAMURUGAN  
Date: 2021.01.29 14:35:48 +05'30'  
**District Environmental Engineer,  
Tamil Nadu Pollution Control Board,  
THENI**

To  
The Managing Partner,  
M/s.GKN FOOD PRODUCTS,  
S.f.no.892/3a, sadayalpatti, kodankipatti village, bodi taluk, theni district.,  
Bodinaickanur Taluk,  
Theni District  
Pin: 625534

Copy to      1. The MS/JCEE/DEE  
                  2. The BMS section.

**APPEAL FILED UNDER SECTION 31 OF THE AIR (PREVENTION AND CONTROL OF POLLUTION) ACT, 1981**

**BEFORE THE APPELLATE AUTHORITY**

**TAMILNADU POLLUTION CONTROL, CHENNAI**

Appeal No. of 2021

M/s. GKN Food Products,  
A Partnership Firm,  
Rep. by its Managing Partner,  
Mr. Sivamurugeswara Pandian.N  
S.F.No.892/3A, Sadayalpatti,  
Kodankipatti Village, Bodi Taluk  
Theni District  
PIN - 625 534

...Appellant

-Vs-

1. Tamil Nadu Pollution Control Board,  
rep. by its Chairman,  
100, Anna Salai,  
Guindy,  
Chennai - 600 032.

2. The District Environmental Engineer,  
Tamil Nadu Pollution Control Board,  
Door No.151/14, 12A/3, SAR Complex,  
Boothipuram Road,  
Theni District  
PIN - 625 531

... Respondents

**Appeal filed under Section 31 of the <sup>AIR</sup>Water (Prevention & Control of Pollution) Act, 1981**

1. The Appellant is M/s. GKN Food Products, a Partnership Firm, represented by its Managing Partner, Mr. Sivamurugeswara Pandian, having its place of business at S.F.No.892/3A, Sadayalpatti, Kodankipatti Village, Bodi Taluk, Theni District, PIN - 625 534.

(2021)

The address for service of all notices and processes on the Appellant is that of its Counsel Mrs. Rita Chandrasekar, Advocate at No.29, Law Chambers, High Court, Madras - 600 104.

2. The Respondents and their address for service of notice and process are as stated above.

3. The present Appeal is filed challenging the communication of the 2<sup>nd</sup> respondent bearing Proc. No.F.0836TEN/OS/DEE/TNPCB/25/W&A/2021 dated 29.01.2021 in and by which the application submitted by the appellant seeking consent for establishment was rejected. The facts and circumstances leading to filing of the appeal is stated hereunder:-

4. It is submitted that the Appellant submitted application to the office of the 2<sup>nd</sup> Respondent seeking consent for establishment for starting a unit for manufacture of Jaggery powder at the rate of 80 tons per month and Jaggery blocks at the rate of 40 tons per month. The manufacturing process is set out in the Manufacturing chart which is annexed to in the typed set of papers. The same may be treated as part and parcel of the Appeal. It is submitted that Bagasse at the rate of 400 tons per month is proposed to be used as Boiler fuel and Mud at the rate of 30 tons per month is proposed to be used as organic manure. Water at the rate of 450 tons per month is proposed to be used by the Appellant. In the application seeking consent to operate, the Appellant had set out the details of the products proposed to be manufactured, the manufacturing process, water consumption details, details of sewage/trade effluent

generation, Sewage treatment plant details, trade effluent plant details and the details relating to sewage/trade effluent disposal. Application seeking consent for establishment was made under both Water and Air Act. The Appellant also remitted the consent fee along with the application.

5. It is submitted that on 05.11.2020 the Appellant submitted application to the Deputy Director, Town and Country Planning, Theni for land use Certificate in respect of S.No.892/3A, Sadayalpatti, Kodangipatti Village, Bodi Taluk. By the communication dated 09.11.2020, it was informed by the authority concerned that S.No.892/3A has not been classified into any zone and that the said survey number falls under non-planned area. It was also stated therein that the said land can be developed in terms of Tamil Nadu change of Land Use Rules, 2017. The communication further read that prior permission has to be obtained for putting up any construction and that any construction that is put up will be treated as unauthorized construction.

6. It is submitted that by the impugned communication dated 29.01.2021, the 2<sup>nd</sup> Respondent rejected the application seeking consent for establishment citing the proceedings dated 09.11.2020. Yet another reason given by 2<sup>nd</sup> Respondent for rejecting the application was that the unit's site is located adjacent to three numbers of houses with a built up area of approximately 250 - 350 sq. ft each and a distance of 40 meters from the Sadayalpatti area of Kodangipatti revenue village on the

southern side which is having population of nearly about 500 numbers. It is pertinent to bring to the notice of this Hon'ble Tribunal, the houses referred to in the impugned order are situate in S.Nos.893/9 and a Certificate was issued by the President of Kodankipatti Panchayat that the houses in the said survey number has been constructed without prior permission of the Panchayat.

7. In this regard, useful reference may be had to the proceedings of the Deputy Director, Town and Country Planning, Theni dated 09.11.2020 as per which any construction that has been put in the non-planned area without obtaining prior permission is to be considered to be as unauthorized. Therefore, the rejection of the application citing the location of the houses adjacent to the site is baseless.

8. In so far as the reason adduced by the 2<sup>nd</sup> Respondent that the Unit has not furnished any approved building plan/building permit obtained from the competent authority is concerned, it is stated that on 05.02.2021 the Appellant submitted an application to the Deputy Director, Town and Country Planning, Theni District in terms of the Government Order dated 04.05.2017. It is stated that the same is under consideration of the authority concerned. As and when orders are passed by the authority concerned for reclassification, the Appellant undertakes to furnish the same before this Hon'ble Authority and to the Respondents.

9. It is submitted that the present appeal is filed to set aside the communication of the 2<sup>nd</sup> Respondent bearing Proc.

*Q.28*

No.F.0836TEN/OS/DEE/TNPCB/25/W&A/2021 dated 29.01.2021 on the following among other

**GROUNDS**

a) The proceedings of the 2<sup>nd</sup> Respondent rejecting the application seeking consent for establishment is against law, weight of evidence and probabilities of the case.

b) The 2<sup>nd</sup> Respondent ought to have seen that the land in survey No.892/3A is situate in non-planned area and there is no embargo for establishment of the unit. Be that as it may be, the Appellant had obtained necessary permission/approval from the authority concerned in terms of the Government Order dated 04.05.2017. Therefore, there can be no impediment for the Respondent Board to grant consent for establishment of the unit.

c) It is submitted that in the impugned order, while rejecting the consent application had stated that the unit's site is located adjacent to three numbers of houses with a built up area of 250 - 350 sq.ft. In this regard, it is submitted that the houses referred to are located in S.No.893/9 and those houses have been constructed without the prior approval/permission of the Local panchayat namely, Kodankipatti Panchayat. Therefore, in as much as the houses have been constructed without prior approval, the construction of the same are unauthorized. Therefore, the location of the houses cannot be cited as a ground for rejecting the consent application.

R-29

d) It is submitted that with reference to distance of 40 metres from the Sadayalpatti area of Kodangipatti Revenue village is concerned, the product manufactured by the Appellant is not hazardous and the emission let out is not obnoxious and would not result in health hazard to the general public. All acoustic measures have been proposed to prevent pollution in any form. Solar plan feed tank and Elevated solar evaporation pan have been proposed in the Unit. The trade effluent is proposed to be disposed through solar evaporation pans. Therefore, the establishment of the Unit will not be a threat to the residents of Sadayalpatti area of Kodangipatti Revenue Village.

e) It is submitted that the 2<sup>nd</sup> Respondent has not taken into consideration the various details furnished by the Appellant in the application submitted seeking consent for establishment and there is no reference as to the same in the impugned order. On this ground also, the order impugned is liable to be set aside.

10) Under the above circumstances, left with no other efficacious remedy, the Appellant is constrained to approach this Hon'ble Authority for the relief sought therein. There is no justification whatsoever on the part of the Respondent Board in rejecting the application seeking consent for establishment. The reasons given thereunder are not germane and extraneous. At the risk of repetition, the construction of the three houses referred to in the impugned order are unauthorized and approval has been obtained for putting up the construction. That apart, the Appellant

Q. 21

had obtained necessary sanction/sanction for putting up the construction in terms of the Government Order dated 04.05.2017. Therefore, there can be impediment for the Respondent to grant consent for establishment of the Unit.

11. It is further stated that the manufacturing of jaggery products are not hazardous and the pollution control measures are proposed to be placed in the unit. The manufacturing of the jaggery products will not cause any health hazard to the residents of Sadayalpatti Village. The impugned order also do not spell out as to how the location of the three houses and the location of the unit at a distance of 40 meters from the Sadayalpatti Village will be affected if consent for establishment is granted. In the absence of the same, there is no justification on the part of the Respondent Board to reject the consent application.

12. Under the above circumstances, unless and until appropriate orders are passed by this Hon'ble Authority, the interest of the Appellant will be seriously jeopardized.

For all the foregoing reasons, it is prayed that this Hon'ble Authority may be pleased to set aside the communication of the 2<sup>nd</sup> Respondent bearing Proc. No.F.0836TEN/OS/DEE/TNPCB/25/W&A/2021 dated 29.01.2021 and consequently direct the Respondents to grant consent to the Appellant for establishment of the Unit at S.F.No.892/3A, Kodankipatti Village, Bodi Taluk, Theni District, PIN - 625 534 for manufacturing of 80 tons per month of Jaggery Powder and 40 tons per month of Jaggery

S. J. J.

Blocks and pass such further or other orders as this Hon'ble Authority may deem fit and proper in the circumstances of the case and render justice.

Dated at Madras this the 15<sup>th</sup> day of February 2021

Counsel for Appellant

  
Appellant

**VERIFICATION**

I, Sivamurugeswara Pandian, Managing Partner, M/s. GKN Food Products and having the place of work at S.F.No.892/3A, Sadyalpatti Kodankipatti Village, Bodi Taluk, Theni District, PIN - 625 531 do hereby verify the statements made in the above paragraph Nos.1 to 12 and the grounds are true to the best of my knowledge and I have not suppressed and material facts.

Dated at Chennai this the 15<sup>th</sup> day of February 2021

  
Sivamurugeswara Pandian.N

101  
**APPEAL FILED UNDER SECTION 28 OF THE AIR (PREVENTION AND CONTROL OF POLLUTION) ACT, 1974**

**BEFORE THE APPELLATE AUTHORITY**

**TAMILNADU POLLUTION CONTROL, CHENNAI**

Appeal No. of 2021

GKN

M/s. GKN Food Products,  
A Partnership Firm,  
Rep. by its Managing Partner,  
Mr. Sivamurugeswara Pandian.N  
S.F.No.892/3A, Sadayalpatti  
Kodankipatti Village,  
Bodi Taluk  
Theni District  
PIN - 625 534

...Appellant

-Vs-

1. Tamil Nadu Pollution Control Board,  
rep. by its Chairman,  
100, Anna Salai,  
Guindy,  
Chennai - 600 032.

2. The District Environmental Engineer,  
Tamil Nadu Pollution Control Board,  
Door No.151/14, 12A/3, SAR Complex,  
Boothipuram Road,  
Theni Allinagaram,  
PIN - 625 531

... Respondents

**Appeal filed under Section 28 of the Water (Prevention & Control of Pollution) Act, 1974**

1. The Appellant is M/s. GKN Food Products, a Partnership Firm, represented by its Managing Partner, Mr. Sivamurugeswara Pandian.N, having his place of business at S.F.No.892/3A, Sadayalpatti Kodankipatti Village, Bodi Taluk, Theni District, PIN - 625 531.

The address for service of all notices and processes on the Appellant is that of its Counsel Mrs. Rita Chandrasekar, Advocate at No.29, Law Chambers, High Court, Madras - 600 104.

2. The Respondents and their address for service of notice and process are as stated above.

3. The present Appeal is filed challenging the communication of the 2<sup>nd</sup> respondent bearing Proc. No.F.0836TEN/OS/DEE/TNPCB/25/W&A/2021 dated 29.01.2021 in and by which the application submitted by the appellant seeking consent for establishment was rejected. The facts and circumstances leading to filing of the appeal is stated hereunder:-

4. It is submitted that the Appellant submitted application to the office of the 2<sup>nd</sup> Respondent seeking consent for establishment for starting a unit for manufacture of Jaggery powder at the rate of 80 tons per month and Jaggery blocks at the rate of 40 tons per month. The manufacturing process is set out in the Manufacturing chart which is annexed to in the typed set of papers. The same may be treated as part and parcel of the Appeal. It is submitted that Bagasse at the rate of 400 tons per month is proposed to be used as Boiler fuel and Mud at the rate of 30 tons per month is proposed to be used as organic manure. Water at the rate of 450 tons per month is proposed to be used by the Appellant. In the application seeking consent to operate, the Appellant had set out the details of the products proposed to be manufactured, the manufacturing

generation, Sewage treatment plant details, trade effluent plant details and the details relating to sewage/trade effluent disposal. Application seeking consent for establishment was made under both Water and Air Act. The Appellant also remitted the consent fee along with the application.

5. It is submitted that on 05.11.2020 the Appellant submitted application to the Deputy Director, Town and Country Planning, Theni for land use Certificate in respect of S.No.892/3A, Sadayalpatti Kodangipatti Village, Bodi Taluk. By the communication dated 09.11.2020, it was informed by the authority concerned that S.No.892/3A has not been classified into any zone and that the said survey number falls under non-planned area. It was also stated therein that the said land can be developed in terms of Tamil Nadu change of Land Use Rules, 2017. The communication further read that prior permission has to be obtained for putting up any construction and that any construction that is put up will be treated as unauthorized construction.

6. It is submitted that by the impugned communication dated 29.01.2021, the 2<sup>nd</sup> Respondent rejected the application seeking consent for establishment citing the proceedings dated 09.11.2020. Yet another reason given by 2<sup>nd</sup> Respondent for rejecting the application was that the unit's site is located adjacent to three numbers of houses with a built up area of approximately 250 - 350 sq. ft each and a distance of 40 meters from the Sadayalpatti area of Kodangipatti revenue village on the

southern side which is having population of nearly about 500 numbers. It is pertinent to bring to the notice of this Hon'ble Tribunal, the houses referred to in the impugned order are situate in S.Nos.893/9 and a Certificate was issued by the President of Kodankipatti Panchayat that the houses in the said survey number has been constructed without prior permission of the Panchayat.

7. In this regard, useful reference may be had to the proceedings of the Deputy Director, Town and Country Planning, Theni dated 09.11.2020 as per which any construction that has been put in the non-planned area without obtaining prior permission is to be considered to be as unauthorized. Therefore, the rejection of the application citing the location of the houses adjacent to the site is baseless.

8. In so far as the reason adduced by the 2<sup>nd</sup> Respondent that the Unit has not furnished any approved building plan/building permit obtained from the competent authority is concerned, it is stated that on 05.02.2021, the Appellant submitted an application to the Deputy Director, Town and Country Planning, Theni District in terms of the Government Order dated 04.05.2017. It is stated that the same is under consideration of the authority concerned. As and when orders are passed by the authority concerned for reclassification, the Appellant undertakes to furnish the same before this Hon'ble Authority and to the Respondents.

9. It is submitted that the present appeal is filed to set aside the communication of the 2<sup>nd</sup> Respondent bearing Proc. No.F.0836TEN/OS/DEE/TNPCB/25/W&A/2021 dated 29.01.2021 on the following among other

### GROUNDS

- a) The proceedings of the 2<sup>nd</sup> Respondent rejecting the application seeking consent for establishment is against law, weight of evidence and probabilities of the case.
- b) The 2<sup>nd</sup> Respondent ought to have seen that the land in survey No.892/3A is situate in non-planned area and there is no embargo for establishment of the unit. Be that as it may be, the Appellant had obtained necessary permission/approval from the authority concerned in terms of the Government Order dated 04.05.2017. Therefore, there can be no impediment for the Respondent Board to grant consent for establishment of the unit.
- c) It is submitted that in the impugned order, while rejecting the consent application had stated that the unit's site is located adjacent to three numbers of houses with a built up area of 250 – 350 sq.ft. In this regard, it is submitted that the houses referred to are located in S.No.893/9 and those houses have been constructed without the prior approval/permission of the Local panchayat namely, Kodankipatti Panchayat. Therefore, in as much as the houses have been constructed without prior approval, the construction of the same are unauthorized.

Therefore, the location of the houses cannot be cited as a ground for rejecting the consent application.

d) It is submitted that with reference to distance of 40 metres from the Sadayalpatti area of Kodangipatti Revenue village is concerned, the product manufactured by the Appellant is not hazardous and the emission let out is not obnoxious and would not result in health hazard to the general public. All acoustic measures have been proposed to prevent pollution in any form. Solar plan feed tank and Elevated solar evaporation pan have been proposed in the Unit. The trade effluent is proposed to be disposed through solar evaporation pans. Therefore, the establishment of the Unit will not be a threat to the residents of Sadayalpatti area of Kodangipatti Revenue Village.

e) It is submitted that the 2<sup>nd</sup> Respondent has not taken into consideration the various details furnished by the Appellant in the application submitted seeking consent for establishment and there is no reference as to the same in the impugned order. On this ground also, the order impugned is liable to be set aside.

10) Under the above circumstances, left with no other efficacious remedy, the Appellant is constrained to approach this Hon'ble Authority for the relief sought therein. There is no justification whatsoever on the part of the Respondent Board in rejecting the application seeking consent for establishment. The reasons given thereunder are not germane and extraneous. At the risk of repetition, the construction of the three houses

referred to in the impugned order are unauthorized and approval has been obtained for putting up the construction. That apart, the Appellant had obtained necessary sanction/sanction for putting up the construction in terms of the Government Order dated 04.05.2017. Therefore, there can be impediment for the Respondent to grant consent for establishment of the Unit.

11. It is further stated that the manufacturing of jaggery products are not hazardous and the pollution control measures are proposed to be placed in the unit. The manufacturing of the jaggery products will not cause any health hazard to the residents of Sadayalpatti Village. The impugned order also do not spell out as to how the location of the three houses and the location of the unit at a distance of 40 meters from the Sadayalpatti Village will be affected if consent for establishment is granted. In the absence of the same, there is no justification on the part of the Respondent Board to reject the consent application.

12. Under the above circumstances, unless and until appropriate orders are passed by this Hon'ble Authority, the interest of the Appellant will be seriously jeopardized.

For all the foregoing reasons, it is prayed that this Hon'ble Authority may be pleased to set aside the communication of the 2<sup>nd</sup> Respondent bearing Proc. No.F.0836TEN/OS/DEE/TNPCB/25/W&A/2021 dated 29.01.2021 and consequently direct the Respondents to grant consent to the

Appellant for establishment of the Unit at S.F.No.892/3A, Kodankipatti Village, Bodi Taluk, Theni District, PIN – 625 534 for manufacturing of 80 tons per month of Jaggery Powder and 40 tons per month of Jaggery Blocks and pass such further or other orders as this Hon'ble Authority may deem fit and proper in the circumstances of the case and render justice.

Dated at Madras this the 15<sup>th</sup> day of February 2021

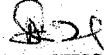
Counsel for Appellant

  
Appellant

**VERIFICATION**

I, Sivamurugeswara Pandian.N, Managing Partner, M/s. GKN Food Products and having the place of work at S.F.No.892/3A, Sadayalpatti Kodankipatti Village, Bodi Taluk, Theni District, PIN – 625 531 do hereby verify the statements made in the above paragraph Nos.1 to 11 and the grounds are true to the best of my knowledge and I have not suppressed and material facts.

Dated at Chennai this the    day of February 2021

  
Sivamurugeswara Pandian.N

**BEFORE THE APPELLATE AUTHORITY  
TAMIL NADU POLLUTION CONTROL BOARD, CHENNAI**

**Appeal No. 10 & 11 of 2021**

M/s. GKN Food products  
A Partnership Firm  
Rep by its Managing Partner  
Mr. SivamuruganPandian.N  
S.F.No. 892/3A, Sadayalpatti  
Kodankipatti Village, Bodi Taluk  
Theni District- 625 534

TNPcB

...Appellant

-Vs-

1. The Tamil Nadu Pollution Control Board  
Rep. by its Chairman  
No. 76, Anna Salai, Guindy  
Chennai – 600 032
2. The District Environmental Engineer  
Tamilnadu Pollution Control Board  
Door No.151/14, 12A/3, SAR Complex  
Boothipuram Road  
Theni District-625 531

...Respondents

**REPLY AFFIDAVIT FILED ON BEHALF OF THE RESPONDENTS**

**TAMIL NADU POLLUTION CONTROL BOARD**

I, G. Gopalakrishnan, Son of Thiru.V. Gandhi, Hindu, aged about 58 years, having office at No.76, Mount Salai, Guindy, Chennai 600 032 do hereby solemnly affirm and sincerely state as follows:

1. I am the Joint Chief Environmental Engineer, Tamil Nadu Pollution Control Board, Chennai and I am filing this Reply Affidavit on behalf of the –Respondents 1<sup>st</sup> & 2<sup>nd</sup> and as such I am well acquainted with the facts of the case from the records. The answering Respondents deny all the averments contained in the Appeal except those that are specifically admitted hereinafter. None of the allegations contained in the said Appeal shall be deemed to be admitted merely for want of a specific denial/traverse.

2. Before responding to the averments contained in the Appeal, the answering Respondents submits the brief facts of the case for appreciation of this Hon'ble Appellate Authority.
3. It is respectfully submitted that the unit, M/s GKN Food Products, S.F. No. 892/3A of Kodankipatti Village, Bodinaickkaur Taluk, Theni District is a proposed jaggery powder and jaggery cake manufacturing unit applied for "Consent To Establishment" of the Tamil Nadu Pollution Control Board vide OCMMS Application No. 35115377 dated:10/10/2020. The application was returned to the unit and then the unit resubmitted the application on 04.12.2020.
4. It is respectfully submitted that subsequently, the unit was inspected on 16.12.2020 and found that the unit has established an industrial shed and office buildings without obtaining prior consent of the Board to establish their industrial plant as required under section 25 of the Water (Prevention and Control of Pollution) Act 1974 as amended and Air (Prevention and Control of Pollution) Act 1981 as amended. I state that therefore show cause notice was issued to the unit on 22.12.2020 for establishing an industry without obtaining consent of Board.
5. It is respectfully submitted that the unit has submitted their regrets for not obtaining CTE vide their letter dated 24/12/2020 and stated that they have not installed any machinery and assured that they will start any further activity after obtaining CTE of Board and the unit was again inspected on 18.01.2021 and the followings were observed.
  - i) The unit has installed 5 numbers of reaction vessels, cooling tower in the industrial shed and the civil works for the construction of foundation for the erection of boiler and stack were found under progress.
  - ii) The unit has undertaken the construction of their industry in an agricultural land which is surrounded by agriculture lands on the North, Kodangipatti - Sadayalpatti village road followed by agricultural land on the East. Sadayalpatti village having population nearly about 500 to 600 is situated on

southern side at a distance of 40 m from the unit's premises. Three houses with built up area of approximately 250 - 350 sq.feet are located on western side of the unit premises.

6. It is respectfully submitted that the unit site is located in the Non-planned area with respect to the land use classification made by the Directorate of Town and Country Planning Department vide letter dated 09.11.2020 issued by the Assistant Director, Directorate of Town and Country Planning, Theni.
7. It is respectfully submitted that in general the waste water letting out from sugar/Jaggery mill having very high Biological Oxygen Demand (BOD) and Chemical Oxygen Demand (COD) and considerable amount of chlorides, nitrates, would have an adverse impact on aquatic life, render the receiving water unfit for drinking and domestic purposes and reduce crop yields if used for irrigation and that the effluent from such units has an obnoxious odour and which could cause serious nuisance to the nearby habitations those who are enjoying the clean and peaceful environment at present.
8. It is respectfully submitted that the subject for the issue of Consent to establish was deliberated in details in the District Level Consent Committee meeting held on 27.01.2021. I state that as per the decision of the Committee, the unit's application for the "Consent To Establishment" was rejected for the reasons as stated below and the same was communicated to the Managing Partner of the unit vide DEE office proceeding No F.0836TEN/OS/DEE/TNPCB/25/W&A/2021 Dated on 29.01.2021.
  - I) The unit started its construction activities to establish their industrial plant in an Agricultural land without obtaining "Consent To Establishment" of the Board.
  - II) The unit has not furnished any approved building plan/building permit obtained from Competent Authority to establish the industry, at S.F.No. 892/3A of Kodangipatti Village, Bodinaickanur Taluk, Theni District, which is a non-planned area as per the letter issued by the Assistant Director, Directorate of Town and Country Planning, Theni dated 09/11/2020

III) The unit's site is located adjacent to three numbers of houses with a build-up area of approximately 250 – 350 sq.feet each, on western side, and a distance of 40 m from the Sadayalpatti area of Kodangipatti revenue village on southern side, which is having population of nearly about 500 numbers.

It is respectfully submitted that the present appeal has been filed by the unit before the Hon'ble Appellate Authority against order issued by the Tamil Nadu Pollution Control Board for the rejection of units application seeking "Consent To Establishment".

**PARAWAR REMARKS:-**

<b>Para 1 to 4</b>	No remarks
<b>Para 5</b>	As per Assistant Director, Directorate of Town and Country Planning, Theni's letter dated 09/11/2020, the location of the unit is falls under "Non-planned area". But, the unit has not furnished approved building plan obtained from Competent Authority.
<b>Para 6 &amp; 7</b>	In general the waste water letting out from sugar/Jaggery mill having very high Biological Oxygen Demand (BOD) and Chemical Oxygen Demand (COD and considerable amount of chlorides, nitrates, would have an adverse impact on aquatic life, render the receiving water unfit for drinking and domestic purposes and reduce crop yields if used for irrigation. Moreover the effluent from such units has an obnoxious odour and which could cause serious nuisance to the nearby habitations those who are enjoying the clean and peaceful environment at present.
<b>Para 8 &amp; 9</b>	No Remarks
<b>Grounds (a)</b>	No Remarks
<b>Grounds (b)</b>	As per Assistant Director, Directorate of Town and Country Planning, Theni's letter dated 09/11/2020, the location of the unit is falls under "Non-planned area". But, the unit has not furnished approved building plan obtained from Competent Authority.

<b>Grounds (c) &amp; (d)</b>	In general the waste water letting out from sugar/Jaggery mill having very high Biological Oxygen Demand (BOD) and Chemical Oxygen Demand (COD and considerable amount of chlorides, nitrates, would have an adverse impact on aquatic life, render the receiving water unfit for drinking and domestic purposes and reduce crop yields if used for irrigation. Moreover the effluent from such units has an obnoxious odour and which could cause serious nuisance to the nearby habitations those who are enjoying the clean and peaceful environment at present.
<b>Grounds (e)</b>	No Remarks
<b>Para 10 &amp; 11</b>	In general the waste water letting out from sugar/Jaggery mill having very high Biological Oxygen Demand (BOD) and Chemical Oxygen Demand (COD and considerable amount of chlorides, nitrates, would have an adverse impact on aquatic life, render the receiving water unfit for drinking and domestic purposes and reduce crop yields if used for irrigation. Moreover the effluent from such units has an obnoxious odour and which could cause serious nuisance to the nearby habitations those who are enjoying the clean and peaceful environment at present.
<b>Para 12</b>	No Remarks
<b>Prayer</b>	No Remarks

For the reasons stated above, it is therefore prayed that this Hon'ble Appellate Authority may be pleased to dismiss the Appeal and pass such order or other orders as this Hon'ble Appellate Authority may deem fit and necessary in the circumstances of the case and thus render justice.

*G. Govindarajan 15/4/2021*  
 JOINT CHIEF ENVIRONMENTAL ENGINEER  
 TAMILNADU POLLUTION CONTROL BOARD  
 No.70, MOUNT SALAI, CHENNAI-600 032.

**BEFORE ME**

Solemnly affirmed at Chennai  
 On this the        day of April 2021  
 And signed his name in my presence

**BEFORE THE HON'BLE APPELLATE  
AUTHORITY – TAMIL NADU POLLUTION  
CONTROL BOARD**

**Appeal No. 10 & 11 of 2021**

M/s. GKN Food products  
A Partnership Firm  
Rep by its Managing Partner  
Mr. SivamuruganPandian.N  
S.F.No. 892/3A, Sadayalpatti  
Kodankipatti Village, Bodi Taluk  
Theni District- 625 534

...Appellant

-Vs-

1. The Tamil Nadu Pollution Control Board  
Rep. by its Chairman  
No. 76, Anna Salai, Guindy  
Chennai – 600 032
  
2. The District Environmental Engineer  
Tamil Nadu Pollution Control Board  
Door No.151/14, 12A/3, SAR Complex  
Boothipuram Road,  
Theni District- 625 531

...Respondents

**REPLY AFFIDAVIT FILED ON BEHALF OF THE  
RESPONDENTS TAMIL NADU POLLUTION  
CONTROL BOARD, CHENNAI**

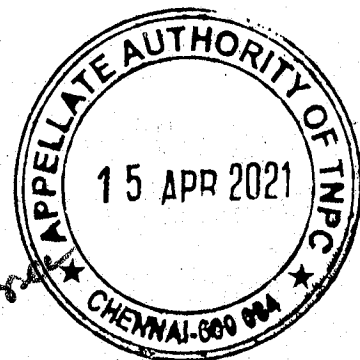
**Tmt/Thiru: Naveenkumar Murthy, Advocate  
for Respondent Board Standing  
Counsel, TNPCB**

**Dated: .04.2021**

BEFORE THE APPELLATE AUTHORITY  
TAMIL NADU POLLUTION CONTROL, CHENNAI

I.A.No. 61 of 2021  
in

Appeal No. 10 of 2021



Rajshree Sugars & Chemicals Limited,  
Unit-1, Varadaraj Nagar,  
Periyakulam Taluk,  
Theni District 625 562

...Applicant / Proposed Respondent

Versus

1. M/s. GKN Food Products,  
A Partnership Firm,  
Rep. by its Managing Partner,  
Mr. Sivamurugeswara Pandian.N.  
S.F.No.892/3A, Sadayalpatti,  
Kodankipatti Village, Bodi Taluk,  
Theni District  
Pin 625 534

... Respondent/ Appellant

2. The Tamil Nadu Pollution Control Board  
Rep. by its Chairman,  
100, Anna Salai, Guindy  
Chennai 600 0032

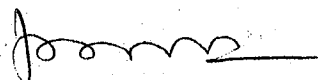
3. The District Environmental Engineer  
Tamil Nadu Pollution Control Board  
Door NO.151/14, 12A/3, SAR Complex,  
Boothipuram Road,  
Theni District 625 531

...Respondents/ Respondents

**AFFIDAVIT OF M.THANGATHIRUPPATHI**

I, M.Thangathiruppathi, S/o T.Mookiah, aged about 55 years,  
working as Depy.General Manager- Corporate IR, M/s Rajshree

For RAJSHREE SUGARS & CHEMICALS LTD.

  
M. THANGA THIRUPPATHI  
Dy. General Manager - IR

116

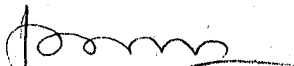
Sugars & Chemicals Limited, the Applicant herein situate at Unit-1, Varadaraj Nagar, Periyakulam Taluk, Theni District 625 562 do hereby solemnly affirm and sincerely state as follows:

1. I submit that the above Appeal has been filed by the 1st Respondent challenging the order dated 29.01.2021 passed by the Respondent Board rejecting the Application for Consent for Establishment made by the 1st Respondent to put up their jaggery manufacturing unit in Sadayalpatti Village, Bodinayakanur Theni District.

2. The Applicant states that they are involved in manufacturing White Crystal Sugar Organic Manure and Generation of power. The taluks of Theni Periyakulam Andipatty, Bodinayakanur and Uthamapalayam of Theni District and part of Usilampatty and Peraiyur Taluks of Madurai District are declared as reserved area for our factory by the Government of Tamil Nadu under Clause (6) of the Sugarcane Control Order 1966 vide Proceedings dated 02.09.1987, 17.05.1988 and 21.06.1991 issued by the Director of Sugar and Cane Commissioner, Tamil Nadu. Under the circumstances, in the reserved area no other person is permitted to manufacture gur(Jaggery) or Khandasari sugar or sugar without a license from Central Government as per the provisions of the Sugarcane Control Order.

3. The Applicant states in the instant case, the 1st Respondent has been setting up machineries, etc, in the afore mentioned place at Sadayalpatti Village, Bodinayakanur without

For RAJSHREE SUGARS & CHEMICALS LTD.


  
M. THANGA THIRUPATHI  
Dy. General Manager - IR

obtaining any license from the Commissioner of Sugar, Chennai or from the Central Government. The Applicant has also sent representations dated 25.06.2020, 17.12.2020 and 26.03.2021 to the Commissioner of Sugar Chennai, complaining about the setting up of the industry by the 1st Respondent without obtaining any statutory clearances. The Applicant has been awaiting further action from the authorities in this regard.

4. The Applicant states that while so, it has come to the knowledge of the Applicant that the 1st Respondent had approached the TNPCB for grant of Consent to Establish its unit and the same has been rejected by the TNPCB by order dated 29.01.2021. The Applicant understands that the said order dated 29.01.2021 has been challenged in the present appeal before this Hon'ble Authority. The Applicant is operating their sugar manufacturing unit with all statutory licenses as stated above in the area that has been declared as reserved area for the factory run by the Applicant. Therefore, the 1st Respondent is not legally entitled to set up its factory within the reserved area of the Applicant M/s.Rajshree Sugars & Chemicals Limited.

5. Under the circumstances, the Applicant is vitally interested in the outcome of the present Appeal. The Applicant has all necessary documents and other materials to place before this Hon'ble Authority to show that the 1st Respondent is not entitled to any relief from this Hon'ble Authority. It is therefore just and necessary that the Applicant is impleaded as a party Respondent to the above Appeal in order to have an opportunity of being heard in the Appeal before final orders are passed. No

For RAJSHREE SUGARS & CHEMICALS LTD.


  
M. THANGA THIRUPPATHI  
Dv. General Manager - IR

118

prejudice would be caused to the 1st Respondent if the Applicant is impleaded as a party to the proceedings.

In the interest of justice, it is therefore prayed that this Hon'ble Authority may be pleased to permit the Applicant to be impleaded as a Party Respondent in the Appeal No.10/2021 and permit the Applicant to place all their objections along with relevant records for effective adjudication of the case and thus render justice.

For RAJSHREE SUGARS & CHEMICALS LTD.

  
M. THANGA THIRUPATHI  
Dy. General Manager - IR

BEFORE ME

Solemnly affirmed at Chennai on this  
the 15th day of April 2021 and  
signed her name in my presence

ADVOCATE: CHENNAI

**BEFORE THE APPELLATE AUTHORITY  
TAMIL NADU POLLUTION CONTROL, CHENNAI**

I.A.No.

of 2021

in

Appeal No. 10 of 2021

Rajshree Sugars & Chemicals Limited,  
Unit-1, Varadaraj Nagar,  
Periyakulam Taluk,  
Theni District 625 562

...Applicant / Proposed Respondent  
Versus

1. M/s. GKN Food Products,  
A Partnership Firm,  
Rep. by its Managing Partner,  
Mr. Sivamurugeswara Pandian.N.  
S.F.No.892/3A, Sadayalpatti,  
Kodankipatti Village, Bodi Taluk,  
Theni District  
Pin 625 534 ... Respondent/ Appellant
2. The Tamil Nadu Pollution Control Board  
Rep. by its Chairman,  
100, Anna Salai, Guindy  
Chennai 600 0032
3. The District Environmental Engineer  
Tamil Nadu Pollution Control Board  
Door NO.151/14, 12A/3, SAR Complex,  
Boothipuram Road,  
Theni District 625 531 ... Respondents/ Respondents

**PETITION TO IMPLEAD**

For the reasons stated in the accompanying Affidavit, it is humbly prayed that this Hon'ble Authority may be pleased to permit the Applicant to be impleaded as a Party Respondent in the Appeal No.10/2021 and permit the Applicant to place all their objections along with relevant records for effective adjudication of the case and thus render justice.

Dated at Chennai on this the    day of April 2021

**COUNSEL FOR APPLICANT/  
PROPOSED RESPONDENT**

BEFORE THE APPELLATE  
AUTHORITY  
TAMIL NADU POLLUTION  
CONTROL, CHENNAI

120

I.A.No. \_\_\_\_\_ of 2021  
in

Appeal No. 10 of 2021

Rajshree Sugars & Chemicals Limited,  
Unit-1, Varadaraj Nagar,  
Periyakulam Taluk,  
Theni District 625 562

...Applicant /Proposed Respondent

Versus

M/s. GKN Food Products,  
A Partnership Firm,  
Rep. by its Managing Partner,  
Mr. Sivamurugeswara Pandian.N.  
S.F.No.892/3A, Sadayalpatti,  
Kodankipatti Village, Bodi Taluk,  
Theni District 625 534 & 2 others

... Respondent/ Appellant

**PETITION TO IMPLEAD**

M/s. V. SUTHAKAR-R.No.636/1988  
K.S. VISWANATHAN-R.No.656/1988  
T.HEMALATHA-R.No.2021/2008

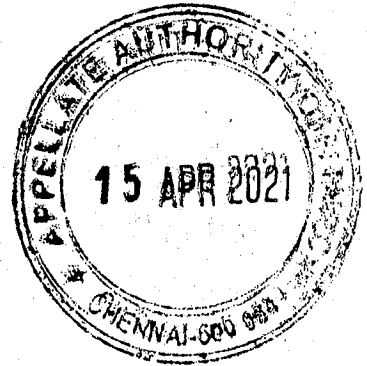
**COUNSEL FOR APPLICANT/  
PROPOSED RESPONDENT**  
9840080610 & 9940294233

*Rajshree*

**BEFORE THE APPELLATE AUTHORITY  
TAMIL NADU POLLUTION CONTROL, CHENNAI**

I.A.No. 62 of 2021  
in

Appeal No. 11 of 2021



Rajshree Sugars & Chemicals Limited,  
Unit-1, Varadaraj Nagar,  
Periyakulam Taluk,  
Theni District 625 562

...Applicant / Proposed Respondent

Versus

1. M/s. GKN Food Products,  
A Partnership Firm,  
Rep. by its Managing Partner,  
Mr. Sivamurugeswara Pandian.N.  
S.F.No.892/3A, Sadayalpatti,  
Kodankipatti Village, Bodi Taluk,  
Theni District  
Pin 625 534

... Respondent/ Appellant

2. The Tamil Nadu Pollution Control Board  
Rep. by its Chairman,  
100, Anna Salai, Guindy,  
Chennai 600 0032

3. The District Environmental Engineer  
Tamil Nadu Pollution Control Board  
Door NO.151/14, 12A/3, SAR Complex,  
Boothipuram Road,  
Theni District 625 531

... Respondents/ Respondents

**AFFIDAVIT OF M.THANGATHIRUPPATHI**

I, M.Thangathiruppathi, S/o T.Mookiah, aged about 55 years,  
working as Depy.General Manager- Corporate IR, M/s Rajshree

For RAJSHREE SUGARS & CHEMICALS LTD.

*M. Thangathiruppathi*  
M. THANGA THIRUPPATHI  
By. General Manager - IR

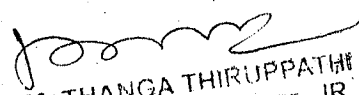
Sugars & Chemicals Limited, the Applicant herein situate at Unit-1, Varadaraj Nagar, Periyakulam Taluk, Theni District 625 562 do hereby solemnly affirm and sincerely state as follows:

1. I submit that the above Appeal has been filed by the 1st Respondent challenging the order dated 29.01.2021 passed by the Respondent Board rejecting the Application for Consent for Establishment made by the 1st Respondent to put up their jaggery manufacturing unit in Sadayalpatti Village, Bodinayakanur Theni District.

2. The Applicant states that they are involved in manufacturing White Crystal Sugar Organic Manure and Generation of power. The taluks of Theni Periyakulam Andipatty, Bodinayakanur and Uthamapalayam of Theni District and part of Usilampatty and Peraiyur Taluks of Madurai District are declared as reserved area for our factory by the Government of Tamil Nadu under Clause (6) of the Sugarcane Control Order 1966 vide Proceedings dated 02.09.1987, 17.05.1988 and 21.06.1991 issued by the Director of Sugar and Cane Commissioner, Tamil Nadu. Under the circumstances, in the reserved area no other person is permitted to manufacture gur(Jaggery) or Khandasari sugar or sugar without a license from Central Government as per the provisions of the Sugarcane Control Order.

3. The Applicant states in the instant case, the 1st Respondent has been setting up machineries, etc, in the afore mentioned place at Sadayalpatti Village, Bodinayakanur without

FOR RAJSHREE SUGARS & CHEMICALS LTD.


  
M. THANGA THIRUPATHI  
Dy. General Manager - IR

obtaining any license from the Commissioner of Sugar, Chennai or from the Central Government. The Applicant has also sent representations dated 25.06.2020, 17.12.2020 and 26.03.2021 to the Commissioner of Sugar Chennai, complaining about the setting up of the industry by the 1st Respondent without obtaining any statutory clearances. The Applicant has been awaiting further action from the authorities in this regard.

4. The Applicant states that while so, it has come to the knowledge of the Applicant that the 1st Respondent had approached the TNPCB for grant of Consent to Establish its unit and the same has been rejected by the TNPCB by order dated 29.01.2021. The Applicant understands that the said order dated 29.01.2021 has been challenged in the present appeal before this Hon'ble Authority. The Applicant is operating their sugar manufacturing unit with all statutory licenses as stated above in the area that has been declared as reserved area for the factory run by the Applicant. Therefore, the 1st Respondent is not legally entitled to set up its factory within the reserved area of the Applicant M/s.Rajshree Sugars & Chemicals Limited.

5. Under the circumstances, the Applicant is vitally interested in the outcome of the present Appeal. The Applicant has all necessary documents and other materials to place before this Hon'ble Authority to show that the 1st Respondent is not entitled to any relief from this Hon'ble Authority. It is therefore just and necessary that the Applicant is impleaded as a party Respondent to the above Appeal in order to have an opportunity of being heard in the Appeal before final orders are passed. No

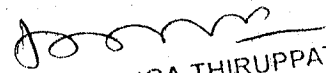
For RAJSHREE SUGARS & CHEMICALS.LTD.

  
M. THANGA THIRUPPATHI  
Dy. General Manager - IR

prejudice would be caused to the 1st Respondent if the Applicant is impleaded as a party to the proceedings.

In the interest of justice, it is therefore prayed that this Hon'ble Authority may be pleased to permit the Applicant to be impleaded as a Party Respondent in the Appeal No.10/2021 and permit the Applicant to place all their objections along with relevant records for effective adjudication of the case and thus render justice.

For RAJSHREE SUGARS & CHEMICALS LTD.

  
M. THANGA THIRUPATHI  
Dy. General Manager - IR

BEFORE ME

Solemnly affirmed at Chennai on this  
the 15th day of April 2021 and  
signed her name in my presence

ADVOCATE: CHENNAI

**BEFORE THE APPELLATE AUTHORITY  
TAMIL NADU POLLUTION CONTROL, CHENNAI**

I.A.No. \_\_\_\_\_ of 2021  
in

**Appeal No. 11 of 2021**

Rajshree Sugars & Chemicals Limited,  
Unit-1, Varadaraj Nagar,  
Periyakulam Taluk,  
Theni District 625 562

...Applicant /Proposed Respondent  
Versus

1. M/s. GKN Food Products,  
A Partnership Firm,  
Rep. by its Managing Partner,  
Mr. Sivamurugeswara Pandian.N.  
S.F.No.892/3A, Sadayalpatti,  
Kodankipatti Village, Bodi Taluk,  
Theni District  
Pin 625 534 ... Respondent/ Appellant
2. The Tamil Nadu Pollution Control Board  
Rep. by its Chairman,  
100, Anna Salai, Guindy  
Chennai 600 0032
3. The District Environmental Engineer  
Tamil Nadu Pollution Control Board  
Door NO.151/14, 12A/3, SAR Complex,  
Boothipuram Road,  
Theni District 625 531 ...Respondents/ Respondents

**PETITION TO IMPLEAD**

For the reasons stated in the accompanying Affidavit, it is humbly prayed that this Hon'ble Authority may be pleased to permit the Applicant to be impleaded as a Party Respondent in the Appeal No.10/2021 and permit the Applicant to place all their objections along with relevant records for effective adjudication of the case and thus render justice.

Dated at Chennai on this the \_\_\_\_\_ day of April 2021

**COUNSEL FOR APPLICANT/  
PROPOSED RESPONDENT**

BEFORE THE APPELLATE  
AUTHORITY  
TAMIL NADU POLLUTION  
CONTROL, CHENNAI

I.A.No. \_\_\_\_\_ of 2021  
in

Appeal No. 11 of 2021

Rajshree Sugars & Chemicals Limited,  
Unit-1, Varadaraj Nagar,  
Periyakulam Taluk,  
Theni District 625 562  
...Applicant /Proposed Respondent

Versus

M/s. GKN Food Products,  
A Partnership Firm,  
Rep. by its Managing Partner,  
Mr. Sivamurugeswara Pandian.N.  
S.F.No.892/3A, Sadayalpatti,  
Kodankipatti Village, Bodi Taluk,  
Theni District 625 534 & 2 others  
... Respondent/Appellant

*tlc*

PETITION TO IMPLEAD

M/s. V. SUTHAKAR-R.No.636/1988  
K.S. VISWANATHAN-R.No.656/1988  
T.HEMALATHA-R.No.2021/2008

COUNSEL FOR APPLICANT/  
PROPOSED RESPONDENT  
9840080610 & 9940294233

**BEFORE THE APPELLATE AUTHORITY  
TAMIL NADU POLLUTION CONTROL, CHENNAI**

**Appeal Nos. 10 and 11 of 2021**

M/s. GKN Food Products,  
A Partnership Firm,  
Rep. by its Managing Partner,  
Mr. Sivamurugeswara Pandian.N.  
S.F. No.892/3A, Sadayalpatti,  
Kodangipatti Village, Bodi Taluk,  
Theni District Pin 625 534.

...Appellant

-Vs-

The Tamil Nadu Pollution Control Board  
Rep. by its Chairman,  
100, Anna Salai, Guindy  
Chennai - 600 032 and 2 others

...Respondents

**REPLY AFFIDAVIT FILED ON BEHALF OF THE APPELLANT**

I, Sivamurugeswara Pandian, son of G.K.Narayanasamy, Hindu, aged about 40 years, having my place of work at S.F.No.892/3A, Sadayalpatti Kodangipatti Village, Bodi Taluk, Theni District, do hereby solemnly affirm and sincerely state as follows:-

1. I am the Appellant in the above Appeals and am well acquainted with the facts of the case. The subject matter of challenge in the present appeal relates to rejection of application submitted by the Appellant seeking consent for establishment.

2. I submit that the 3<sup>rd</sup> Respondent herein filed a petition seeking to implead itself as a party respondent in the appeals and the impleading petition was ordered by this Hon'ble Authority. The 3<sup>rd</sup> Respondent sought



to implead to itself as a party respondent interalia stating that the Appellant is not legally entitled to set up its factory within its reserved area. It is the case of the 3<sup>rd</sup> Respondent that it is operating the sugar manufacturing in the area that has been declared as a reserved area for the factory run by it.

3. I respectfully state that in exercise of powers conferred by Section 3 of the Essential Commodities Act, 1955, the Central Government enacted Sugarcane (Control) Order, 1966 in order to fix the minimum price of sugarcane to be paid by the producers of sugar or their agents for the sugarcane purchased by them having regard to the cost of production of sugarcane and other factors. I state that as per Clause 7(b)(ii) of the Sugarcane (Control) Order, 1966, in a reserved area, no sugarcane or sugarcane juice shall be purchased for crushing or for manufacture of gul, shakkar, jaggery rab or khandsari sugar by a crusher not belonging to a grower or body of growers of sugarcane or by a khandsari unit in the area.

4. I state that an amendment was introduced to Sugarcane (Control) Orders, 1966 with the promulgation of Sugarcane (Control)(Amendment) Order, 2007 with effect from 31.07.2007 as per which the words "gur, gul, jaggery" contained in Clause 7(b)(ii) of the Sugarcane (Control) Orders, 1966 was ordered to be omitted, thus paving way for a crusher not belonging to a body of growers of sugarcane to purchase sugarcane or sugarcane juice in a reserved area. Therefore the 3<sup>rd</sup> Respondent cannot have monopoly in the matter of purchase of sugarcane or sugarcane juice in a reserved area. In view of the coming into force of Sugarcane (Control) (Amendment) Order, 2007, amending Clause 7 of the Sugarcane (Control)

Rules, 1966, the 3<sup>rd</sup> Respondent do not have locus standi to contend that the Appellant is not entitled to set up its factory within its reserved area. Nor does the 3<sup>rd</sup> Respondent have locus to intervene in the appeal filed by me challenging the order of the 2<sup>nd</sup> Respondent.

5. I state that in the counter affidavit filed on behalf of the 2<sup>nd</sup> Respondent, it has been stated that the unit has not furnished any building plan from the competent authorities for establishing the unit. In this regard, I state that the Unit site is located in a non-planned area as per the letter issued by the Assistant Director of Town and Country Planning dated 19.01.2020. There is no ban for establishing industries in a non-planned area. It has been averred in the counter affidavit that there are Houses (3 Nos.) within distance of 40 meters from the Sadayalpatti area of Kodangipatti revenue having population 500 Nos. In this regard, I state that the houses have been constructed in an unapproved lay out in respect of which I have already filed the Certificate issued by the President, Kodangipatti Panchayat wherein it has been stated that the houses situate in S.No.893/9 has been constructed without prior approval or permission. The Respondent Board ought to have considered the said fact and erred in rejecting the application citing the location of the houses.

6. I respectfully state that I unconditionally undertake to comply with any norms prescribed by the Board from time-to-time after the grant of Consent for Establishment by the Board.



For the reasons stated above, it is therefore prayed that this Hon'ble Tribunal may be pleased to pass appropriate orders in allowing the appeal and thus render justice.

Solemnly affirmed at Madras  
this the      day of April 2021  
and signed his name in my  
presence

  
BEFORE ME,

Advocate: Chennai

**BEFORE THE APPELLATE AUTHORITY  
TAMIL NADU POLLUTION CONTROL, CHENNAI**

**Appeal No. 10 of 2021**

1. M/s. GKN Food Products,  
A Partnership Firm,  
Rep. by its Managing Partner,  
Mr. Sivamurugeswara Pandian.N.  
S.F.No.892/3A, Sadayalpatti,  
Kodankipatti Village, Bodi Taluk,  
Theni District  
Pin 625 534

*Rajshree*

...Appellant

Versus

1. The Tamil Nadu Pollution Control Board  
Rep. by its Chairman,  
100, Anna Salai, Guindy  
Chennai 600 0032
2. The District Environmental Engineer  
Tamil Nadu Pollution Control Board  
Door NO.151/14, 12A/3, SAR Complex,  
Boothipuram Road,  
Theni District 625 531
3. Rajshree Sugars & Chemicals Limited,  
Unit-1, Varadaraj Nagar,  
Periyakulam Taluk,  
Theni District 625 562

.... Respondents

**COUNTER AFFIDAVIT FILED ON BEHALF OF THE 3RD  
RESPONDENT**

I, M.Thangathiruppathi, S/o T.Mookiah, aged about 55 years, working as Depy.General Manager- Corporate IR, M/s Rajshree Sugars & Chemicals Limited, the Applicant herein situate at Unit-1, Varadaraj Nagar, Periyakulam Taluk, Theni

For RAJSHREE SUGARS & CHEMICALS LTD.

*M. Thangathiruppathi*  
M. THANGA THIRUPPATHI  
By General Manager - IR

District 625 562 do hereby solemnly affirm and sincerely state as follows:

1. I am the authorized signatory of the 3rd Respondent and well acquainted with the facts of the case.
2. I have read the Appeal filed on behalf of the Appellant and I deny the correctness of the averments made therein except those that are specifically admitted here under.
3. I state that the 3rd Respondent has been impleaded as a Party Respondent to the proceedings after the impleadment application filed by the 3rd Respondent was allowed by this Hon'ble Authority.
4. At the outset it is submitted that the Appeal filed by the Appellant challenging the order of rejection of consent dated 29.01.2021 is not maintainable either in law or on facts.
5. First of all, the Appellant has commenced construction to set up a Khandasari complex in the guise of an industrial unit for manufacturing Jaggery powder on a large scale in S.No. 892/3A Kodangipatti Village, Bodinaickanur Taluk, Theni District without obtaining the prior permission of the Town and Country Planning Authorities or the Pollution Control Board. Therefore, the Respondent Board is right in rejecting the consent Application of the Appellant in as much as the basic

requirements for obtaining consent have not been complied with by the Appellant.

6. It is submitted that the 3rd respondent is a sugar industry involved in the manufacturing White Crystal Sugar, Organic Manure and Generation of power. The taluks of Theni Periyakulam Andipatty, Bodinayakanur and Uthamapalayam of Theni District and part of Usilampatty and Peraiyur Taluks of Madurai District are declared as reserved area for their factory by the Government of Tamil Nadu under Clause (6) of the Sugarcane Control Order 1966 vide Proceedings dated 02.09.1987, 17.05.1988 and 21.06.1991 issued by the Director of Sugar and Cane Commissioner, Tamil Nadu. Under the circumstances, in the reserved area, no other person is permitted to manufacture gur(Jaggery) or Khandasari sugar or sugar without a license from Central Government as per the provisions of the Sugarcane Control Order.

7. It is submitted that in the instant case, the Appellant has been setting up machineries, etc, in the reserved area at Sadayalpatti Village, Bodinayakanur without obtaining any license from the Commissioner of Sugar, Chennai or from the Central Government. The Applicant has also sent representations dated 25.06.2020, 17.12.2020 and 26.03.2021 to the Commissioner of Sugar Chennai, complaining about the setting up of the industry by the Appellant without obtaining any statutory clearances. The Applicant has been awaiting further action from the authorities in this regard.

8. It is submitted that the 3rd Respondent is operating their unit with all statutory license as stated above in the area that has been declared as reserved area for the sugar factory established and run by the 3rd Respondent. Once the Government has declared a particular area as "reserved area" under the Sugarcane (Control) Order 1966 as amended up to date, no other person is entitled to set up the factory within the said reserved area. In the instant case the Appellant is putting up a huge Khandasari Complex under the guise of a Jaggery manufacturing unit. Such a unit cannot be established unless special permission is obtained under the provisions of the Sugarcane Control Order.

9. The Appellant in their Reply Affidavit to the impleading petition have stated that an amendment has been issued to Sugarcane (Control) Order 1966 in the year 2007 by which the words "Gur, Gul, and Jaggery" contained in Class 7(b) (ii) of the Sugarcane (Control) Order 1966 was ordered to be omitted and therefore it is open to the Appellant to set up their unit in the reserved area. It is submitted that such a contention is unsustainable for the following reasons.

*Sugar Factory not Jaggery*  
 The reserved area that was allotted to the 3rd Respondent is prior to any amendment issued on 31.07.2007 and considering the amendment is not retrospective in operation, the Appellant cannot be permitted to set up their unit in the reserved area already allotted to the 3rd Respondent.

- b) Sugar Industry is a highly regulated industry by both Central and State Acts. The words used in common parlance like Jaggery, Khandasari, Rab, Gur etc are purely nomenclature that are referable only to the quantity of manufacturing and not the method or process of manufacturing.
- c) Sugarcane is a basic raw material for producing Jaggery also and therefore the Appellant cannot violate the rules relating to the reserved area for the purpose of establishing their Jaggery Unit. The amendment issued on 31.07.2007 was intended to support cottage industries <sup>growers of sugarcane</sup> ~~making Jaggery~~ and not huge industries like the one established by the Appellant. Upon careful reading of Class 7 (c) of the Sugarcane (Control) order, it can be found that the Central Government is empowered to ~~direct the owner~~ or other person in charge of a Khandasari Unit in a reserved area to shift to a place outside the reserved area.
- d) The Government of Tamil Nadu has passed Tamil Nadu Sugarcane (Regulation of Purchase) Act 2018 primarily for the purpose of Regulation of Revenue share price. Under Section 12 of the Act it has been specifically provided that the Sugarcane growers shall sell sugarcane only to the factory to which the area has been reserved. No person other than the

factory afore mentioned shall purchase the sugarcane grown by the sugarcane growers except by agreement. Therefore, the Appellant is not entitled to buy sugarcane from any of the sugarcane growers in the reserved area allotted to the 3rd Respondent and therefore is not legally entitled to set up a Jaggery unit inside the reserved area.

- e) The appellant has not approached any authority constituted under the Sugarcane (Control) Order seeking for permission to establish their industry in spite of the fact that sugarcane is the only raw material for their product and the same is regulated.
- f) As per Clause 7 (a) a Power Crusher shall not be worked without the license issued by the Central Government.
- g) Clause 7 (b) (1) also states that no Sugarcane shall be purchased for crushing by a Power Crusher.
- h) Under Clause 6(1)(c) and 6(2) the Sugarcane growers are bound to supply Sugarcane to the Factory.
- i) The Sugarcane Control Order is promulgated under Section 3 of the Commodities Act.

- j) Under Section 7 of the Essential Commodities violation of any order promulgated under Section 3 is punishable.

10. From the Regulations mentioned above, it is clear that the Appellant cannot operate its Crusher for making Jaggery without obtaining a license from the Central Government as per the provisions of the Sugarcane Control Order or the Tamil Nadu Sugar Factories Act. Moreover any sale or purchase of Sugarcane in the reserved area reserved for the factory of the 3rd Respondent will be in violation of the Sugarcane Control Order. Moreover such purchasing and selling of Sugarcane in the reserved area is punishable under the Essential Commodities Act. Therefore the present Appeal seeking to set aside the impugned order of rejection indirectly seeks to have a seal of approval of this Hon'ble Authority for violation of the provisions of the Sugarcane Control Order as well as the provisions of the Essential Commodities Act in the guise of a challenge to the rejection order passed by the Board.

11. In fact, apart from the reasons given for rejection, the Board itself ought to have also considered the provisions of the Sugarcane Control Order and other relevant rules and regulations in order to see whether the proposed project is viable and will not offend any law for the time being in force. .

12. With reference to Tamil Nadu Sugar Factories Act, the 3rd Respondent is bound to purchase Sugarcane from the ryots in the occupied area. Similarly, no ryots in the occupied area can sell the Sugarcane to any person other than the occupier of the factory. Under Section 11 of the said Act, import and export of sugarcane in a reserved area is prohibited without the permission of the occupier. Therefore, the contention of the Appellant that he will purchase the Sugarcane from the outside the reserved area and crush the Sugarcane within the reserved area is not permissible under law.

13. Under Section 6 of the Tamil Nadu Sugar Factories Act a license has to be obtained from the Government for crushing Sugarcane in any factory.

14. Therefore there is a clear legal prohibition against the Appellant from operating his factory for manufacture of Jaggery for which the raw material will be only Sugarcane. Therefore, the Appellant cannot seek to achieve indirectly what he cannot achieve directly under the provisions of the Sugarcane Control Order or the Tamil Nadu Sugar Factories Act.

15. At any event, in the light of the fact that the Appellant is yet to obtain necessary licences and building plan approvals to put up his factory building, the application for consent made by the Appellant is premature.

16. It is further submitted that in so far as the classification of the land in S.No.892/3A Kodangipatti Village is concerned, the same is an agricultural land and the land classification even as per the Tamil Nadu Registration Department Website is classified as "Dry Well Irrigation Type - II". Even in the communication dated 09.11.2020 issued by the Assistant Director of Town and Country Planning, Theni District, it is clearly stated that only after due change of classification of land as per rules, any development work can be undertaken in the land. Therefore, in the absence of any order as on the date of rejection of consent permitting the change of land use classification, the Board is well within its right to reject the consent application and therefore the impugned order has been passed totally in accordance with law.

17. Even as per the averments of the Appellant, the Appellant has made an Application in accordance with G.O.Ms.No.79 dated 04.05.2017 only on 05.02.2021 and the same is yet to be processed. In the absence of any permission as on the date in accordance with G.O.Ms.No.79 the application made for consent by the Appellant is premature and therefore the impugned order is legally not sustainable.


18. Even the Application said to have been made for permission as per G.O.Ms.No.79 dated 04.05.2017 has been submitted only on 05.02.2021 which is well after the date of the impugned order, viz., 29.01.2021. Therefore, even on this ground, the Appeal is liable to be dismissed.

19. Apart from the land classification, the Appellant does not appear to have approached any statutory authority for approval of their building plan before commencing any construction. Therefore, the construction of the unit itself is unauthorized and the Appellant therefore cannot seek consent without complying with any statutory requirements.

20. In the circumstances, the Appeal is totally devoid of merits and therefore it is liable to be dismissed .

It is therefore prayed that this Hon'ble Authority may be pleased to dismiss the Appeal No. 10 of 2021 and thus render justice.

For RAJSHREE SUGARS & CHEMICALS LTD.

  
M. THANGA THIRUPATHI  
Dy. General Manager - IR

Solemnly affirmed at Chennai on this  
the day of June 2021 and  
signed his name in my presence

BEFORE ME

ADVOCATE: CHENNAI

**BEFORE THE APPELLATE  
AUTHORITY  
TAMIL NADU POLLUTION  
CONTROL, CHENNAI**

**Appeal No. 10 of 2021**

M/s. GKN Food Products,  
Theni District

...Appellant

Versus

The Tamil Nadu Pollution Control  
Board

Rep. by its Chairman, & 2 others  
Respondents

**COUNTER AFFIDAVIT FILED ON  
BEHALF OF THE 3RD  
RESPONDENT**

M/s. V. SUTHAKAR-R.No.636/1988  
K.S. VISWANATHAN-  
R.No.656/1988  
T.HEMALATHA-R.No.2021/2008

COUNSEL FOR 3RD RESPONDENT  
9840024583 & 9940294233

**BEFORE THE APPELLATE AUTHORITY  
TAMIL NADU POLLUTION CONTROL, CHENNAI**

**Appeal No. 11 of 2021**

1. M/s. GKN Food Products,  
A Partnership Firm,  
Rep. by its Managing Partner,  
Mr. Sivamurugeswara Pandian.N.  
S.F.No.892/3A, Sadayalpatti,  
Kodankipatti Village, Bodi Taluk,  
Theni District  
Pin 625 534

*Raj Shree*

...Appellant

Versus

1. The Tamil Nadu Pollution Control Board  
Rep. by its Chairman,  
100, Anna Salai, Guindy  
Chennai 600 0032
2. The District Environmental Engineer  
Tamil Nadu Pollution Control Board  
Door NO.151/14, 12A/3, SAR Complex,  
Boothipuram Road,  
Theni District 625 531
3. Rajshree Sugars & Chemicals Limited,  
Unit-1, Varadaraj Nagar,  
Periyakulam Taluk,  
Theni District 625 562

.... Respondents

**COUNTER AFFIDAVIT FILED ON BEHALF OF THE 3RD  
RESPONDENT**

I, M.Thangathiruppathi, S/o T.Mookiah, aged about 55 years, working as Depy.General Manager- Corporate IR, M/s Rajshree Sugars & Chemicals Limited, the Applicant herein situate at Unit-1, Varadaraj Nagar, Periyakulam Taluk, Theni

District 625 562 do hereby solemnly affirm and sincerely state as follows:

1. I am the authorized signatory of the 3rd Respondent and well acquainted with the facts of the case.

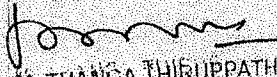
2. I have read the Appeal filed on behalf of the Appellant and I deny the correctness of the averments made therein except those that are specifically admitted here under.

3. I state that the 3rd Respondent has been impleaded as a Party Respondent to the proceedings after the impleadment application filed by the 3rd Respondent was allowed by this Hon'ble Authority.

4. At the outset it is submitted that the Appeal filed by the Appellant challenging the order of rejection of consent dated 29.01.2021 is not maintainable either in law or on facts.

5. First of all, the Appellant has commenced construction to set up a Khandasari complex in the guise of an industrial unit for manufacturing Jaggery powder on a large scale in S.No. 892/3A Kodangipatti Village, Bodinaickanur Taluk, Theni District without obtaining the prior permission of the Town and Country Planning Authorities or the Pollution Control Board. Therefore, the Respondent Board is right in rejecting the consent Application of the Appellant in as much as the basic

For RAJSHREE SUGARS & CHEMICALS LTD.

  
M. THANGA THIRUPATHI  
Dy. General Manager - IR

requirements for obtaining consent have not been complied with by the Appellant.

6. It is submitted that the 3rd respondent is a sugar industry involved in the manufacturing White Crystal Sugar, Organic Manure and Generation of power. The taluks of Theni Periyakulam Andipatty, Bodinayakanur and Uthamapalayam of Theni District and part of Usilampatty and Peraiyur Taluks of Madurai District are declared as reserved area for their factory by the Government of Tamil Nadu under Clause (6) of the Sugarcane Control Order 1966 vide Proceedings dated 02.09.1987, 17.05.1988 and 21.06.1991 issued by the Director of Sugar and Cane Commissioner, Tamil Nadu. Under the circumstances, in the reserved area, no other person is permitted to manufacture gur(Jaggery) or Khandasari sugar or sugar without a license from Central Government as per the provisions of the Sugarcane Control Order.

7. It is submitted that in the instant case, the Appellant has been setting up machineries, etc, in the reserved area at Sadayalpatti Village, Bodinayakanur without obtaining any license from the Commissioner of Sugar, Chennai or from the Central Government. The Applicant has also sent representations dated 25.06.2020, 17.12.2020 and 26.03.2021 to the Commissioner of Sugar Chennai, complaining about the setting up of the industry by the Appellant without obtaining any statutory clearances. The Applicant has been awaiting further action from the authorities in this regard.

8. It is submitted that the 3rd Respondent is operating their unit with all statutory license as stated above in the area that has been declared as reserved area for the sugar factory established and run by the 3rd Respondent. Once the Government has declared a particular area as "reserved area" under the Sugarcane (Control) Order 1966 as amended up to date, no other person is entitled to set up the factory within the said reserved area. In the instant case the Appellant is putting up a huge Khandasari Complex under the guise of a Jaggery manufacturing unit. Such a unit cannot be established unless special permission is obtained under the provisions of the Sugarcane Control Order.

9. The Appellant in their Reply Affidavit to the impleading petition have stated that an amendment has been issued to Sugarcane (Control) Order 1966 in the year 2007 by which the words "Gur, Gul, and Jaggery" contained in Class 7(b) (ii) of the Sugarcane (Control) Order 1966 was ordered to be omitted and therefore it is open to the Appellant to set up their unit in the reserved area. It is submitted that such a contention is unsustainable for the following reasons.

a) The reserved area that was allotted to the 3rd Respondent is prior to any amendment issued on 31.07.2007 and considering the amendment is not retrospective in operation, the Appellant cannot be permitted to set up their unit in the reserved area already allotted to the 3rd Respondent.

For RAJSHREE SUGARS & CHEMICALS LTD.

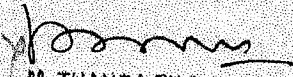
  
M. THANGA THIRUPATHI  
Dy. General Manager - IR

- b) Sugar Industry is a highly regulated industry by both Central and State Acts. The words used in common parlance like Jaggery, Khandasari, Rab, Gur etc are purely nomenclature that are referable only to the quantity of manufacturing and not the method or process of manufacturing.
- c) Sugarcane is a basic raw material for producing Jaggery also and therefore the Appellant cannot violate the rules relating to the reserved area for the purpose of establishing their Jaggery Unit. The amendment issued on 31.07.2007 was intended to support cottage industries <sup>growers of sugarcane</sup> <sub>making jaggery</sub> and not huge industries like the one established by the Appellant. Upon careful reading of Class 7 (c) of the Sugarcane (Control) order, it can be found that the Central Government is empowered to direct the owner or other person in charge of a Khandasari Unit in a reserved area to shift to a place outside the reserved area.
- d) The Government of Tamil Nadu has passed Tamil Nadu Sugarcane (Regulation of Purchase) Act 2018 primarily for the purpose of Regulation of Revenue share price. Under Section 12 of the Act it has been specifically provided that the Sugarcane growers shall sell sugarcane only to the factory to which the area has been reserved. No person other than the

factory afore mentioned shall purchase the sugarcane grown by the sugarcane growers except by agreement. Therefore, the Appellant is not entitled to buy sugarcane from any of the sugarcane growers in the reserved area allotted to the 3rd Respondent and therefore is not legally entitled to set up a Jaggery unit inside the reserved area.

- e) The appellant has not approached any authority constituted under the Sugarcane (Control) Order seeking for permission to establish their industry in spite of the fact that sugarcane is the only raw material for their product and the same is regulated.
- f) As per Clause 7 (a) a Power Crusher shall not be worked without the license issued by the Central Government.
- g) Clause 7 (b) (1) also states that no Sugarcane shall be purchased for crushing by a Power Crusher.
- h) Under Clause 6(1)(c) and 6(2) the Sugarcane growers are bound to supply Sugarcane to the Factory.
- i) The Sugarcane Control Order is promulgated under Section 3 of the Commodities Act.

For RAJSHREE SUGARS & CHEMICALS LTD.

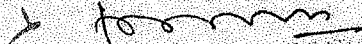
  
M. THANGA THIRUPATHI  
Dy. General Manager - IR

- j) Under Section 7 of the Essential Commodities violation of any order promulgated under Section 3 is punishable.

10. From the Regulations mentioned above, it is clear that the Appellant cannot operate its Crusher for making Jaggery without obtaining a license from the Central Government as per the provisions of the Sugarcane Control Order or the Tamil Nadu Sugar Factories Act. Moreover any sale or purchase of Sugarcane in the reserved area reserved for the factory of the 3rd Respondent will be in violation of the Sugarcane Control Order. Moreover such purchasing and selling of Sugarcane in the reserved area is punishable under the Essential Commodities Act. Therefore the present Appeal seeking to set aside the impugned order of rejection indirectly seeks to have a seal of approval of this Hon'ble Authority for violation of the provisions of the Sugarcane Control Order as well as the provisions of the Essential Commodities Act in the guise of a challenge to the rejection order passed by the Board.

11. In fact, apart from the reasons given for rejection, the Board itself ought to have also considered the provisions of the Sugarcane Control Order and other relevant rules and regulations in order to see whether the proposed project is viable and will not offend any law for the time being in force. .

For RAJSHREE SUGARS & CHEMICALS LTD.

  
M. THANGA LAKSHMI  
By GENERAL MANAGER


12. With reference to Tamil Nadu Sugar Factories Act, the 3rd Respondent is bound to purchase Sugarcane from the ryots in the occupied area. Similarly, no ryots in the occupied area can sell the Sugarcane to any person other than the occupier of the factory. Under Section 11 of the said Act, import and export of sugarcane in a reserved area is prohibited without the permission of the occupier. Therefore, the contention of the Appellant that he will purchase the Sugarcane from the outside the reserved area and crush the Sugarcane within the reserved area is not permissible under law.

13. Under Section 6 of the Tamil Nadu Sugar Factories Act a license has to be obtained from the Government for crushing Sugarcane in any factory.

14. Therefore there is a clear legal prohibition against the Appellant from operating his factory for manufacture of Jaggery for which the raw material will be only Sugarcane. Therefore, the Appellant cannot seek to achieve indirectly what he cannot achieve directly under the provisions of the Sugarcane Control Order or the Tamil Nadu Sugar Factories Act.

15. At any event, in the light of the fact that the Appellant is yet to obtain necessary licences and building plan approvals to put up his factory building, the application for consent made by the Appellant is premature.

For RAJSHREE SUGARS & CHEMICALS LTD.

  
M. THANGA THIRUPATHI  
Dy. General Manager - HR

16. It is further submitted that in so far as the classification of the land in S.No.892/3A Kodangipatti Village is concerned, the same is an agricultural land and the land classification even as per the Tamil Nadu Registration Department Website is classified as "Dry Well Irrigation Type - II". Even in the communication dated 09.11.2020 issued by the Assistant Director of Town and Country Planning, Theni District, it is clearly stated that only after due change of classification of land as per rules, any development work can be undertaken in the land. Therefore, in the absence of any order as on the date of rejection of consent permitting the change of land use classification, the Board is well within its right to reject the consent application and therefore the impugned order has been passed totally in accordance with law.

17. Even as per the averments of the Appellant, the Appellant has made an Application in accordance with G.O.Ms.No.79 dated 04.05.2017 only on 05.02.2021 and the same is yet to be processed. In the absence of any permission as on the date in accordance with G.O.Ms.No.79 the application made for consent by the Appellant is premature and therefore the impugned order is legally not sustainable.


18. Even the Application said to have been made for permission as per G.O.Ms.No.79 dated 04.05.2017 has been submitted only on 05.02.2021 which is well after the date of the impugned order, viz., 29.01.2021. Therefore, even on this ground, the Appeal is liable to be dismissed.

19. Apart from the land classification, the Appellant does not appear to have approached any statutory authority for approval of their building plan before commencing any construction. Therefore, the construction of the unit itself is unauthorized and the Appellant therefore cannot seek consent without complying with any statutory requirements.

20. In the circumstances, the Appeal is totally devoid of merits and therefore it is liable to be dismissed .

It is therefore prayed that this Hon'ble Authority may be pleased to dismiss the Appeal No. 11 of 2021 and thus render justice.

For RAJSHREE SUGARS & CHEMICALS LTD.

  
M. THANGA THIRUPATHI  
Dy. General Manager - IR

Solemnly affirmed at Chennai on this  
the <sup>12<sup>th</sup></sup> day of June 2021 and  
signed his name in my presence

BEFORE ME

  
2022/08  
ADVOCATE: CHENNAI No. 20  
Cawnton

**BEFORE THE APPELLATE  
AUTHORITY  
TAMIL NADU POLLUTION  
CONTROL, CHENNAI**

**Appeal No. 11 of 2021**

M/s. GKN Food Products,  
Theni District  
...Appellant

Versus

The Tamil Nadu Pollution Control  
Board  
Rep. by its Chairman, & 2 others  
Respondents

**COUNTER AFFIDAVIT FILED ON  
BEHALF OF THE 3RD  
RESPONDENT**

M/s. V. SUTHAKAR-R.No.636/1988  
K.S. VISWANATHAN-  
R.No.656/1988  
T.HEMALATHA-R.No.2021/2008

COUNSEL FOR 3RD RESPONDENT  
9840024583 & 9940294233



employment status in the rural area by giving employment to 200 to 300 employees and to improve the welfare of the sugarcane growers. Now, the Central Government is also initiating many steps to improve the livelihood of sugarcane growers and agro based manufacturing units. While being so, in the course of establishing the Jaggery Manufacturing Unit, when we approached the electricity department, local body, revenue department and pollution control board, one M/s.Rajshree Sugars & Chemicals Limited, Theni District objected our applications by citing the Sugarcane (Control) Order, 1966. Their main contention is that our Taluk has been declared as reserved area under clause 6 of Sugarcane (Control) Order, 1966 vide proceedings dated 02.09.1987, 17.05.1988 and 21.06.1991 issued by the respondent herein. Hence they contend that, "in the reserved area, no other person is permitted to manufacture Jaggery or Sugar without a license issued by the Central Government under the Sugarcane (Control) Order, 1966.

3. I further submit that the clause 6(1)(e) of Sugarcane (Control) Order, 1966, "direct that no khandsari sugar or sugar shall be manufactured from sugarcane except under and in accordance with the conditions specified in the licence issued in this behalf. Further, as per clause 7 of the above said order, The Central Government may, by order -

(a) direct that a crusher not belonging to a grower or a body of growers of sugarcane, or a power crusher or a khandsari unit shall not be worked except under and in accordance with a licence issued by the Central Government in that behalf;

(b) direct that in a reserved area. -

(i) no sugarcane shall be purchased for crushing by a power crusher;

Page No.

No. of Corns:

(ii) no sugarcane or sugarcane juice shall be purchased for crushing or for manufacture of gur, shakkar, gul, jaggery, rab or khandsari sugar, as the case may be, by a crusher not belonging to a grower or a body of growers of sugarcane or by a khandsari unit in the area;

Citing the above said clause 6(1)(e) and 7 of Sugarcane (Control) Order, 1966, the respondent herein by his proceedings in Rc.No.1607/Cane.2/2021 dated 01.04.2021 directed the District Collector, Theni District to enquire into the above matter and take appropriate rules in force, as though the sugarcane should not be purchased for the production of Jaggery from the reserved area of sugar mills manufacturing white sugar.

4. I further submit that the Ministry of Consumer Affairs, Food and Public Distribution (Department of Food and Public Distribution) vide Order in S.O.1309(E)/Ess.Com./Sugarcane dated 31.07.2007 issued Sugarcane (Control) (Amendment) Order, 2007 deleting the word "gur, gul, jaggery" from the Sugarcane (Control) Order, 1966. Without looking into the above Sugarcane (Control) (Amendment) Order, 2007, the respondent herein vide proceedings dated 01.04.2021 directed to conduct enquiry. As per the above Amendment Order 2007, the Jaggery manufacturing unit does not come under the purview of the Sugarcane (Control) Order, 1966 and no license is required for the Jaggery manufacturing unit. Hence I gave representation dated 28.06.2021 and 23.07.2021 to the respondent herein and requested to pass orders that the petitioner Jaggery Manufacturing Unit is exempted from the Sugarcane (Control) Order, 1966, in the light of the Sugarcane (Control) (Amendment) Order, 2007. Even though, the said representation has been acknowledged in person and

Page No.

No. of Corns:

through post, the respondent has not passed any orders for the best reasons known to him. Aggrieved over the inaction of the respondent herein, the present writ petition is filed on the following among other

GROUNDS

- a) The inaction of the respondent in passing orders on the petitioner's representation dated 28.06.2021 and 23.07.2021 is exfacie illegal and liable for interference by this Hon'ble Court.
- b) The respondent herein ought to have seen that in the light of the Sugarcane (Control) (Amendment) Order, 2007 exempting Jaggery from the Sugarcane (Control) Order, 1966, the petitioner is at liberty to manufacture Jaggery without obtaining license from the respondent herein or under the Sugarcane (Control) Order, 1966.
- c) The respondent herein ought to have seen that just because of the objection given by the third party namely M/s.Rajshree Sugars & Chemicals Limited, Theni District the application for consent to establish a Jaggery Manufacturing Unit was rejected and appeal No.11 of 2021 is pending before the Appellate Authority, Tamil Nadu Pollution Control Board, Chennai. Even, there also, they have filed an impleading petition in I.A.No.62 of 2021 and got impleaded to oppose the appeal without any valid grounds.
- d) The respondent herein ought to have seen that without adverting to the Sugarcane (Control) (Amendment) Order, 2007, the respondent has issued a proceeding dated 01.04.2021 to enquire into the allegations made by the M/s.Rajshree Sugars & Chemicals Limited, Theni District citing the above said clause 6 and 7 of Sugarcane (Control) Order, 1966.

Page No.

No. of Corns:

e) The respondent herein ought to have seen that when the object of the Sugarcane (Control) (Amendment) Order, 2007, makes it clear exempting Jaggery Manufacturing Unit, the petitioner's sugarcane which is ripe for cutting, could not be done just because of the proceedings of the respondent dated 01.04.2021 and dodging the petitioner without any reply on his representation dated 28.06.2021 and 23.07.2021.

f) The respondent herein ought to have seen that the Bodinayakanur Taluk and Theni Taluk are not a reserved area. The sugarcane growers in the above two taluks are at liberty to choose the factory of their choice which will help them to sell the sugarcane to anyone and get their sugarcane price immediately from the sugarcane purchaser.

g) The respondent herein ought to have seen that pursuant to the proceedings dated 01.04.2021, teams of experts headed by the Joint Director (Agri), Theni comprising the Deputy Director (Agri), Theni, the Assistant Director (Agri), Theni and other officials inspected the petitioner's Jaggery Manufacturing Unit and found the machineries erected is meant only for the purpose of Jaggery Manufacturing. All the documents pertaining to the manufacturing of Jaggery and the unit had submitted on the side of the petitioner.

h) In any event, the respondent being an Authority under the Sugarcane Control Order and a State defined under Article 12 of Constitution of India, ought to have passed orders on the petitioner's representation dated 28.06.2021 and 23.07.2021 taking note of the fact of the perusable goods involved in the manufacturing of Jaggery.

Page No.

No. of Corns:

5. Having no other alternative remedy, I have come before this Hon'ble Court under Article 226 of Constitution of India for issuance of a Writ of Mandamus directing the respondent herein to pass orders on the petitioner's representation dated 28.06.2021 and 23.07.2021 seeking to declare the petitioner's Jaggery Manufacturing Unit is exempted from the Sugarcane (Control) Order, 1966, in the light of the Sugarcane (Control) (Amendment) Order, 2007.

6. I have not filed any similar Writ Petition before this Hon'ble Court or any other Court challenging the impugned proceedings.

7. It is therefore prayed that this Hon'ble Court be pleased to issue a WRIT OF MANDAMUS or any other appropriate Writ or Order or Direction particularly in the nature of Writ, directing the respondent herein to pass orders on the petitioner's representation dated 28.06.2021 and 23.07.2021 seeking to declare the petitioner's Jaggery Manufacturing Unit is exempted from the Sugarcane (Control) Order, 1966, in the light of the Sugarcane (Control) (Amendment) Order, 2007 and pass such further or other orders as this Hon'ble Court may deem fit and proper in the circumstances of the case and thus render justice.

Solemnly affirmed at Madurai  
on this the 9th day of August-2021.  
The contents of this affidavit  
was read out & explained to the  
deponent in Tamil who perfectly  
understood the same and signed  
his name in my presence

Before me

Advocate

Page No.

No. of Corns:



26

nature of Writ, directing the respondent herein to pass orders on the petitioner's representation dated 28.06.2021 and 23.07.2021 seeking to declare the petitioner's Jaggery Manufacturing Unit is exempted from the Sugarcane (Control) Order, 1966, in the light of the Sugarcane (Control) (Amendment) Order, 2007 and pass such further or other orders as this Hon'ble Court may deem fit and proper in the circumstances of the case and thus render justice.

Dated at Madurai on this the 10<sup>th</sup> day of August 2021.

COUNSEL FOR PETITIONER



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.08.2021

CORAM

**THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P(MD)No.14415 of 2021

M/s.GKN Food Products,  
A Patnership Firm,  
Represented by its Partner  
Mr.N.Sivamurugeswara Pandian,  
S.F.No.892/3A, Sadayalpatti,  
Kodangipatti Village,  
Bodinayakkanur Taluk,  
Theni District.

... Petitioner

**Vs.**

The Commissioner of Sugar,  
Department of Sugar,  
Aavin Illam, 2<sup>nd</sup> Floor,  
Pasumpon Muthuramalingam Salai,  
Nandanam, Chennai – 600 035.

... Respondent

**Prayer** : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondent herein to pass orders on the petitioner's representation dated 28.06.2021 and 23.07.2021 seeking to declare the petitioner's Jaggery Manufacturing Unit is exempted from the Sugarcane (Control) Order, 1966, in the light of the Sugarcane (Control) (Amendment) Order, 2007.

For Petitioner : Mr.R.J.Karthick

For Respondent : Mr.P.Subburaj



**ORDER**

The petitioner seeks the consideration of his representation with regard to exemption from the Sugarcane (Control) Order, 1966, in the light of the Sugarcane (Control) (Amendment) Order, 2007.

2. The petitioner states that the electricity department, local body and other departments were approached in connection with the establishment of a jaggery manufacturing unit. The said respondents informed the petitioner that jaggery manufacturing cannot be undertaken in a reserved area without a licence from the Central Government under the Sugarcane (Control) Order 1966.

3. According to the petitioner, the Ministry of Home Affairs, Food and Public Distribution by order in S.O.1309(E)/Ess.Com./Sugarcane dated 31.07.2007 issued the Sugarcane (Control) (Amendment) Order, 2007 and thereby deleted the words “gur, gul and jaggery” from the purview of the Sugarcane (Control) Order, 1966. Consequently, the petitioner claims that a jaggery manufacturing unit does not require a licence. However, it is stated that the representations of the petitioner dated 28.06.2021 and 23.07.2021 have not been acted upon till date. The present writ petition is filed in these facts and circumstances.



4. Mr.P.Subbaraj, learned counsel for the State, accepts notice on behalf of the sole respondent. He states that the petitioner's representation may be directed to be disposed of after taking into account the Sugarcane (Control) (Amendment) Order, 2007.

5. Accordingly, without going into the merits of the matter, the respondent herein is directed to consider the petitioner's representations dated 28.06.2021 and 23.07.2021 and dispose of the same by a reasoned order after taking into account the Sugarcane (Control) (Amendment) Order, 2007. Such reasoned order shall be passed within a period of four weeks from the date of receipt of a copy of this order after providing a reasonable opportunity to the petitioner and any other person who would be affected by such order.

6. W.P.(MD).No.14415 of 2021 is disposed of on these terms without any order as to costs.

Index : Yes / No  
Internet : Yes/ No  
sbn

16.08.2021

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.



**SENTHILKUMAR RAMAMOORTHY, J.**

*sbn*

To

The Commissioner of Sugar,  
Department of Sugar,  
Aavin Illam, 2<sup>nd</sup> Floor,  
Pasumpon Muthuramalingam Salai,  
Nandanam, Chennai – 600 035.



W.P(MD)No.14415 of 2021

WEB COPY

16.08.2021



**BEFORE THE APPELLATE AUTHORITY  
TAMIL NADU POLLUTION CONTROL BOARD**

(Wednesday, Sixth day of October, Two thousand and twenty one)

**HON'BLE JUSTICE K.B.K. VASUKI  
CHAIRMAN  
and  
Thiru Dr. B. Jeyaraman  
Member**

**APPEALS 10 & 11 / 2021**

M/s. GKN Food Products,  
A partnership Firm,  
Rep. by its Managing Partner,  
Mr. Sivamurugeswara Pandian N.  
S.F. No. 892/3A, Sadayalpatti,  
Kodankipatti Village, Bodi Taluk,  
Theni District,  
PIN – 625 534.

- Appellant.

Vs.

1) Tamilnadu Pollution Control Board,  
Rep. by its Chairman,  
100, Anna Salai,  
Guindy, Chennai – 600 032.

2) The District Environmental Engineer,  
Tamilnadu Pollution Control Board,  
Door No. 151 / 14, 12A / 3, SAR Complex,  
Boothipuram Road,  
Theni District  
PIN – 625 531.

3) Rajshree Sugars & Chemicals Limited,  
Unit-I, Varadaraj Nagar,  
Periyakulam Taluk,  
Theni District 625 562.

- Respondents.

\*\*\*\*\*

Mrs. Rita Chandrasekar - Counsel for the appellant

Mr. Sai Sathyajith - Counsel for the respondents 1&2.

Mr. K.S. Viswanathan - Counsel for the 3<sup>rd</sup> respondent.

\*\*\*\*\*

**COMMON ORDER:**

1. The appeals are filed against the order of the 2<sup>nd</sup> respondent – District Environmental Engineer representing the 1<sup>st</sup> respondent TNPC Board in his Proc. No: F.0836 TEN / OS / DEE / TNPCB / 25 / W&A / 2021 Dt: 29.1.2021 thereby rejecting the appellant-unit's application for CTE-NEW of the Board filed under Water (P&CP) Act and Air (P&CP) Act.

2. The brief facts which are relevant for consideration herein are as follows:

The appellant M/s. GKN Food Products which is a partnership firm represented by its Managing Partner filed an application in the office of the 2<sup>nd</sup> respondent / DEE seeking consent for establishment for starting one unit for manufacturing jaggery powder and jaggery blocks in S. No: 892/3A, Sadayalpatti, Kodangipatti Village, Bodinaickanur Taluk. The appellant filed their application on 10.10.2020 with the details of the products proposed to be manufactured, the manufacturing process, details of raw materials used, water consumption details, details of sewage / trade effluent generation, sewage treatment plant details, trade effluent plant details, details relating to sewage / trade effluent disposal and details of point source emission with stacks and fugitive or noise emission etc.

3. After submitting the application to the 2<sup>nd</sup> respondent/DEE, the appellant also submitted an application to the Deputy Director, Town and Country Planning, Theni seeking land classification details in respect of S. No. 892/3A, Sadayalpatti, Kodangipatti Village, Bodi Taluk. The appellant was, by communication dated 9.11.2020, replied by the authority concerned that S. No: 892/3A has not been classified into any zone and the same falls in Non Planned area. It is further informed that any development in the same area is permitted only after obtaining land reclassification certificate from the authority concerned under the relevant

- iii. The unit's site is located adjacent to three numbers of houses with a build-up area of approximately 250-350 sq.feet each, on western side and a distance of 40 m from the Sadayalpatti area of Kodangipatti revenue village on southern side, which is having population of nearly about 500 numbers.

Aggrieved against the same, the appellant has come forward with the present two appeals.

5. During the pendency of the appeals, the 3<sup>rd</sup> respondent M/s. Rajshree Sugars and Chemicals Limited, Unit-I, Theni District submitted applications in I.A. 61 & 62 / 2021 to implead themselves as one of the respondents in both the appeals and to permit them to place all their objection along with relevant records for effective adjudication. As per the order passed on 16.4.2021 in I.A. 61 & 62 / 2021 M/s. Rajashree Sugars and Chemicals Unit-I, has been impleaded as 3<sup>rd</sup> respondent in both the Appeals. Both the official respondents 1&2 and the individual 3<sup>rd</sup> respondent submitted their reply / counter affidavit by duly defending the impugned order of rejection and by seriously opposing the relief sought for in the appeals. The appellant, on receipt of the counter affidavit / reply by the official respondents as well as individual respondent has filed further reply to the objections raised in the same.

6. After completing the pleadings the appellant as well as the official / individual respondents are heard in detail with regard to their respective contentions raised herein. The appellant also submitted their written submissions reiterating the same stand as raised in the oral arguments. The learned counsel for the appellant has seriously argued that the three grounds based on which the impugned order of rejection passed are factually and legally not sustainable. The appellant side has seriously denied the first ground that they started the construction activity

rules of 2017 and any development / construction in the same shall be only after obtaining prior permission and any construction put up without such permission will be treated as unauthorized construction.

4. In the meanwhile the application filed by the appellant in the office of 2<sup>nd</sup> respondent was returned and the same was resubmitted on 4.12.2020 along with the communication dated 9.11.2020 issued by the Deputy Director, Town and Country Planning, Theni. On resubmission of the application, the unit was inspected on 16.12.2020 and it was found out that an industrial shed and office building has already been established in the proposed site without obtaining prior consent of the Board. The inspection was followed by the show cause notice issued to the unit on 20.12.2020 and it was replied by the appellant on 24.12.2020 expressing their regret for not obtaining CTE and assuring that they will start further activity only after obtaining CTE of the Board. The unit was again inspected on 18.1.2021 and the same is followed by the impugned order dated 29.1.2021 thereby rejecting the appellant's application for CTE-NEW for the following reasons:

- i. The unit started its construction activities to establish their industrial plant in an agricultural land without obtaining "Consent to Establish" of the Board.
- ii. The unit has not furnished any approved building plan / building permit obtained from competent authority to establish the industry, at S.F. No. 892/3A of Kodangipatti Village, Bodinaickanur Taluk, Theni District, which is a non – planned area as per the letter issued by the Assistant Director, Directorate of Town and Country Planning, Theni dated 9.11.2020.

to establish their industrial plant in agricultural land without obtaining consent to establish of the Board. It is their specific contention that the proposed site falls under 'Non Planned Area' and the same does not remain as agricultural land and it is in the revenue records entered as "தரிசு / ஆலை கட்டிடம்" as such the question of obtaining any land reclassification certificate and obtaining prior permission under relevant reclassification rules 2017 for putting up any construction in the same does not arise herein.

7. The appellant side has contended with regard to the 2<sup>nd</sup> ground that they have already submitted their application to the Village Panchayat, Kodangipatti Village for necessary permission for putting up the construction and the same was forwarded from the office of the Village Panchayat to the Deputy Director, Town and Country Planning, Theni who is the competent authority to issue the permission and the application is pending consideration before the authority concerned. The appellant side has specifically submitted that the obtaining of prior approval of building plan / building permit from the competent authority is not a condition precedent for granting CTE by the respondent-Board and they have been simultaneously taking steps to obtain necessary permission from the other statutory authority. It is their further case that in the event of CTE being issued by the respondent-Board, the appellant will carryout further operation only after obtaining necessary approved building plan / building permit from the other statutorily competent authority.

8. In so far as the 3<sup>rd</sup> ground is concerned, it is their contention that the location of the houses numbering three with a built up area of 250 – 350 sq.feet and the location of Sadayalpatti Village with population of 500 residents within 40 mts. from the unit site cannot at all be cited as objection as the houses built up and the habitation of 500 residents in the

concerned area are in unapproved sites and without obtaining any approval for the houses. According to the learned counsel for the appellant, excluding the three grounds mentioned in the impugned order of rejection no other ground much less valid ground is available to reject the appellant-unit's application.

9. The learned counsel for the 1<sup>st</sup> respondent-Board and the 2<sup>nd</sup> respondent/DEE has reiterated the same three grounds mentioned in the impugned order of rejection to defend the same. According to the respondents 1 & 2, the three grounds mentioned in the impugned order are materially valid enough to sustain the order of rejection impugned herein.

10. The learned counsel for the 3<sup>rd</sup> respondent, in addition to supporting the grounds mentioned in the impugned order of rejection has also raised further objection against the grant of CTE for the establishment of the appellant-unit in the area concerned. It is their serious contention that the establishment of the appellant-unit for manufacturing jaggery powder and jaggery blocks from sugarcane crushing which is the basic and main raw material is against Sugarcane Control Order 1966 and against the proceedings of the Director of Sugar & Cane dated 2.9.1987, 17.5.1988 and 21.6.1991 issued in favour of the 3<sup>rd</sup> respondent-factory thereby reserving the entire area of Uthamapalayam Taluk, Periyakulam Taluk and Andipatti Taluk in favour of the 3<sup>rd</sup> respondent-factory for drawl of sugarcane. It is their contention that the entire area of all the three Taluks are allotted to the 3<sup>rd</sup> respondent-factory for the purpose of purchase of sugarcane from all the sugarcane growers of that area and the allotment order made in their favour remains in force, as such, under Clause 6 of the Sugarcane Control Order, 1966 no other person, except the 3<sup>rd</sup> respondent, is permitted to purchase sugarcane from the

concerned area or to establish any unit for manufacturing jaggery or khandasari sugar or sugar without obtaining necessary license from the competent authority and the establishment of any such unit in the reserved area is in violation of the relevant Sugarcane Control Order. It is their contention that thus there is clear legal prohibition against the appellant from establishing and operating their unit for manufacturing jaggery using sugarcane as the basic raw material.

11. Heard all.

12. On the basis of the pleadings raised and on the basis of submissions made by the appellant and the official respondents 1 & 2 as well as individual 3<sup>rd</sup> respondent-company, the common point arises in these appeals for the consideration of the Appellate Authority is as follows:

Whether the impugned order of rejection passed by the 2<sup>nd</sup> respondent is liable to be set aside or confirmed?

13. The impugned order is passed by the 2<sup>nd</sup> respondent DEE representing the 1<sup>st</sup> respondent TNPCB thereby rejecting the appellant's application seeking CTE-NEW of the Board for establishing their unit for manufacturing jaggery powder and jaggery blocks from the basic raw material sugarcane. While the validity and correctness of the impugned order of rejection is seriously questioned by the appellant, the impugned order is sought to be sustained and proposed establishment of the jaggery manufacturing unit by the appellant is sought to be seriously objected to by the official respondents 1 & 2 and by the individual 3<sup>rd</sup> respondent on different and distinctive grounds.

14. As already stated the 2<sup>nd</sup> respondent has rejected the appellant's application on the following three reasons.

- i. The unit started its construction activities to establish their industrial plant in an agricultural land without obtaining "Consent to Establish" of the Board.
- ii. The unit has not furnished any approved building plan / building permit obtained from competent authority to establish the industry, at S.F. No. 892/3A of Kodangipatti Village, Bodinaickanur Taluk, Theni District, which is a non – planned area as per the letter issued by the Assistant Director, Directorate of Town and Country Planning, Theni dated 9.11.2020.
- iii. The unit's site is located adjacent to three numbers of houses with a build-up area of approximately 250-350 sq.feet each, on western side and a distance of 40 m from the Sadayalpatti area of Kodangipatti revenue village on southern side, which is having population of nearly about 500 numbers.

15. The reasons set out as 1&2 in the impugned order are that the appellant has started construction activity to establish their industrial plant in an agricultural land without obtaining CTE from the Board and the unit has not furnished any approved building plan/ building permit obtained from the competent authority to establish the industry in the concerned survey number falling in 'Non Planned Area'. According to the appellant the construction of the unit and the installation of the machinery is not completed and the proposed site is not classified into any zone and falls in Non Planned area. It is also stated by the appellant that it is recorded in the revenue record as "தரிக / ஆலை கட்டிடம்" as such, no reclassification certificate under relevant 2017 rules and no prior approval for the building plan /building permit need to be obtained from the authorities concerned. It is also their contention that they have already approached the competent

authority i.e., Director of Town and Country Planning through proper channel i.e., Panchayat Union, Kodangipatti Village for obtaining necessary approval for the building plan and building permission and the same is under consideration before the competent authority. The Managing Director of the appellant-unit has also submitted an affidavit of undertaking before the Appellate Authority stating that they will not undertake further activity without obtaining necessary permission and approval from the competent authority for the construction of the unit etc.

16. In this regard, the appellant has submitted the following documents for the consideration of the Appellate Authority.

(i) Adangal for the Faslis 1429 to 1431 corresponding to 2019 to 2021 mentioning the land in S. No: 892 / 3A as “தரிசு / ஆலை கட்டிடம்”

(ii) The letter dated 17.8.21 addressed by the Joint Director, Department of Agriculture to Assistant Director of Town and Country Planning, Theni stating that no reclassification certificate need to be obtained for the subject land as the same is not wet land but remain as “தரிசு / ஆலை கட்டிடம்”.

(iii) The proceedings of the Director, Town and Country Planning dated 9.11.2020 and

(iv) Letter dated 5.2.2021 addressed by the President, Kodangipatti Panchayat for forwarding the appellant's application seeking building plan / building permission to Deputy Director, Town and Country Planning, Theni

The documents 1 & 2 are produced as Documents 6 & 9 in the appellant's typed set dated 1.9.2021. The documents 3 & 4 are produced as Documents 3 & 6 in the appellant's typed set dated 15.2.2021

17. The reading of the proceedings dated 9.11.2020 of the Director, Town and Country Planning, Theni would reveal that the land in S.No. 892/3A, in which the unit is proposed to be established, is not classified into any zone and falls in Non Planned Area. It is true that the same reads that any development activity will be carried on in the area only after obtaining land use reclassification certificate ie., for converting the agricultural land as industrial land for establishing industrial unit in the agricultural land as per G.O. Ms. No: 79 dated 4.5.2017 produced as document No.1 in the appellant's typed set dated 15.2.2021. The proceedings further reads that any construction or development activity of industrial nature in the agricultural land will be carried out only after obtaining necessary prior permission from the Director, Town and Country Planning.

18. Regarding the reclassification certificate to be obtained as per G.O Ms. No: 79 Dt: 4.5.2017, the G.O. clearly states that it is required only for converting the agricultural land to industrial area. As rightly argued by the learned counsel for the appellant, the question of obtaining of prior land reclassification certificate is not hence applicable in the present case where the land is not classified as agricultural / wet land but is entered in the revenue records as "தரிசு / ஆலை கட்டிடம்" as evident from the Adangal extracts produced in respect of S. No: 892 / 3A for the faslis 1429 to 1431 corresponding to the years 2019 to 2021 and as seen from the letter dated 17.8.2021 addressed by the Joint Director, Department of Agricultural, Theni to the Assistant Director, Town and Country Planning, Theni, both produced as Document Nos. 6 & 9 in the appellant's typed set dated

1.9.2021. The authority concerned has also in the letter dated 17.8.2021 clearly stated that the question of obtaining NOC for land conversion from Joint Director, Department of Agriculture does not arise in respect of the subject survey number. In view of such clarification issued by the competent authority the 1<sup>st</sup> reason set out in the impugned order cannot be allowed to stand to defend the impugned order of rejection.

19. Regarding the 2<sup>nd</sup> reason, the letter dated 5.2.2021 addressed by the President, Kodangipatti Panchayat forwarding the appellant's application seeking building permission to the Deputy Director, Town and Country Planning, Theni would show that the appellant have already approached the competent authority for appropriate building plan and the same is under consideration before the authority concerned. Pending the same, it cannot be said that such statutory requirement is not complied with by the appellant so as to reject their consent application filed before respondent-Board. Even otherwise, the Appellate Authority is of the view that the argument advanced by the learned counsel for the appellant that obtaining of prior approval for the building plan and building permission for the construction of the unit cannot be cited as condition precedent for granting CTE by the respondent-Board also deserves due consideration. It is also relevant to point out at this juncture that the approval of building plan and building permission do not form part of the list of documents required to be enclosed along with the consent application. The requirement of obtaining building plan / building permission from Town and Country Planning and obtaining CTE from the respondent-Board are under two different statutes and in neither of the statutes the same is cited as condition precedent for obtaining permission from the other authority. As such, pending consideration of grant of building permission and approval of building plan by the competent authority, the respondent-

Board cannot have any issue in considering grant of CTE, if the CTE application is otherwise validly made. As a matter of fact, the appellant, by way of affidavit of undertaking filed before the Appellate Authority, has assured that they will not carry on further activity without obtaining necessary permission from other competent authority. In our view, the pendency of their application seeking permission and approval from other statutory authority i.e., the Deputy Director, Town and Country Planning and the affidavit of undertaking filed by the appellant through their Managing Director with an undertaking as stated above, coupled together, would substantially satisfy the other statutory requirement regarding building plan approval and building permission for the respondent-Board to consider granting CTE for establishment of the unit concerned. As such, the 2<sup>nd</sup> reason set out in the impugned order cannot be held to be valid enough to support the impugned order of rejection.

20. Regarding the 3<sup>rd</sup> reason set out in the impugned order that the proposed site is located adjacent to three houses and located at a distance of 40 mts. from the Sadayalpatti area with population of 500 residents, the three houses being put up without any approval and the habitation in the Sadayalpatti area is in unauthorized site as evident from the certificate issued by President, Kodangipatti Village produced as Document No. 5 in the appellant's typed set dated 15.2.2021, the location of the houses as well as the habitation cannot be cited as valid ground for the rejection of the consent application. Further as there are no guidelines framed and no Board's proceedings issued for the establishment of Jaggery manufacturing units, any guideline regarding distance criteria cannot be made applicable herein.

21. In our opinion, all the three reasons mentioned in the impugned order of rejection for denying CTE for the establishment of appellant's

jaggery manufacturing unit in the site concerned are now found to be not valid and reasonable and are devoid of any merits to sustain the impugned order of rejection and the impugned order, based on such reasons, cannot be allowed to stand and is hence liable to be rejected.

22. The 3<sup>rd</sup> respondent is one M/s. Rajashree Sugars & Chemicals Ltd, Unit-I involved in manufacturing of white crystal sugar, organic manure and generation of power. It is not in dispute that originally the entire Taluks of Periyakulam and Uthamapalayam of Theni District were, by the Order of Commissioner, Sugar & Cane, declared as reserved area for their factory for drawl of sugarcane from the sugarcane growers or sugarcane growers Co-op society of the respective reserved area. After the bifurcation of Periyakulam Taluk as Periyakulam and Andipatti Taluk the 3<sup>rd</sup> respondent was issued revised proceedings by the same authority thereby allotting the entire area of Uthamapalayam, Periyakulam and Andipatti Taluks as reserved area for their factory. The original and revised orders issued by Sugar & Cane Commissioner in his Proc. Dated 2.9.87 and 7.5.98 respectively are produced herein as Documents 1 & 2 in the 3<sup>rd</sup> respondent's typed set dated 22.6.2021 and as documents 1 & 2 in the appellant's typed set dated 1.9.2021. During 1991 the 3<sup>rd</sup> respondent-factory approached the same authority i.e. Sugar & Cane Commissioner, by way of their letter dated 9.2.1991, for withdrawal of cane area in Uthamapalayam Taluk from National Co-op Sugar Mills Limited, Alagnanallur, Madurai and for sanction of the same in favour of the 3<sup>rd</sup> respondent-factory for the following reasons:

- (i) Andipatti Taluk is a very dry area with little ground water potential

(ii) Uthamapalayam Taluk has double crop wet lands where cash crops and paddy are being raised by farmers and they are found to be not keen on taking cane cultivation and

(iii) In Periyakulam Taluk, sugar cane growers are interested in jaggery which they sell mostly in the neighbouring Kerala state.

The Sugar & Cane Commissioner, Tamilnadu, by accepting such transfer request of the 3<sup>rd</sup> respondent, withdrew five firkas in Usilampatti, Uthapanayakanur, Sedapatti, Athipatti and Elumalai from M/s. National Co-op sugar Mill and allotted the same to M/s. Rajashree Sugars & Chemicals Limited for sugarcane drawl vide his proceedings dated 21.6.1991 produced as Document 3 in the respondent's typed set dated 22.6.2021 and Document No: 3 in the appellant's typed set dated 1.9.2021. In pursuance of the same, the 3<sup>rd</sup> respondent factory was allotted the entire area of Uthamapalayam, Periyakulam, Andipatti Taluks and five firkas as above mentioned and the 3<sup>rd</sup> respondent has been carrying on their sugar manufacturing business by purchasing sugarcane from the growers of that area. It is not in dispute that during 1997, Uthamapalayam Taluk was bifurcated and Bodinaickanur and Theni Taluks came into existence whereas after bifurcation of Uthamapalayam Taluk, the 3<sup>rd</sup> respondent has not obtained any revised order for allotment of Bodinaickanur and Theni Taluks, which were erstwhile Uthamapalayam Taluk, as reserved area for their factory for sugarcane drawl. The appellant jaggery manufacturing unit now proposed to be set up in S. No: 892/3A of Kodangipatti Village falls within Bodinaickanur Taluk.

23. According to the 3<sup>rd</sup> respondent, the 3<sup>rd</sup> respondent was issued allotment of entire areas as above mentioned for drawl of sugarcane by the proceedings of Sugar & Cane Commissioner, Tamilnadu and as per relevant clause in Sugarcane Control Order 1966, the 3<sup>rd</sup> respondent is

entitled to purchase the sugarcane from all the sugarcane growers by entering into separate agreement with them and no one other than the allottee of the reserved area is entitled to set up any factory for manufacturing sugar, jaggery etc by purchasing sugarcane from the sugarcane growers of that reserved area. It is also their contention that no power crusher, under Clause 7 of the same Sugarcane Control Order, shall be allowed to work without license obtained from the Central Government in this regard and no sugar cane shall be purchased for crushing and no sugarcane or sugarcane juice shall be purchased for manufacture of khandasari sugar or jaggery etc. by power crusher not belonging to a grower or body of growers of sugarcane or by a khandasari unit in that area. It is also their contention that the appellant has already approached Commissioner of Sugar & Cane by way of representations dated 28.6.2021 and 23.7.2021 seeking to declare the appellant's proposed jaggery manufacturing unit as exempted from Sugarcane Control order 1966 in the light of the Sugarcane amendment order 2007 and has obtained an order from the Hon'ble High Court on 15.8.2021 in W.P. 14415/2021 for disposing of the representations and pending disposal of such representations by the Sugar &Cane Commissioner no exemption under 2007 amendment of Sugarcane Control Order 1966 can be claimed by the appellant. The Sugarcane Control Order 1966 and the order made in writ petition mentioned above are produced herein as Document No: 9 in the respondent's typed set dated 31.8.2021 and as Documents 4, 7 & 8 in the appellant's typed set dated 1.9.2021.

24. The objection raised from the 3<sup>rd</sup> respondent is dealt with by the appellant by relying upon the amended Sugarcane Control Order by virtue of 2007 amendment of Sugarcane Control Order published in gazette notification dated 31.7.2007 in and under which "Jaggery" is omitted from

the purview of Sugarcane Control Order 1966. The same are produced as documents 4 & 5 in the appellant's typed set dated 1.9.2021.

25. As rightly pointed out by the learned counsel for the appellant as per 2007 amendment "gur/gul/jaggery" stand omitted from Clause 2(a), Clause 2(f), Clause 6(A)1, Clause 7b(ii) Clause 7(b), Clause 8 and Clause 9 of Sugarcane Control Order 1966. The reading of amended sugarcane control order will show that after 2007 amendment, the restriction imposed for installing power crusher without license obtained from the Central Government and the restrictions imposed on purchase of sugarcane in the reserved area by anyone other than the allottee of reserved area stand lifted and the Sugarcane Control Order 1966 is, after 2007 amendment, not at all applicable for installation of power crusher, establishment of jaggery manufacturing unit in the reserved area and for purchase of sugarcane from the sugarcane growers of that area by anyone other than the allottee of reserved area. In that event, there is no statutory objection for the establishment of the appellant's jaggery manufacturing unit while the allotment of reserved area in favour of the 3<sup>rd</sup> respondent factory for drawl of sugarcane for manufacturing white sugar is in force and such objection so raised by the 3<sup>rd</sup> respondent deserves to be ignored. The argument advanced by the learned counsel for the appellant on the strength of 2007 amendment of Sugarcane Control Order 1966, is now found to be convincing and well sustainable, particularly in the light of the failure of the 3<sup>rd</sup> respondent in obtaining any revised order in respect of Bodinaickanur and Theni Taluks after bifurcation of Uthamapalayam Taluk. The very fact that the 3<sup>rd</sup> respondent, after bifurcation of Periyakulam Taluk approached the competent authority for obtaining revised order for getting reserved area allotment for the bifurcated Taluks i.e, Periyakulam and Andipatti Taluks will show that the 3<sup>rd</sup> respondent

ought to have similarly approached the authority concerned in respect of Bodinaickanur Taluk after bifurcation of Bodi and Theni Taluks. In the absence of one such revised order, the 3<sup>rd</sup> respondent cannot be heard to say that the original reserved area allotment order of 2.9.97 still holds good for the entire area of Uthamapalayam and Periyakulam Taluks even after its bifurcation in 1997 into different Taluks.

26. The appellant-unit being proposed to be set up in one such newly bifurcated Taluk that too after 2007 amendment omitting jaggery from the purview of Sugarcane Control Order 1966 and the restriction contained in the original Sugarcane Control Order in respect of jaggery manufacturing unit having been removed, there is no impediment for the appellant-unit to put up their jaggery manufacturing unit in the proposed site and no license or permission needs to be obtained either from Sugar & Cane Commissioner or from the Central Government, either for installation of power crusher for crushing sugarcane or for extracting sugarcane juice or for setting up of jaggery manufacturing unit or for purchasing sugarcane for such purpose.

27. It is also to be noted that when the appellant approached the Commissioner of Sugar and Cane by way of representation dated 18.8.2021 produced herein as Document 10 in the appellant's typed set dated 1.9.2021 to dispose of their representation in compliance with the order of Hon'ble High Court, the Commissioner of Sugar & Cane by way of communication dated 1.9.2021 produced herein as Document No: 3 in the appellant's typed set dated 12.9.2021 informed the appellant that the District Collector has been informed about the provisions of Sugarcane Control amendment Order 2007. The appellant was also informed that the subject relating to State Area Demarcation of sugar mill will be decided by

the area Limitation Committee by following due procedure under existing norms.

28. In this regard, the appellant has also enclosed the application dated 11.8.2021 filed by one J. Ragavan, Theni seeking certain clarification through RTI Act, 2005 and the reply issued on 2.9.2021 from the office of Commissioner, Sugar & Cane to the applicant concerned as documents 3 & 4 in their typed set dated 12.9.2021. As per the reply dated 2.9.2021, after 2007 amendment of Sugarcane Control Order 1966, the same is not applicable to jaggery manufacturing units and the unit set up for jaggery manufacturing from sugarcane as raw material do not come under the control of Sugar & Cane Commissioner and no license need to be obtained from the authority concerned for setting up of such jaggery manufacturing unit. Such reply issued by the concerned competent authority do well support the contention raised on the side of the appellant that the jaggery manufacturing unit is outside the purview of Sugarcane Control Order and no permission is required to be obtained from the Commissioner, Sugar & Cane for setting up of such unit and the same is independent of the 3<sup>rd</sup> respondent's white sugar manufacturing factory and is in no way in violation of the allotment order issued for the 3<sup>rd</sup> respondent-factory. The same also well answers the objection raised by the 3<sup>rd</sup> respondent that the appellant is attempting to set up a jaggery unit in violation of Sugarcane Control Order and in violation of reserved area allotment order issued in favour of the 3<sup>rd</sup> respondent. Thus the objection raised by the 3<sup>rd</sup> respondent regarding applicability of Sugarcane Control Order 1966 for the appellant's establishment of jaggery manufacturing unit will no longer hold good in view of 2007 amendment omitting jaggery from Sugarcane Control Order 1966 and in view of the 3<sup>rd</sup> respondent's failure to obtain any revised order in respect of Bodinaickanur Taluk after

bifurcation and their objection are hence liable to be rejected as devoid of any merits.

29. The Appellate Authority, for the discussion held and for the reasoning now rendered against the objections raised by the official respondents 1 and 2 and objections raised by the individual 3<sup>rd</sup> respondent, is of the view that the appellant in the absence of any other valid objections against the establishment of jaggery manufacturing unit by the appellant is entitled to the grant of CTE as sought for by them in their application and the impugned order of rejection denying the same cannot be allowed to stand and is liable to be set aside and stands set aside.

30. In the result the appeal is allowed by setting aside the impugned order passed in the Proc. No: F.0836 TEN / OS / DEE / TNPCB / 25 / W&A / 2021 Dt: 29.1.2021 by the 2<sup>nd</sup> respondent – DEE representing the 1<sup>st</sup> respondent-Board with further direction issued to the respondents 1 and 2 to grant CTE-NEW to the appellant for establishing their jaggery manufacturing unit in the area concerned with any general and / or special condition as they deem fit and proper. No order as to costs.

**Sd/-xxx  
MEMBER**

**Sd/-xxx  
CHAIRMAN.**


To

M/s. GKN Food Products,  
A partnership Firm,  
Rep. by its Managing Partner,  
Mr. Sivamurugeswara Pandian N.  
S.F. No. 892/3A, Sadayalpatti,  
Kodankipatti Village,  
Bodi Taluk,  
Theni District,  
PIN – 625 534.

Rajshree Sugars & Chemicals Limited,  
Unit-I, Varadaraj Nagar,  
Periyakulam Taluk,  
Theni District 625 562.

✓ Copy to: Member Secretary, TNPCB, Chennai  
Copy to: DEE, TNPCB, Theni  
Copy to: Counsel for appellant  
Copy to: Standing counsel of TNPCB  
Copy to: Law Section

// TRUE COPY //

  
DEPUTY MANAGER,  
APPELLATE AUTHORITY.

**BEFORE THE NATIONAL GREEN TRIBUNAL, SOUTHERN ZONE AT  
CHENNAI  
MEMORANDUM OF APPEAL**

**Under Sec.18(1) read with Section 16 the of National Green  
Tribunal Act, 2010)**

**Appeal No.                      of 2021**

Rajshree Sugars & Chemicals Limited,  
Rep by its Depy. General Manager,  
Mr.M.Thangathiruppathi,  
having office at  
Unit-1, Varadaraj Nagar,  
Periyakulam Taluk,  
Theni District 625 562  
Email Id-thangathiruppathim@rajshreesugars.com  
Mob:-9865240100

... Appellant

Versus

1. M/s. GKN Food Products,  
A Partnership Firm,  
Rep. by its Managing Partner,  
Mr. Sivamurugeswara Pandian.N.  
S.F.No.892/3A, Sadayalpatti,  
Kodankipatti Village, Bodi Taluk,  
Theni District  
Pin 625 534  
Email Id-gknsiva@gmail.com  
Mob:-8939911011
2. The Tamil Nadu Pollution Control Board  
Rep. by its Chairman,  
100, Anna Salai, Guindy  
Chennai 600 0032  
Email Id-tnpcb-chn@gov.in  
Mob:-044-22353134
3. The District Environmental Engineer  
Tamil Nadu Pollution Control Board  
Door NO.151/14, 12A/3, SAR Complex,  
Boothipuram Road,  
Theni District 625 531  
Email Id-tnpcbtheni@gmail.com  
Mob:-04546-264426

... Respondents

For RAJSHREE SUGARS & CHEMICALS LTD.

  
M. THANGA THIRUPPATHI  
By General Manager - IR

1. The address of the Appellant is as given above and for the service of notices of this appeal is that of their counsel M/s. K.S.Viswanathan & T.Hemalatha, Advocates, No.439, Law Chambers, High Court Buildings, Chennai 600 104.

2. The address of the Respondent is as given above for service of notices of the appeal.

3. The Appellant above named begs to present the Memorandum of Appeal against the order dated 06.10.2021 passed in Appeal No. 10 of 2021 passed by the Hon'ble Appellate Authority, Tamil Nadu Pollution Control Board, in the appeal filed by the first respondent against the order dated 29.01.2021 passed by the 2nd respondent rejecting the application for consent for establishment made by the 1st Respondent in respect of their unit at S.F. No. 892/3A, Sadayalpatti, Kodankipatti Village, Bodi Taluk, Theni District for manufacture of 80 tons per month of Jaggery Powder and 40 tons per month of Jaggery Blocks.

**BRIEF FACTS OF THE CASE:-**

1. The Appellant states that they are involved in the business of manufacture of White Crystal Sugar, Organic Manure and generation of power. The taluks of Theni Periyakulam, Andipatty, Bodinayakanur and Uthamapalayam of Theni District and part of Usilampatty and Peraiyur Taluks of Madurai District were declared as reserved area for the factory set up by the Appellant by the Government of Tamil Nadu under Clause (6) of the Sugarcane Control Order 1966 vide Proceedings dated 02.09.1987, 17.05.1988 and 21.06.1991

For RAJSHREE SUGARS & CHEMICALS LTD.

  
M. THANGA THIRUPATHI

issued by the Director of Sugar and Cane Commissioner, Tamil Nadu. As per the Sugarcane Control Order, in respect of the reserved area no other person is permitted to manufacture Sugar and related products without the license from the Central Government.

II. While so, in or about June 2020 the 1st Respondent started setting up of machineries at S.F.No.892/3A, Sadayalpatti Village, Kodankipatti Village, Bodinayakanur Taluk, Theni District, which location falls under the reserved area of the Appellant, without obtaining any license from the Commissioner of Sugar or from the Central Government. Therefore, the Appellant sent representations dated 25.06.2020, 17.12.2020 and 26.03.2021 to the Commissioner of Sugar Chennai, complaining about the setting up of the industry by the first Respondent without obtaining any statutory clearances.

III. Even as the Appellant was awaiting further action from the authorities in this regard, the Appellant came to know that the 1st Respondent had approached the TNPCB for grant of Consent to Establish their unit for purported manufacture of Jaggery and that the said application had been rejected by an order dated 29.01.2021 passed by the Board.

IV. The Respondent Board had rejected the application of the 1st Respondent for the following reasons.

(i) that the unit has started its construction of activities to establish their industrial unit in agricultural lands without obtaining Consent to Establish from the Board.

For RAJSHREE SUGARS & CHEMICALS LTD.

  
M. THANGA THIRUPATHI

(ii) the unit has not furnished any approved building plan/building permit obtained from the competent authority to establish the industry at S.F.No.892/3A, Sadayalpatti Village, Kodankipatti Village, Bodinayakanur Taluk, Theni District, which is a non-plan area as per the letter issued by the Assistant Director, Directorate of Town and Country Planning, Theni dated 09.11.2020.


(iii) The unit site is located adjacent to three numbers of houses with a built up area of approximately 250 to 350 sq.ft each on the western side and a distance of 40 mtrs from the Sadayalpatti area of Kodankipatti Village on the Southern side which is having a population of nearing 500 numbers.

V. The 1st Respondent challenged the aforesaid order of rejection dated 29.01.2021 passed under the Water and Air Acts in Appeal Nos. 10 & 11 of 2021 before the Appellate Authority.

VI. On coming to know of the filing of the appeal, the Appellant filed applications for impleadment in the said appeals in I.A Nos. 61 & 62 of 2021 and the same were allowed by order dated 16.04.2021 and the Appellant was arrayed as the 3rd Respondent in both the Appeals. The Appellant also filed a detailed Counter and contested the matter.

VII. The Appellant states that they mainly raised the following contentions.

For RAJSHREE SUGARS & CHEMICALS LTD.

  
M. THANGA THIRUPATHI  
Dy. General Manager - IR

(a) The unit of the 1st Respondent squarely falls under the reserved area allotted to the Appellant by the Commissioner of Sugar, Chennai under the provisions of the Sugarcane Control Order 1966.

(b) Even after the amendment that was introduced in the Sugarcane Control Order 1966 by Notification dated 31.06.2007 omitting jaggery from the purview of Sugarcane Control Order, considering the fact that the 1st Respondent in the guise of manufacturing jaggery was actually proposing to manufacture only Chakkar/Khandasari Sugar which units are still covered under Sugarcane Control Order and therefore the said exemption will not apply to them.

(c) The 1st Respondent has already completed major portion of the construction and have installed machineries worth crores of rupees even as manufacture of jaggery being a cottage industry hardly required any investment beyond Rs.5 lakhs. Therefore, the 1st Respondent was proposing to manufacture sugar and allied products in the guise of a jaggery manufacturing unit.

(d) The manufacturing process as disclosed in the application form for consent itself discloses that what would be manufactured will not be jaggery but allied products of sugar like Chakkar/Khandasari Sugar etc., which are not exempted from the Sugarcane Control Order.

(e) The land use classification for the S.F. No. 892/3A, Sadayalpatti, Kodankipatti Village, Bodi Taluk, Theni District, shows that it is a non plan area. Therefore, the 1st

For RAJSHREE SUGARS & CHEMICALS LTD.

  
M. THANGA THIRUPATHI

Respondent was obliged to obtain appropriate orders as per the guidelines given in G.O.Ms.No.79 Housing and Urban Development Department dated 04.05.2017. Until the first respondent obtains necessary permission as per the aforesaid G.O., the consent application of the first Respondent cannot be considered by the Board.

f) The first respondent had made representations dated 28.06.2021 and 23.07.2021 to the Commissioner of Sugar seeking for a declaration that their jaggery manufacturing unit is exempt from the provisions of the Sugarcane Control Order 1966. The first respondent approached the Madurai Bench of the Hon'ble Madras High court by filing a writ petition, viz., W.P.No.14415/2021 seeking for consideration of their representation by the Commissioner of Sugar. The Hon'ble High Court by its order dated 16.08.2021 has directed the Commissioner of Sugar to consider the representation and pass orders after affording a reasonable opportunity to all concerned parties. Therefore, the issue is pending consideration by the concerned authority under the Sugarcane Control Order and determination of the said issue herein would be inappropriate and without jurisdiction.

(g) In spite of the above objections the Hon'ble Appellate Authority by order dated 06.10.2021 has set aside the order of the rejection of consent dated 29.01.2021 and has directed the Board to grant consent to the first respondent. Aggrieved by the aforesaid order of the Appellate Authority, the present appeal has been filed.

For RAJSHREE SUGARS & CHEMICALS LTD.



M. THANGA THIRUPATHI  
Dy. General Manager - IR

VIII. The reasons adduced by the Hon'ble Appellate Authority are as under.

1. In view of exemption granted by the amendment introduced in the year 2007 to the Sugarcane Control Order, manufacture of jaggery is exempt from the provisions thereof. Therefore, the objections of the appellant herein is overruled.


2. In view of the letter dated 17.08.2021 issued by the Joint Director of Agriculture, no re-classification of land is required and therefore rejection of consent on the ground that it is a non-plan area is improper.

3. The houses cited in the rejection order are unapproved and therefore cannot be considered for the purpose of grant of consent.

### **GROUND**

- a. The 1st Respondent has failed to obtain the necessary statutory clearance before making an application for consent before the board. In this context it is submitted that the nature of land use classification and necessary permission from the Town and Country Planning Authority is a mandatory requirement for the purpose of issue of consent. In the instant case it is admitted position that S.F.No.892/3A, Sadayalpatti Village, Kodankipatti Village, Bodinayakanur Taluk, Theni District, falls under the non-plan area and therefore the permission of the

For RAJSHREE SUGARS & CHEMICALS LTD.

  
M. THANGA THIRUPATHI  
Director

Commissioner of Agriculture as per the guidelines issues in G.O.Ms.No.79 Housing and Urban Development Department dated 04.05.2017 is mandatory in order to apply for consent. The 1st Respondent had failed to obtain such permission before submitting an application for consent. However, after filing of the appeal the 1st Respondent appears to have filed an application for permission as per G.O.Ms.No.79 Housing and Urban Development Department dated 04.05.2017 which is still pending.

- b. The 1st Respondent places heavy reliance upon the exemption notification dated 31.07.2007 issued under the Sugarcane Control Order 1966 exempting manufacturing of jaggery from the provisions of the order. However, the 1st Respondent has miserably failed to substantiate as to how their industry would fall in the category of manufacture of jaggery, which is a cottage industry when especially the proposed investment shown in Form -I is Rs.89.87 lakhs. Even as per the brochures the issue by the Department of Science and Technology, Government of India, the investment required for a jaggery manufacturing unit will be only about Rs.10.77 lakhs. Therefore, by disguising themselves as a jaggery manufacturing unit, the 1st Respondent intends to establish the unit for manufacture of Chakkar/Khandasari Sugar styling and same as a jaggery powder. It is submitted that the proceedings dated 09.11.2020 of the Director of Town & Country Planning clearly states that no development can take place in a non plan area unless a permission is obtained in accordance with G.O.Ms.No.79


FOR RAJSHREE SUGARS & CHEMICALS LTD

M. THANGA THIRUPATHI  
Dy. General Manager - IR

dated 04.05.2017. The observation of the Appellate Authority in respect of the above in Para 17 as though it relates to an agricultural land is incorrect.

- c. The 1st Respondent after making a representation to the Commissioner of Sugar, Chennai to declare its jaggery manufacturing unit as exempted from Sugarcane Control Order 1966, approached the Hon'ble Madras High Court, Madurai Bench by filing W.P. (MD) No. 14415 of 2021 seeking for a direction to pass orders on his representation. The Hon'ble Madurai Bench passed an order on 16.08.2021 in the above Writ Petition directing the Commissioner, Sugar to consider the representation made by the first Respondent after providing a reasonable opportunity to the 1st Respondent as well as any other person, would be affected by such order. In the said representation, the 1st Respondent has clearly mentioned about the Appellant running their sugar factory in the reserved area allotted to them which included the proposed location of the unit. Therefore, the Commissioner of Sugar was bound to consider the objection of Appellant also before arriving at any decision on the representation made by the 1st Respondent as directed by the Hon'ble High Court. In pursuance of the orders of the Hon'ble High Court the Commissioner of Sugar has only sent a letter dated 01.09.2021 to the 1st Respondent with a copy to the Appellant stating that the Area delimitation Committee will consider the issue. Therefore, the Commissioner of Sugar is yet to take a decision whether the 1st Respondent is entitled to exemption as claimed by them from the provisions of the

FOR RAJSHREE SUGARS & CHEMICALS LTD.

  
M. THANGA THIRUPATHI  
Dy. General Manager - IR

Sugarcane Control Order for the unit proposed to be established purportedly for manufacturing of jaggery. Until such a decision is made, the application of the 1st Respondent for consent to the Board is premature.

- d. The Hon'ble Appellate Authority ought to have only directed the 1st Respondent to obtain all clearances including permission for construction in a non-plan area, declaration from the Commissioner of Sugar etc and resubmit their application for consent. On the other hand, the Appellate Authority has set aside the order of rejection and directed the board to grant consent to the first respondent without satisfaction of any criteria . The Appellate Authority erred in holding that undertaking from the first respondent that they would not commence operations until they obtain all clearances is sufficient to consider their application for consent.
- e. The 1st Respondent ought to satisfy the criteria for making an application for CTE and no application can be directed to be considered until the relevant criteria as per the rules and regulations in force are satisfied. The Appellate Authority has completely ignored the fact that the issue relating to applicability of the exemption notification to the 1st Respondent unit and the prayer for declaration that they will not come under the purview of Sugarcane Control Order is the matter that is pending consideration before the Commissioner of sugar pursuant to the directions issued by the Hon'ble High Court vide order dated 15.08.2021 passed in W.P.No.14415 of 2021. Under such circumstances, the Appellate Authority is not

For RAJSHREE SUGARS & CHEMICALS LTD.

  
M. THANGA THIRUPATHI  
General Manager - IR

competent to decide on the very same issue in respect of which directions have been already issued by the High Court. Moreover the Hon'ble High Court has directed that the Commissioner of Sugar shall hear all concerned parties who will be affected by any order passed by Commissioner of Sugar before coming to any conclusion. Therefore, the Appellant has to be provided a reasonable opportunity of being heard by the Commissioner of Sugar as per the directions of the Hon'ble High Court. Under such circumstances, the conclusion arrived at by the Hon'ble Appellate Authority that the 1st Respondent Unit is exempted from the provisions of the Sugarcane Control Order is incorrect and without jurisdiction.

- f. The reference made by the Appellate Authority to the revenue records in respect of S.No.892/3A showing the same as "Tharisu/factory building", is irrelevant in as much as once the Director of Town and Country Planning has classified the land as a non-plan area, permission can be granted only with reference to the guidelines issued under G.O.Ms.No.79 Housing and Urban Development Department dated 04.05.2017. Therefore, reliance placed by the Appellate Authority on the letter dated 17.08.2021 addressed by the Joint Director, Department of Agriculture to Assistant Director of Town and Country Planning, Theni is erroneous and unsustainable.
- g. It is to be noted from the very same letter dated 17.08.2021 that the 1st Respondent has already completed construction of a huge factory building and presently installation of machineries are going on.

For RAJSHREE SUGARS & CHEMICALS LTD.

  
M. THANGA THIRUPATHI

Therefore, it is clear that the 1st Respondent has applied for consent after completion of construction and installation of machineries without any sanctioned plan and CTE from the TNPCB.

- h. Regarding, the reference made in the order to the Appellant's failure to obtain a revised order for declaration as reserved area in respect of Bodinaickanur Taluk, it is submitted that the bifurcation of Madurai and Theni District took place in the year 1991 and ever since then for the last three decades the entire area remains a reserved area in favour of the Appellant. Therefore, obtaining a separate order for bifurcation of Taluk is a non-essential condition and the same is done only for the purpose of completion of records. So long as there is no confusion with the Central Government or the Commissioner of Sugar in respect of the area reserved in favour of the Appellant merely because a separate revised order has not been issued for Bodinaickanur Taluk does not take away the character of the "reserved area" which has been allotted and in control of the Appellant ever since 1987.
- i. The Appellate Authority has also erred in holding that sanctioned plan is not required for the purpose of considering CTE application. On the other hand it is evident from the order of rejection dated 29.01.2021 as well as the letter of the Joint Director, Department of Agriculture dated 17.08.2021 that major portion of the construction of the factory building has been completed

For RAJSHREE SUGARS & CHEMICALS LTD.

  
M. THANGA THIRUPATHI  
MANAGER - IR

and machineries have been installed. Under such circumstances, the Board is right in asking the 1st Respondent to produce the sanctioned plan for the purpose of grant of consent.

- j. The Appellate Authority in allowing the Appeal has waived all pre-requisites for grant of consent merely on undertakings from the 1st Respondent that they will not commence operation without obtaining statutory clearances as directed by the board to grant consent. Such an order cannot be sustained in law in as much as unless the essential conditions are satisfied the application for consent is premature and can only be returned for compliance to the 1st Respondent.


### **III. LIMITATION**

The applicant declares that the present application is filed within the period of limitation as prescribed under the National Green Tribunal Act read with rules.

### **IV. INTERIM RELIEF**

It is submitted that the application for consent has been rejected by the Respondent TNPCB by order dated 29.01.2021. However, by the impugned order of the Appellate Authority the Board has been directed to issue consent. The order of the Appellate Authority prima facie not sustainable in view of the

For RAJSHREE SUGARS & CHEMICALS LTD.

  
M. THANGA THIRUPATHI  
General Manager - IR

fact that the 1st Respondent has not satisfied the relevant criteria before making an application for consent as set out in the Appeal. If the 1st Respondent is granted consent pursuant to the impugned order of the Appellate Authority, serious prejudice and hardship would be caused to the Appellant. In the interest of justice, it is prayed that this Hon'ble Tribunal may be pleased to stay all further proceedings pursuant to the impugned order of the Hon'ble Appellate Authority dated 06.10.2021 in Appeal No. 10 of 2021.


#### **V. PRAYER FOR INTERIM RELIEF**

The Appellant therefore, prays that this Hon'ble Tribunal may be pleased to stay all further proceedings pursuant to the impugned order of the Hon'ble Appellate Authority dated 06.10.2021 in Appeal No. 10 of 2021 and thus render justice.

#### **PRAYER:**

The Appellant therefore prays that this Hon'ble Tribunal may be pleased to call for the records pertaining to the order of the Hon'ble Appellate Authority, Tamilnadu Pollution Control Board, dated 06.10.2021 passed in Appeal No. 10 of 2021 and quash the same and pass such further or other orders as this Hon'ble Tribunal may deem fit and proper and thus render justice.

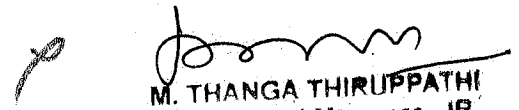
For RAJSHREE SUGARS & CHEMICALS LTD.

  
M. THANGA THIRUPATHI  
Dy. General Manager - IR

**VERIFICATION**

I, M.Thangathiruppathi, S/o T.Mookiah, aged about 55 years, working as Depy.General Manager- Corporate IR, M/s Rajshree Sugars & Chemicals Limited, the Applicant herein situate at Unit-1, Varadaraj Nagar, Periyakulam Taluk, Theni District 625 562, do hereby verify and declare that what is stated in Para Nos. 1 to 8 are true to my personal knowledge and Grounds (a) to (j) believed to be true on legal advice and that I have not suppressed any material fact.

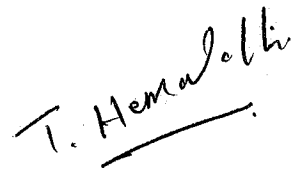
For RAJSHREE SUGARS & CHEMICALS LTD.

  
M. THANGA THIRUPPATHI  
Dy. General Manager - IR

SIGNATURE OF APPELLANT

Date : 11.10.2021

Place : Chennai

  
T. Hemalathi

**BEFORE THE NATIONAL GREEN TRIBUNAL, SOUTHERN ZONE AT  
CHENNAI  
MEMORANDUM OF APPEAL**

**Under Sec.18(1) read with Section 16 the of National Green  
Tribunal Act, 2010)**

**Appeal No.            of 2021**

Rajshree Sugars & Chemicals Limited,  
Rep by its Depy. General Manager,  
Mr.M.Thangathiruppathi,  
having office at  
Unit-1, Varadaraj Nagar,  
Periyakulam Taluk,  
Theni District 625 562  
Email Id-thangathiruppathim@rajshreesugars.com  
Mob:-9865240100

... Appellant

Versus

1.     M/s. GKN Food Products,  
        A Partnership Firm,  
        Rep. by its Managing Partner,  
        Mr. Sivamurugeswara Pandian.N.  
        S.F.No.892/3A, Sadayalpatti,  
        Kodankipatti Village, Bodi Taluk,  
        Theni District  
        Pin 625 534  
        Email Id-gknsiva@gmail.com  
        Mob:-8939911011
  
2.     The Tamil Nadu Pollution Control Board  
        Rep. by its Chairman,  
        100, Anna Salai, Guindy  
        Chennai 600 0032  
        Email Id-tnpcb-chn@gov.in  
        Mob:-044-22353134
  
3.     The District Environmental Engineer  
        Tamil Nadu Pollution Control Board  
        Door NO.151/14, 12A/3, SAR Complex,  
        Boothipuram Road,  
        Theni District 625 531  
        Email Id-tnpcbtheni@gmail.com  
        Mob:-04546-264426

...Respondents

For RAJSHREE SUGARS & CHEMICALS LTD.



**M. THANGA THIRUPPATHI**  
Dy. General Manager - IR

1. The address of the Appellant is as given above and for the service of notices of this appeal is that of their counsel M/s. K.S.Viswanathan & T.Hemalatha, Advocates, No.439, Law Chambers, High Court Buildings, Chennai 600 104.

2. The address of the Respondent is as given above for service of notices of the appeal.

3. The Appellant above named begs to present the Memorandum of Appeal against the order dated 06.10.2021 passed in Appeal No. 11 of 2021 passed by the Hon'ble Appellate Authority, Tamil Nadu Pollution Control Board, in the appeal filed by the first respondent against the order dated 29.01.2021 passed by the 2nd respondent rejecting the application for consent for establishment made by the 1st Respondent in respect of their unit at S.F. No. 892/3A, Sadayalpatti, Kodankipatti Village, Bodi Taluk, Theni District for manufacture of 80 tons per month of Jaggery Powder and 40 tons per month of Jaggery Blocks.

**BRIEF FACTS OF THE CASE:-**

1. The Appellant states that they are involved in the business of manufacture of White Crystal Sugar, Organic Manure and generation of power. The taluks of Theni Periyakulam, Andipatty, Bodinayakanur and Uthamapalayam of Theni District and part of Usilampatty and Peraiyur Taluks of Madurai District were declared as reserved area for the factory set up by the Appellant by the Government of Tamil Nadu under Clause (6) of the Sugarcane Control Order 1966 vide Proceedings dated 02.09.1987, 17.05.1988 and 21.06.1991

For RAJSHREE SUGARS & CHEMICALS LTD.

  
M. THANGA THIRUPATHI  
Dy. General Manager - IR

issued by the Director of Sugar and Cane Commissioner, Tamil Nadu. As per the Sugarcane Control Order, in respect of the reserved area no other person is permitted to manufacture Sugar and related products without the license from the Central Government.

II. While so, in or about June 2020 the 1st Respondent started setting up of machineries at S.F.No.892/3A, Sadayalpatti Village, Kodankipatti Village, Bodinayakanur Taluk, Theni District, which location falls under the reserved area of the Appellant, without obtaining any license from the Commissioner of Sugar or from the Central Government. Therefore, the Appellant sent representations dated 25.06.2020, 17.12.2020 and 26.03.2021 to the Commissioner of Sugar Chennai, complaining about the setting up of the industry by the first Respondent without obtaining any statutory clearances.

III. Even as the Appellant was awaiting further action from the authorities in this regard, the Appellant came to know that the 1st Respondent had approached the TNPCB for grant of Consent to Establish their unit for purported manufacture of Jaggery and that the said application had been rejected by an order dated 29.01.2021 passed by the Board.

IV. The Respondent Board had rejected the application of the 1st Respondent for the following reasons.

(i) that the unit has started its construction of activities to establish their industrial unit in agricultural lands without obtaining Consent to Establish from the Board.

For RAJSHREE SUGARS & CHEMICALS LTD.

  
M. THANGA THIRUPATHI  
Dy. General Manager - IR

(ii) the unit has not furnished any approved building plan/building permit obtained from the competent authority to establish the industry at S.F.No.892/3A, Sadayalpatti Village, Kodankipatti Village, Bodinayakanur Taluk, Theni District, which is a non-plan area as per the letter issued by the Assistant Director, Directorate of Town and Country Planning, Theni dated 09.11.2020.

(iii) The unit site is located adjacent to three numbers of houses with a built up area of approximately 250 to 350 sq.ft each on the western side and a distance of 40 mtrs from the Sadayalpatti area of Kodankipatti Village on the Southern side which is having a population of nearing 500 numbers.

V. The 1st Respondent challenged the aforesaid order of rejection dated 29.01.2021 passed under the Water and Air Acts in Appeal Nos. 10 & 11 of 2021 before the Appellate Authority.

VI. On coming to know of the filing of the appeal, the Appellant filed applications for impleadment in the said appeals in I.A Nos. 61 & 62 of 2021 and the same were allowed by order dated 16.04.2021 and the Appellant was arrayed as the 3rd Respondent in both the Appeals. The Appellant also filed a detailed Counter and contested the matter.

VII. The Appellant states that they mainly raised the following contentions.

For RAJSHREE SUGARS & CHEMICALS LTD.



  
M. THANGA THIRUPATHI  
Dy. General Manager - IR

(a) The unit of the 1st Respondent squarely falls under the reserved area allotted to the Appellant by the Commissioner of Sugar, Chennai under the provisions of the Sugarcane Control Order 1966.

(b) Even after the amendment that was introduced in the Sugarcane Control Order 1966 by Notification dated 31.06.2007 omitting jaggery from the purview of Sugarcane Control Order, considering the fact that the 1st Respondent in the guise of manufacturing jaggery was actually proposing to manufacture only Chakkar/Khandasari Sugar which units are still covered under Sugarcane Control Order and therefore the said exemption will not apply to them.

(c) The 1st Respondent has already completed major portion of the construction and have installed machineries worth crores of rupees even as manufacture of jaggery being a cottage industry hardly required any investment beyond Rs.5 lakhs. Therefore, the 1st Respondent was proposing to manufacture sugar and allied products in the guise of a jaggery manufacturing unit.

(d) The manufacturing process as disclosed in the application form for consent itself discloses that what would be manufactured will not be jaggery but allied products of sugar like Chakkar/Khandasari Sugar etc., which are not exempted from the Sugarcane Control Order.

(e) The land use classification for the S.F. No. 892/3A, Sadayalpatti, Kodankipatti Village, Bodi Taluk, Theni District, shows that it is a non plan area. Therefore, the 1st

For RAJSHREE SUGARS & CHEMICALS LTD.

  
M. THANGA THIRUPATHI  
Dy. General Manager

Respondent was obliged to obtain appropriate orders as per the guidelines given in G.O.Ms.No.79 Housing and Urban Development Department dated 04.05.2017. Until the first respondent obtains necessary permission as per the aforesaid G.O., the consent application of the first Respondent cannot be considered by the Board.

f) The first respondent had made representations dated 28.06.2021 and 23.07.2021 to the Commissioner of Sugar seeking for a declaration that their jaggery manufacturing unit is exempt from the provisions of the Sugarcane Control Order 1966. The first respondent approached the Madurai Bench of the Hon'ble Madras High court by filing a writ petition, viz., W.P.No.14415/2021 seeking for consideration of their representation by the Commissioner of Sugar. The Hon'ble High Court by its order dated 16.08.2021 has directed the Commissioner of Sugar to consider the representation and pass orders after affording a reasonable opportunity to all concerned parties. Therefore, the issue is pending consideration by the concerned authority under the Sugarcane Control Order and determination of the said issue herein would be inappropriate and without jurisdiction.

(g) In spite of the above objections the Hon'ble Appellate Authority by order dated 06.10.2021 has set aside the order of the rejection of consent dated 29.01.2021 and has directed the Board to grant consent to the first respondent. Aggrieved by the aforesaid order of the Appellate Authority, the present appeal has been filed.

For RAJSHREE SUGARS & CHEMICALS LTD.

  
M. THANGA THIRUPATHI  
By, General Manager - IR

VIII. The reasons adduced by the Hon'ble Appellate Authority are as under.

1. In view of exemption granted by the amendment introduced in the year 2007 to the Sugarcane Control Order, manufacture of jaggery is exempt from the provisions thereof. Therefore, the objections of the appellant herein is overruled.

2. In view of the letter dated 17.08.2021 issued by the Joint Director of Agriculture, no re-classification of land is required and therefore rejection of consent on the ground that it is a non-plan area is improper.

3. The houses cited in the rejection order are unapproved and therefore cannot be considered for the purpose of grant of consent.

### **GROUND**

a. The 1st Respondent has failed to obtain the necessary statutory clearance before making an application for consent before the board. In this context it is submitted that the nature of land use classification and necessary permission from the Town and Country Planning Authority is a mandatory requirement for the purpose of issue of consent. In the instant case it is admitted position that S.F.No.892/3A, Sadayalpatti Village, Kodankipatti Village, Bodinayakanur Taluk, Theni District, falls under the non-plan area and therefore the permission of the

For RAJSHREE SUGARS & CHEMICALS LTD.

  
M. THANGA THIRUPATHI  
Dy. General Manager - IR

Commissioner of Agriculture as per the guidelines issues in G.O.Ms.No.79 Housing and Urban Development Department dated 04.05.2017 is mandatory in order to apply for consent. The 1st Respondent had failed to obtain such permission before submitting an application for consent. However, after filing of the appeal the 1st Respondent appears to have filed an application for permission as per G.O.Ms.No.79 Housing and Urban Development Department dated 04.05.2017 which is still pending.

- b. The 1st Respondent places heavy reliance upon the exemption notification dated 31.07.2007 issued under the Sugarcane Control Order 1966 exempting manufacturing of jaggery from the provisions of the order. However, the 1st Respondent has miserably failed to substantiate as to how their industry would fall in the category of manufacture of jaggery, which is a cottage industry when especially the proposed investment shown in Form -I is Rs.89.87 lakhs. Even as per the brochures the issue by the Department of Science and Technology, Government of India, the investment required for a jaggery manufacturing unit will be only about Rs.10.77 lakhs. Therefore, by disguising themselves as a jaggery manufacturing unit, the 1st Respondent intends to establish the unit for manufacture of Chakkar/Khandasari Sugar styling and same as a jaggery powder. It is submitted that the proceedings dated 09.11.2020 of the Director of Town & Country Planning clearly states that no development can take place in a non plan area unless a permission is obtained in accordance with G.O.Ms.No.79

For RAJSHREE SUGARS & CHEMICALS LTD.

  
M. THANGA THIRUPATHI  
Dy. General Manager - IR

dated 04.05.2017. The observation of the Appellate Authority in respect of the above in Para 17 as though it relates to an agricultural land is incorrect.

- c. The 1st Respondent after making a representation to the Commissioner of Sugar, Chennai to declare its jaggery manufacturing unit as exempted from Sugarcane Control Order 1966, approached the Hon'ble Madras High Court, Madurai Bench by filing W.P. (MD) No. 14415 of 2021 seeking for a direction to pass orders on his representation. The Hon'ble Madurai Bench passed an order on 16.08.2021 in the above Writ Petition directing the Commissioner, Sugar to consider the representation made by the first Respondent after providing a reasonable opportunity to the 1st Respondent as well as any other person, would be affected by such order. In the said representation, the 1st Respondent has clearly mentioned about the Appellant running their sugar factory in the reserved area allotted to them which included the proposed location of the unit. Therefore, the Commissioner of Sugar was bound to consider the objection of Appellant also before arriving at any decision on the representation made by the 1st Respondent as directed by the Hon'ble High Court. In pursuance of the orders of the Hon'ble High Court the Commissioner of Sugar has only sent a letter dated 01.09.2021 to the 1st Respondent with a copy to the Appellant stating that the Area delimitation Committee will consider the issue. Therefore, the Commissioner of Sugar is yet to take a decision whether the 1st Respondent is entitled to exemption as claimed by them from the provisions of the

For RAJSHREE SUGARS & CHEMICALS LTD.

  
M. THANGA THIRUPATHI  
Dy. General Manager - IR

Sugarcane Control Order for the unit proposed to be established purportedly for manufacturing of jaggery. Until such a decision is made, the application of the 1st Respondent for consent to the Board is premature.

- d. The Hon'ble Appellate Authority ought to have only directed the 1st Respondent to obtain all clearances including permission for construction in a non-plan area, declaration from the Commissioner of Sugar etc and resubmit their application for consent. On the other hand, the Appellate Authority has set aside the order of rejection and directed the board to grant consent to the first respondent without satisfaction of any criteria . The Appellate Authority erred in holding that undertaking from the first respondent that they would not commence operations until they obtain all clearances is sufficient to consider their application for consent.
- e. The 1st Respondent ought to satisfy the criteria for making an application for CTE and no application can be directed to be considered until the relevant criteria as per the rules and regulations in force are satisfied. The Appellate Authority has completely ignored the fact that the issue relating to applicability of the exemption notification to the 1st Respondent unit and the prayer for declaration that they will not come under the purview of Sugarcane Control Order is the matter that is pending consideration before the Commissioner of sugar pursuant to the directions issued by the Hon'ble High Court vide order dated 15.08.2021 passed in W.P.No.14415 of 2021. Under such circumstances, the Appellate Authority is not

For RAJSHREE SUGARS & CHEMICALS LTD.

  
M. THANGA THIRUPATHI  
Dy. General Manager - IR

competent to decide on the very same issue in respect of which directions have been already issued by the High Court. Moreover the Hon'ble High Court has directed that the Commissioner of Sugar shall hear all concerned parties who will be affected by any order passed by Commissioner of Sugar before coming to any conclusion. Therefore, the Appellant has to be provided a reasonable opportunity of being heard by the Commissioner of Sugar as per the directions of the Hon'ble High Court. Under such circumstances, the conclusion arrived at by the Hon'ble Appellate Authority that the 1st Respondent Unit is exempted from the provisions of the Sugarcane Control Order is incorrect and without jurisdiction.

- f. The reference made by the Appellate Authority to the revenue records in respect of S.No.892/3A showing the same as "Tharisu/factory building", is irrelevant in as much as once the Director of Town and Country Planning has classified the land as a non- plan area, permission can be granted only with reference to the guidelines issued under G.O.Ms.No.79 Housing and Urban Development Department dated 04.05.2017. Therefore, reliance placed by the Appellate Authority on the letter dated 17.08.2021 addressed by the Joint Director, Department of Agriculture to Assistant Director of Town and Country Planning, Theni is erroneous and unsustainable.
- g. It is to be noted from the very same letter dated 17.08.2021 that the 1st Respondent has already completed construction of a huge factory building and presently installation of machineries are going on.

For RAJSHREE SUGARS & CHEMICALS LTD.



M. THANGA THIRUPATHI  
Dy. General Manager - IR

Therefore, it is clear that the 1st Respondent has applied for consent after completion of construction and installation of machineries without any sanctioned plan and CTE from the TNPCB.

- h. Regarding, the reference made in the order to the Appellant's failure to obtain a revised order for declaration as reserved area in respect of Bodinaickanur Taluk, it is submitted that the bifurcation of Madurai and Theni District took place in the year 1991 and ever since then for the last three decades the entire area remains a reserved area in favour of the Appellant. Therefore, obtaining a separate order for bifurcation of Taluk is a non-essential condition and the same is done only for the purpose of completion of records. So long as there is no confusion with the Central Government or the Commissioner of Sugar in respect of the area reserved in favour of the Appellant merely because a separate revised order has not been issued for Bodinaickanur Taluk does not take away the character of the "reserved area" which has been allotted and in control of the Appellant ever since 1987.
- i. The Appellate Authority has also erred in holding that sanctioned plan is not required for the purpose of considering CTE application. On the other hand it is evident from the order of rejection dated 29.01.2021 as well as the letter of the Joint Director, Department of Agriculture dated 17.08.2021 that major portion of the construction of the factory building has been completed

For RAJSHREE SUGARS & CHEMICALS LTD.

  
M. THANGA THIRUPATHI  
Dy. General Manager - IR

and machineries have been installed. Under such circumstances, the Board is right in asking the 1st Respondent to produce the sanctioned plan for the purpose of grant of consent.

- j. The Appellate Authority in allowing the Appeal has waived all pre-requisites for grant of consent merely on undertakings from the 1st Respondent that they will not commence operation without obtaining statutory clearances as directed by the board to grant consent. Such an order cannot be sustained in law in as much as unless the essential conditions are satisfied the application for consent is premature and can only be returned for compliance to the 1st Respondent.

### **III. LIMITATION**

The applicant declares that the present application is filed within the period of limitation as prescribed under the National Green Tribunal Act read with rules.

### **IV. INTERIM RELIEF**

It is submitted that the application for consent has been rejected by the Respondent TNPCB by order dated 29.01.2021. However, by the impugned order of the Appellate Authority the Board has been directed to issue consent. The order of the Appellate Authority prima facie not sustainable in view of the

For RAJSHREE SUGARS & CHEMICALS LTD.

  
M. THANGA THIRUPATHI  
Dy. General Manager - IR

fact that the 1st Respondent has not satisfied the relevant criteria before making an application for consent as set out in the Appeal. If the 1st Respondent is granted consent pursuant to the impugned order of the Appellate Authority, serious prejudice and hardship would be caused to the Appellant. In the interest of justice, it is prayed that this Hon'ble Tribunal may be pleased to stay all further proceedings pursuant to the impugned order of the Hon'ble Appellate Authority dated 06.10.2021 in Appeal No. 11 of 2021.

#### **V. PRAYER FOR INTERIM RELIEF**

The Appellant therefore, prays that this Hon'ble Tribunal may be pleased to stay all further proceedings pursuant to the impugned order of the Hon'ble Appellate Authority dated 06.10.2021 in Appeal No. 10 of 2021 and thus render justice.

#### **PRAYER:**

The Appellant therefore prays that this Hon'ble Tribunal may be pleased to call for the records pertaining to the order of the Hon'ble Appellate Authority, Tamilnadu Pollution Control Board, dated 06.10.2021 passed in Appeal No. 11 of 2021 and quash the same and pass such further or other orders as this Hon'ble Tribunal may deem fit and proper and thus render justice.

For RAJSHREE SUGARS & CHEMICALS LTD.

  
M. THANGA THIRUPATHI  
Dy. General Manager - IR

**VERIFICATION**

I, M.Thangathiruppathi, S/o T.Mookiah, aged about 55 years, working as Depy.General Manager- Corporate IR, M/s Rajshree Sugars & Chemicals Limited, the Applicant herein situate at Unit-1, Varadaraj Nagar, Periyakulam Taluk, Theni District 625 562, do hereby verify and declare that what is stated in Para Nos. 1 to 8 are true to my personal knowledge and Grounds (a) to (j) believed to be true on legal advice and that I have not suppressed any material fact.

For RAJSHREE SUGARS & CHEMICALS LTD.

  
M. THANGA THIRUPPATHI  
Dy. General Manager - IR

SIGNATURE OF APPELLANT

Date : 11.10.2021

Place : Chennai

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

**Appeal Nos. 73 and 74 of 2021**

Rajashree Sugars & Chemicals  
Limited,  
Rep. by its Depy. General Manager,  
Mr.M.Thangathirupathi,  
having office at Unit-1, Varadaraj Nagar,  
Periyakulam Taluk,  
Theni District 625 562 ...Appellant

-Vs-

M/s. GKN Food Products,  
A Partnership Firm,  
Rep. by its Managing Partner,  
Mr. Sivamurugeswara Pandian.N.  
S.F. No.892/3A, Sadayalpatti,  
Kodankipatti Village, Bodi Taluk,  
Theni District ...Respondents  
Pin 625 534 and 2 others

**WRITTEN SUBMISSIONS FILED ON BEHALF OF THE 1<sup>ST</sup>  
RESPONDENT**

1. It is submitted that application under Water and Air Act was submitted to the office of the 2<sup>nd</sup> Respondent seeking consent for establishment a unit for manufacture of Jaggery powder at the rate of 80 tons per month and Jaggery block at the rate of 40 tons per month. By the proceedings dated 29.01.2021, the 2<sup>nd</sup> Respondent rejected the applications on the ground that the Unit had not furnished any approved building plan/building permit obtained from the competent authority to establish the industry which is a non-planned area. Yet another ground for rejecting the applications was that the Unit's site is located adjacent to three numbers of houses with a built up area of approximately 250-350 sq.ft each.

2. Aggrieved by the proceedings dated 29.01.2021, the 1<sup>st</sup> Respondent filed Appeal Nos.10 and 11 of 2021 before the Hon'ble Appellate Authority, Tamil Nadu Pollution Control Board. Pending the appeal, the Appellant filed applications in I.A.Nos.61 and 62 of 2021 seeking to implead itself as a party Respondent. The Appellant sought to implead itself on the ground that the taluks of Theni, Periyakulam, Andipatty, Bodinayakanur and Uthamapalayam of Theni District and a part of Usilampatty and Periyayur Taluks of Madurai Districts are declared as reserved area for its factory and that in the reserved area, no other person is permitted to manufacture gur (jaggery) or Khandasari sugar or sugar without a license from Central Government as per the provisions of the Sugarcane Control Order. In substance, the case of the Appellant was that the area where it is manufacturing sugar has been declared as a reserved area for the factory run by it and that the 1<sup>st</sup> Respondent has no legally valid right to establish the Unit.

3. It is submitted that the Hon'ble Appellate Authority, Tamil Nadu Pollution Control Board allowed the impleading applications. By the order dated 06.10.2021, **(Page No.156 of the Appellant's typed set)** the Hon'ble Appellate Authority, Tamil Nadu Pollution Control Board allowed Appeal Nos.10 and 11 of 2021 and directed the 2<sup>nd</sup> and 3<sup>rd</sup> Respondents to grant Consent for Establishment to this Respondent for establishing jaggery manufacturing unit in the area concerned.

4. Aggrieved by the order dated 06.10.2021, the present appeals were filed before this Hon'ble Tribunal.

5. It is the case of the Appellant that the Unit proposed to be established by the 1<sup>st</sup> Respondent squarely falls under the reserved area allotted to the Appellant by the Commissioner of Sugars under the provisions of

Sugarcane Control Order, 1966. In exercise of powers conferred by Section 3 of the Essential Commodities Act, 1955, the Central Government enacted Sugarcane (Control) Order, 1966 in order to fix the minimum price of sugarcane to be paid by the producers of sugar or their agents for the sugarcane purchased by them having regard to the cost of production of sugarcane and other factors.

6. As per Clause 7(b)(ii) of the Sugarcane (Control) Order, 1966, in a reserved area, no sugarcane or sugarcane juice shall be purchased for crushing or for manufacture of gul, shakkar, jaggery rab or khandsari sugar by a crusher not belonging to a grower or body of growers of sugarcane or by a khandsari unit in the area. Apart from Clause 7(b)(ii), clauses 2,6,7,8 and 9 of the Sugarcane (Control) Order, 1966 no sugarcane or sugarcane juice can be purchased for crushing or for manufacture of gul, shakkar, jaggery rab or khandsari sugar in a reserved area.

7. It is submitted that an amendment was introduced to Sugarcane (Control) Orders, 1966 with the promulgation of Sugarcane (Control)(Amendment) Order, 2007 with effect from 31.07.2007 **(Page No.30 of Appellant's typed set)** as per which the words "gur, gul, jaggery' contained in the above clauses above said, more particularly, Clause 7(b)(ii) of the Sugarcane (Control) Orders, 1966 was ordered to be omitted, thus paving way for a crusher not belonging to a body of growers of sugarcane to purchase sugarcane or sugarcane juice in a reserved area. In view of issuance of the said amendment, the Appellant cannot have monopoly in the matter of purchase of sugarcane or sugarcane juice in a reserved area. In view of the coming into force of Sugarcane (Control) (Amendment) Order, 2007, amending Clause 7 of the

Sugarcane (Control) Rules, 1966, the Appellant do not have locus standi to contend that the 1<sup>st</sup> Respondent is not entitled to set up its factory within its reserved area.

8. It is further submitted that the term “reserved area” in Clause 6 of the Sugarcane Control Order, 1961 was also omitted under the amendment dated 31.07.2007. In view of the same, the Appellant cannot be heard to contend that establishment of a jaggery manufacturing in a reserved area is barred and it cannot claim monopoly over the same.

9. It is contended by the Appellant that the 1<sup>st</sup> Respondent is proposing to manufacture Chakkar/Khandasari sugar under the guise of manufacturing jaggery and the same is wholly incorrect.

10. Reliance is also placed by the Appellant in the Government Order dated 04.05.2017 **(Page No.32 of Appellant’s typed set)** to contend that establishment of the Unit in a non-planned area is not permissible. The Government Order dated 04.05.2017 states that re-classification certificate is required only for converting the agricultural land to industrial area. In the instant case, the land in question is not classified as agricultural/wet land but is entered in the revenue records as tharissu/industrial building as would be evident from the communication dated 17.08.2021 sent by Joint Director, Agriculture Department to the Director of Town and Country Planning **(Page No.127 of Appellant’s typed set)**. The communication dated 17.08.2021 clearly states that the land is a tharissu/industrial building and the same is culled out from the revenue records. When the land is classified as a industrial building, there is no bar for establishment of a manufacturing unit in the land in question. In view of the same, it submitted that the

Government Order dated 04.05.2017 is not applicable to the instant case and hence there is no necessity for obtaining necessary permission.

11. It is submitted that information was sought from the Public Information Officer of the office of Commissioner of Sugars under the Right to Information Act, 2005 . Amongst other, information was also sought as to whether prior permission of required from the office of Commissioner of Sugars for manufacturing jaggery. On 02.09.2021, **(Page 14 of 1<sup>st</sup> Respondent's typed set)** reply was received from the authority concerned to the effect that no permission is required from the office of Commissioner of Sugars for manufacture of jaggery from Sugarcane. It is submitted that consequent upon the amendment, the manufacture of jaggery do not come under the purview of Sugarcane (Control) Order, 1966.

12. It is submitted that the description of the land as “non-planned area” is not sustainable. It is further submitted that there is no ban for establishing industries in a non-planned area. That apart, no guidelines has been issued by the Tamil Nadu Pollution Control Board in the form of Board proceedings banning industrial activities in non-planned area. Therefore, no reliance can be placed by the Appellant in that behalf.

13. It is submitted that while allowing the Appeals filed by the 1<sup>st</sup> Respondent, the Hon'ble Appellate Authority took into consideration the notification dated 31.07.2007 and also the reply sent by the Public Information Officer of the Commissioner of Sugars under the Right to Information Act, 2005. It is stated that by the communication dated 24.08.2021 **(Page No.12 of Appellant's typed set)**, the Commissioner of Sugars, acting on the representation sent by the Appellant, informed the

District Collector, Theni District as to the amendment introduced in the year 2007 and was requested to take note of the latest provision of law.

14. It is submitted that the issue as regards the land classification and obtaining licence from the Commissioner of Sugars or from the Central Government is within the realm of the competent authority and the Appellant has no locus with regard to the same. It is submitted that that licence from the competent authority is required where the unit is to be established in a reserved area and not otherwise.

15. It is submitted that initially the Appellant was allotted the entire area of Uthamapalayam, Periyakulam and Andipatti Taluks for carrying on their sugar manufacturing business by purchasing sugarcane from the growers of that area. The Appellant had obtained order of reserved area in respect of Uthamapalayam and Periyakulam Taluks in the year 1987. After bifurcation of Periyakulam Taluk as Periyakulam and Andipatti Taluks, the Appellant obtained order of reserved area for Andipatti Taluk vide proceedings dated 17.05.1988 **(Page No.26 of Appellant's typed set)** During the year 1997, Uthamapalayam Taluk was bifurcated and Bodinaickanur and Theni Taluks came into existence. After the said bifurcation, the Appellant has not obtained any revised order for allotment of Bodinaickanur and Theni Taluks which were erstwhile Uthamapalayam taluk as reserved area for their factory for sugarcane drawal. When the Appellant had obtained revised order in the year 1987 consequent upon the bifurcation of Periyakulam Taluk, as a natural corollary, it should have obtained revised order after the bifurcation of Uthamapalayam Taluk as well. As In this regard, it is contended by the Appellant that obtaining a separate order for bifurcation of Taluk is a non-essential condition. The said contention is far fetched and is self

serving. The unit where the 1<sup>st</sup> Respondent proposes to establish the Unit is at Bodinaickanur in respect of which the Appellant has not obtained revised order. The non-obtaining of revised order goes to the root of the matter and the same disentitles the Appellant to claim monopoly in the matter of purchase of sugarcane or sugarcane juice in Bodinaickanur Taluk. Assuming without admitting that obtaining a separate order of bifurcation is a non-essential condition, the Appellant is non-suited consequent upon the promulgation of Sugarcane (Control) Amendment Order, 2007 with effect from 2007.

16. It is submitted that state that suppressing the amendments as referred to above, the Appellant had addressed letter to the Commissioner of Sugars on 25.06.2020, **(Page No.54 of Appellant's typed set)** 17.12.2020 **(Page No.74 of Appellant's typed set)** and 26.03.2021 **(Page No.88 of Appellant's typed set)** to issue instructions to the concerned officials to stop the 1<sup>st</sup> Respondent from establishing the Unit. The said letters had been addressed by the Appellant to the Commissioner of Sugars with an vindictive motive and mislead the authority concerned. It is submitted that on 28.06.2021, the 1<sup>st</sup> Respondent addressed a detailed letter to the Commissioner of Sugars bringing to its notice as to the amendment made to the Sugarcane Control Orders. It was also brought to the notice of the authority concerned that the Appellant had obtained orders on reserved area only for Uthamapalayam, Periyakulam and Andipatti Taluks. Request was made to the authority to take action against the Appellant for willful suppression of facts and for making false allegations against the this Respondent.

17. It is submitted that eventhough, the Government Order dated 04.05.2017 is not applicable to the facts of the case, the 1<sup>st</sup> Respondent submitted application on 05.02.2021 to the Deputy Director of Town and Country Planning, Theni District in terms of the Government Order dated 04.05.2017. The Office of the Assistant Director of Town and Country Planning, Theni after taking into consideration the application submitted by the 1<sup>st</sup> Respondent, by the communication dated 04.08.2021 **(Page No.7 of 1<sup>st</sup> Respondent's typed set)** requested the Joint Director, Agriculture Department Theni to issue No Objection Certificate to the Appellant for developing the industry. Pursuant thereto, the office of the Joint Director, Agriculture Department conducted inspection on 16.08.2021 and in that behalf, the issuance of No Objection Certificate is awaited from the said authority

It is therefore prayed that this Hon'ble Tribunal may be pleased to dismiss the Appeals and thus render justice.

Dated at Madras this the      day of December 2021

Counsel for 1<sup>st</sup> Respondent

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

**Under Sec.18(1) read with Section 16 the of National Green  
Tribunal Act, 2010)**

**Appeal Nos73 & 74 of 2021**

Rajshree Sugars & Chemicals Limited,  
Rep by its Depy. General Manager,  
Mr.M.Thangathiruppathi,  
having office at  
Unit-1, Varadaraj Nagar,  
Periyakulam Taluk,  
Theni District 625 562  
Email Id-thangathiruppathim@rajshreesugars.com  
Mob:-9865240100

... Appellant

Versus

1. M/s. GKN Food Products,  
A Partnership Firm,  
Rep. by its Managing Partner,  
Mr. Sivamurugeswara Pandian.N.  
S.F.No.892/3A, Sadayalpatti,  
Kodankipatti Village, Bodi Taluk,  
Theni District  
Pin 625 534  
Email Id-gknsiva@gmail.com  
Mob:-8939911011
2. The Tamil Nadu Pollution Control Board  
Rep. by its Chairman,  
100, Anna Salai, Guindy  
Chennai 600 0032  
Email Id-tnpcb-chn@gov.in  
Mob:-044-22353134
3. The District Environmental Engineer  
Tamil Nadu Pollution Control Board  
Door NO.151/14, 12A/3, SAR Complex,  
Boothipuram Road,  
Theni District 625 531  
Email Id-tnpcbtheni@gmail.com  
Mob:-04546-264426

... Respondents

For RAJSHREE SUGARS & CHEMICALS LTD.



M. THANGA THIRUPPATHI  
Dy. General Manager - IR

**REJOINDER FILED BY THE APPELLANT IN RESPONSE TO  
COUNTER AFFIDAVIT FILED BY THE FIRST RESPONDENT**

I, M.Thangathiruppathi, S/o. T. Mookiah, Hindu, aged about 55 years, Working as Depy. General Manager - Corporate IR, M/s. Rajshree Sugars & Chemicals Limited, having office at Unit-1, Varadaraj Nagar, Periyakulam Taluk, Theni District 625 562, do hereby solemnly affirm and sincerely state as follows:

1. I am the Appellant herein and well acquainted with the facts of the case.
2. I have read the Counter Affidavit filed by the First Respondent in the above appeals and I deny the allegations made against the Appellants therein. I am filing the present Rejoinder Affidavit only to clarify this aspects that are not covered in the detailed Memorandum of Appeal filed.
3. The First Respondent has continued to deny that the unit of the First Respondent falls under the reserved area allotted to the Appellant by the Commissioner of Sugars under the provisions of Sugarcane (Control) Order 1966. This stand taken by the First Respondent is unsubstantiated and unsupported by any evidence on record. So long as the reserved area allotted to the Appellant has not been de-reserved or granted in favour of any Third Party by any specific orders of the Central Government or the Commissioner of Sugars, it is not open to the First Respondent to contend that their unit is not situated in the reserved area of the Appellant.

For RAJSHREE SUGARS & CHEMICALS LTD.

  
M. THANGA THIRUPPATHI  
Dy. General Manager - IR

4. The repeated contentions raised in paras 6 to 8 of the Counter Affidavit that by virtue of the amendment introduced on 31.07.2007 to the Sugarcane (Control) Order 1966, the First Respondent is entitled to operate in the reserved area are incorrect. The amendment only states the legal position that manufacture of Jaggery is exempted from the applicability of the Sugarcane (Control) Order. Therefore, unless and until the First Respondent is able to establish before the Commissioner of Sugars or the Central Government that the proposed project is only for the purpose of manufacturing jaggery and not those items otherwise covered under the Original Sugarcane Control Order 1966, the First Respondent cannot seek for any consent from the TNPCB to establish their factory in the reserved area. The averment of First Respondent in para 7 of the counter that the term "reserved area" in clause 6 of the sugar Cane control order 1966 was also omitted is factually incorrect and misleading. In fact clause 6 with sub clauses (a) to (f) of the order empowers the central Government/Commissioner of Sugar to earmark any area as reserved area for drawing sugarcane to a factory having regard to the crushing capacity, availability of sugarcane etc., and restrict its movement.

5. It is submitted that if the amendment was automatically applicable to the First Respondent, there was no necessity for the First Respondent to make a representation to the Commissioner of Sugar on 28.06.2021 and 23.07.2021 seeking orders to the effect that the Petitioner unit is exempted from the Sugarcane (Control) Order 1966. Likewise, the First Respondent in filing W.P.No.14415 of 2021 before the Madurai Bench of the Hon'ble High Court of Madras has conceded the

For RAJSHREE SUGARS & CHEMICALS LTD.

  
M. THANGA THIRUPATHI  
Dy. General Manager - IR

factual position that unless and until the Commissioner of Sugar issues a clarification on the applicability of the exemption to the First Respondent unit, they cannot automatically avail the same. In addition the Madurai Bench of the Hon'ble High Court of Madras has also passed an order on 16.08.2021 in W.P.No.14415 of 2021 directing the Commissioner of Sugar to consider the representation of the Petitioner dated 28.06.2021 and 23.07.2021 and dispose of the same by a reasoned order after taking into account the Sugarcane (Control) Amendment Order 2007. The Hon'ble High Court, considering the fact that the First Respondent has mentioned the Appellants objections in the matter, has directed the Commissioner of Sugar to provide reasonable opportunity to the First Respondent herein as well as any other person who would be affected by such order.

6. It is submitted that a considered order is still awaited from the Commissioner of Sugar who is the competent authority. After the order of the Hon'ble High Court, the Commissioner of sugar has only issued a communication dated 01.09.2021 that the District Collector, Theni has been informed about the provisions of the Sugarcane (Control) Order 2007. The Commissioner of Sugar is yet to hold an enquiry about the applicability of the exemption to the First Respondent in the light of the objections raised by the Appellant herein by affording opportunity to the Appellant as directed by the Hon'ble High Court by its order dated 16.08.2021. Therefore, the issue is still pending before the concerned authorities and the First Respondent cannot assume that it is automatically entitled to exemption on his purported claim that he is manufacturing only Jaggery.

For RAJSHREE SUGARS & CHEMICALS LTD.

  
M. THANGA THIRUPATHI  
Dy. General Manager

7. The Appellant states that the Application and process diagram of the First Respondent indicate installation and use of a vacuum concentrator which is nothing but a vacuum pan use in sugar/kandasari/chakkar manufacturing. If that is so, what is produced is not jaggery but only sugar/kandasari/chakkar which is not exempt.

8. The Appellant has also made a further representation on 04.10.2021 in response to the communication dated 01.09.2021 issued by the Commissioner of Sugar asking for an opportunity before deciding the issue finally as directed by the orders of the Hon'ble High Court in W.P.No.14415 of 2021 and the reply is still awaited.

9. The averments made in para 11 that G.O.Ms.No.79 dated 04.05.2017 is not applicable to the First Respondent is totally incorrect. The First Respondent on its own has applied for conversion of the land in a non-plan area and has made an application for the same as per the guidelines contained in G.O.Ms.No.79 dated 04.05.2017. Under such circumstances, based on revenue records obtained subsequently the First Respondent cannot claim that the said G.O. is not applicable to them. In other words, the First Respondent cannot approbate and reprobate.

10. The averments in para 18 regarding bifurcation orders to be obtained it is submitted that after the bifurcation that was effected in the year 1997, the Appellant has been continuing to operate in the same reserved area for the last 24 years. As stated in the Appeal Memorandum already separate orders for bifurcated areas are not required. Any bifurcation

For RAJSHREE SUGARS & CHEMICALS LTD.

  
M. THANGA THIRUPATHI  
Dy. General Manager - IR

orders obtained by the Appellant in case of other areas are purely based on administrative convenience and not because of any legal necessity.

11. The First Respondent, even before applying for CTE and after rejection of consent and during the pendency of the appeal proceedings has completed the construction of its factory by spending several crores. The very fact that the investment is running to crores of rupees would establish the factory is not a jaggery manufacturing unit since jaggery manufacturing is a low investment cottage industry. It is only for the purpose of encouraging such cottage industries exemption for jaggery was granted under the Sugarcane Control Order. The First Respondent is attempting to misuse and abuse the exemption provision in order to escape the clutches of the Sugarcane (Control) Order Sugarcane is a highly regulated commodity and quite scarce. The Appellant is already facing shortage of sugarcane even to run their own factory in the present reserved area. Under such circumstances, proposal of the First Respondent that he should be permitted to purchase sugarcane from the sugarcane growers directly is neither practicable nor permissible.

12. In the foregoing circumstances, the claim of the First Respondent is totally unfounded. The First Respondent wants a consent to be issued even before he has complied with the necessary legal and basic requirements. It is well known that no consent can be granted unless basic conditions are satisfied by the First Respondent and consent orders cannot be issued on the basis of undertaking that may be given by the project proponent that they will comply with the essential conditions at

For RAJSHREE SUGARS & CHEMICALS LTD.

  
M. THANGA THIRUPATHI  
Dy. General Manager - IR

a later point of time. Unless and until the First Respondent complies with all legal requirements, he is not entitled to obtain a CTE.


It is therefore prayed that this Hon'ble Tribunal may be pleased to allow the Appeal Nos. 73 & 74 of 2021 and pass appropriate orders and thus render justice.

For RAJSHREE SUGARS & CHEMICALS LTD.

  
M. THANGA THIRUPATHI  
Dy. General Manager - IR

Solemnly affirmed at Chennai on  
this the 1<sup>st</sup> day of December, 2021  
and signed his name in my  
presence.

BEFORE ME

  
2022/08  
ADVOCATE: CHENNAI

No. 70 Law  
Chennai.

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

**MEMORANDUM OF APPEAL**

**Under Sec.18(1) read with Section 16 the of National Green  
Tribunal Act, 2010)**

**Appeal Nos73 & 74 of 2021**

Rajshree Sugars & Chemicals Limited,  
Rep by its Depy. General Manager,  
Mr.M.Thangathiruppathi,

... Appellant

Versus

1. M/s. GKN Food Products,  
A Partnership Firm,  
Rep. by its Managing Partner,  
Mr. Sivamurugeswara Pandian.N.  
Theni District & 2 others

... Respondents

**REJOINDER FILED BY THE APPELLANT IN RESPONSE TO**  
**COUNTER AFFIDAVIT FILED BY THE FIRST RESPONDENT**

THROUGH

**M/S. K.S.VISWANATHAN, T. HEMALATHA & S. RATHI**

**ADVOCATES FOR APPELLANT**

**PLACE: CHENNAI**

**DATE: 02.12.2021**

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

**Appeal No. 73 of 2021 (SZ)**

**&**

**Appeal No. 74 of 2021(SZ)**

(Through Video Conference)

**IN THE MATTER OF**

Rajshree Sugars & Chemicals Limited,  
Rep by its Depy. General Manager,  
Mr. M. Thangathiruppathi,  
Having office at Unit-1, Varadaraj Nagar,  
Periyakulam Taluk,  
Then District- 625 562

....Appellant(s)

***Versus***

1. M/s GKN Food Products,  
A Partnership Firm,  
Rep by its Managing Partner,  
S.F. No. 892/3A, Sadayalpatti,  
Kodankipatti Village, Bodi Taluk,  
Theni District- 625 534
2. Tamil Nadu Pollution Control Board,  
Rep by its Chairman,  
100, Anna Salai, Guindy,  
Chennai 600 0032
3. The District Environmental Engineer  
Tamil Nadu Pollution Control Board  
Door No. 151/14, 12A/3, SAR Complex,  
Boothipuram Road,  
Theni District 625 531.

... Respondent(s)

With

Rajshree Sugars & Chemicals Limited,  
Rep by its Depy. General Manager,  
Mr. M. Thangathiruppathi,  
Having office at Unit-1, Varadaraj Nagar,  
Periyakulam Taluk,  
Then District- 625 562

....Appellant(s)

***Versus***

1. M/s GKN Food Products,  
A Partnership Firm,  
Rep by its Managing Partner,

S.F. No. 892/3A, Sadayalpatti,  
Kodankipatti Village, Bodi Taluk,  
Theni District- 625 534

2. Tamil Nadu Pollution Control Board,  
Rep by its Chairman,  
100, Anna Salai, Guindy,  
Chennai 600 0032
3. The District Environmental Engineer  
Tamil Nadu Pollution Control Board  
Door No. 151/14, 12A/3, SAR Complex,  
Boothipuram Road,  
Theni District 625 531.

... Respondent(s)

For Appellant(s): Mr. K.S. Viswanathan (both the cases)  
For Respondent(s): Mrs. Rita Chandrasekar for R1 (both the cases)  
Mr. Sai Sathya Jith for R2 & R3 (both the cases)

**Judgment Reserved on: 5<sup>th</sup> January, 2022**

**Judgment Pronounced on: 28<sup>th</sup> January, 2022**

**CORAM:**

**HON'BLE MR. JUSTICE K. RAMAKRISHNAN, JUDICIAL MEMBER**

**HON'BLE DR. SATYAGOPAL KORLAPATI, EXPERT MEMBER**

Whether the Judgement is allowed to be published on the Internet – Yes/No

Whether the Judgement is to be published in the All India NGT Reporter – Yes/No

### **JUDGMENT**

***Delivered by Justice K. Ramakrishnan, Judicial Member.***

1. These Appeals have been filed by the appellant who was 3<sup>rd</sup> respondent before the Appellate Authority against the common order dated 06.10.2021 passed by the Appellate Authority, Pollution Control Board, Tamil Nadu in Appeal No. 10 of 2021 and 11 of 2021 respectively. 1<sup>st</sup> respondent herein intended to start a manufacturing unit of jaggery, jaggery powder and

blocks in land comprised in Survey No. 892/3A, Sadayalpatti, Kodankipatti Village, Bodinaickanur Taluk, Theni District. For that purpose they filed applications for consent to establish under Water (Prevention And Control Of Pollution) Act, 1974 and Air (Prevention And Control Of Pollution) Act, 1981 on 10.10.2020 giving details of the products proposed to be manufactured, the manufacturing process, details of raw materials used, water consumptions, details of sewage/trade effluent generation, sewage treatment plant details, trade effluent plant details, details relating to sewage/trade effluent disposal and details of point source emission with stacks and noise emission etc. After submitting the said applications, the 1st respondent herein also submitted an application to the Deputy Director, Town and Country Planning, Theni seeking land classification details in respect of Survey No. 892/3A, Sadayalpatti, Kodankipatti Village, Bodi Taluk, Theni District.

2. 1st respondent herein received a communication from the Deputy Director, Town and Country Planning vide their communication dated 09.11.2020 replying that the said land has not be classified into any zone and the same falls in non-planning area. It is further mentioned in the communication that any development in the same area is permitted only after obtaining Land Re-classification Certificate from the authority concerned under the relevant rules of 2017 and any development/construction in the same shall be made only after obtaining prior permission and any construction put up

without any permission will be treated as unauthorised construction. While so, Pollution Control Board had returned the application filed by them seeking certain clarification and the same were represented on 04.12.2020 along with communication dated 09.11.2020 issued by Deputy Director, Town and Country Planning, Theni.

3. On re-submission of the application, the unit was inspected by the officials of the Pollution Control Board on 16.12.2020 and found that an industrial shed and official building has already been established in the proposed site without obtaining prior consent of the Board. Thereafter, a Show-Cause Notice was issued on 20.12.2020 and 1st respondent sent a reply on 24.12.2020 expressing their regret for not obtaining consent to establish for constructing the building and assured that they would start further activity only after obtaining consent to establish from the Board. The unit was again inspected by the officials of Tamil Nadu Pollution Control Board on 18.01.2021 and the same was followed by the impugned order rejecting the application dated 29.01.2021 stating the following reasons:

- I) The unit started its construction activities to establish their industrial plant in an agricultural land without obtaining consent to establish from the Board,
- II) The unit has not furnished any approved building plan/building permit obtained from Competent Authority to establish the industry at the S.F. No. 892/3A of

Kodangipatti Village, Bodinaickanur Taluk, Theni District which is a non-planned area as per the letter issued by the Assistant Director, Town and Country Planning, Theni dated 09.11.2020,

III) The unit's site is located adjacent to three number of houses with built area of approximately 250-350 sq. ft. each, on western side, and a distance of 40 km from the Sadayalpatti area of Kodangipatti revenue village on southern side, which is having population of nearly 500 numbers.

4. Aggrieved by the impugned order rejecting the application for consent to establish submitted by the 1st respondent, they filed Appeal No. 10 of 2021 and 11 of 2021 before the Appellate Authority, Pollution Control Board, Tamil Nadu. During the pendency of those appeals, the appellant herein M/s Rajshree Sugars and Chemicals Limited Unit (I), Theni District filed I.A. No. 61 of 2021 and 62 of 2021 respectively to implead themselves in those appeals and those applications were allowed by the Appellate Authority by order dated 16.04.2021 and they were impleaded as additional 3rd respondent in both those appeals.

5. The respondent nos. 2 and 3 herein filed detailed counter before the Appellate Authority supporting the reasons given by them for rejection of the consent to establish. 3rd respondent who is the appellant herein filed counter affidavit contending that the attempt of the appellant herein was to establish a

Khandsari sugar unit in the guise of manufacturing jaggery. Further, they are not having necessary permission under the Sugar Control Order, 1966 and no permission was obtained for crushing of sugarcane from the Central Government. Further, the 3rd respondent's unit was established in 1988 and the area where the appellant, therein, intended to establish the unit is inclusive of the reserved area for supply of sugarcane to the 3rd respondent unit therein.

6. They further contended that the appellant, therein had filed representation before the Commissioner for sugarcane to declare that there unit is exempted as they are involving of manufacturing of Jaggery alone and since no orders have been passed, they filed Writ Petition before the Hon'ble High Court of Madras at Madurai Bench as W.P. (MD) No. 14415/2021 for writ of Mandamus directing the Commissioner of Sugarcanes to declare that their jaggery manufacturing unit is exempted from the Sugar Control Order, 1966 in the light of Sugarcane Control amendment order, 2007 and the Hon'ble High Court of Madras at Madurai Bench by order dated 16.08.2021 disposed of the Writ Petition directing the Commissioner, Sugarcanes to consider the representation made by the Writ Petitioner in that case dated 28.06.2021 and 23.07.2021 and dispose of the same by reasoned order after taking into account the Sugarcane Control amendment Order, 2007 and such reasoned order shall be passed within four weeks from the date of receipt of copy of order after providing reasonable

opportunity to the writ Petitioner and other persons who would be affected by such order.

7. 1st respondent herein, who was the appellant before the Appellate Authority also produced certain documents before the Appellate Authority and also given assurance that they would undertake any further activity in the area only after obtaining necessary building permission and other permissions from the authorities and also relied on the communications said to have been received from Additional Director of Agriculture stating that for the faslis year 2019 to 2021, this land was shown as Tharisu and industrial shed area and as such there was no necessity to issue No Objection Certificate and also relied on a letter said to have been received from the Commissioner for Sugarcane directing the District Collector to consider the question of allocation by the Allocation Committee as manufacture of jaggery was exempted as per 2007 amendment. The Appellate Authority after considering the submissions made by the parties came to the conclusion that there was no mandate for production of building permit for the purpose of considering the application for consent to establish and since manufacturing jaggery was exempted from the provisions Sugarcane Control Order, 1966 by amendment of 2007 Notification as such there is no bar for them to start the unit and the 3<sup>rd</sup> respondent therein, who is the appellant herein have omitted to obtain re-allotment order for reservation after Bodinayakanur was bifurcated into two

taluks though they had obtained similar re-allocation order in respect of other part of the area where it was bifurcated earlier.

8. Further, the reasons stated by the Pollution Control Board that there existed certain houses within 40 mts is not a bar as they were not approved houses constructed after obtaining necessary permission and there is no sitting criteria provided for establishment of such unit as well. The Appellate Authority also came to the conclusion on the basis of the documents produced by the 1<sup>st</sup> respondent herein, who was the appellant therein issued by the Assistant Director for Agriculture stating that since it had been shown as Tharisu in the revenue records for the faslis year 2019 to 2021 and it was also shown as industrial building, there was no necessity to issue any Re-classification Certificate and No Objection Certificate under the Notification of 2017 Tamil Nadu Town and Country Planning, 1971 and since the unit has already applied for necessary permission/ building plan and assured that they would not proceed with the construction activity till they obtain necessary permits and permissions, the Appellate Authority allowed the appeals rejecting the grounds made by the Pollution Control Board for rejections of the applications and also the objections raised by the 3<sup>rd</sup> respondent therein, who is the appellant herein and directed the Pollution Control Board to issue the consent to establish to the appellant therein for establishing their jiggery manufacturing unit.

Aggrieved by the same, the above appeals have been filed by the appellant, who is the 3<sup>rd</sup> respondent before the Appellate Authority, reiterating their contentions raised by them before the Appellate Authority.

9. 1<sup>st</sup> respondent filed counter affidavit contending that the appeals are not maintainable and the Appellate Authority has given detailed reasons for rejecting the contentions of the Pollution Control Board as well as the appellant herein and then allowed the appeals. The grounds alleged by the Pollution Control Board for rejection of the application were dealt with by the Appellate Authority in detail and observed that those grounds are not sustainable grounds for rejecting the application. The Appellate Authority also considered the objections raised by the appellant herein stating that none of the objection raised by them are sustainable and they cannot claim monopoly of the trade and they have not obtained the re-allocation order in respect of the area in question after the original area was bifurcated into two taluks, though they obtained such re-allocation order in respect of another area when it was bifurcated into two taluks.

10. Further, the Appellate Authority also came to the conclusion on the basis of the communication issued by the Commissioner for Sugarcane that by virtue of amendment to Sugar Control Order, 1966 in 2007, the jaggery manufacturing unit was exempted from the provisions of Sugar Control Order, 1966 and as such the permission of the Commissioner, Sugarcane is

required as alleged by the appellant herein is not sustainable. The appellate Authority also came to the conclusion that there is no ban for establishment of such unit in a non-planned area and there was no sitting criteria provided and the houses mentioned in the rejection order by the Pollution Control Board are houses which were constructed without obtaining necessary permission and as such it cannot be said to be approved houses mentioned. Even if there is any possibility of pollution, the Pollution Control Board ought to have provided necessary mechanism to mitigate the possibility of pollution instead of rejecting the application for consent to establish and rightly allowed the appeals and directed the Pollution Control Board to issue consent to establish. After the order passed by the Appellate Authority the consent to establish was granted by the Pollution Control Board but by virtue of orders by this Tribunal the same was kept in abeyance by the Pollution Control Board. According to the 1<sup>st</sup> respondent there is no merit in the appeals and they prayed for dismissal of the Appeals.

11. Pollution Control Board filed detailed counter affidavit supporting the grounds of rejection made by them. They have further contended that since the 1<sup>st</sup> respondent had completed the construction of industrial building before obtaining consent to establish in violation of the Water (Prevention And Control Of Pollution) Act, 1974 and Air (Prevention And Control Of Pollution) Act, 1981, as such they cannot claim any equity. The officials of the Board had inspected the area in question and

found that the disputed area is surrounded by agricultural land and carrying on agricultural activities and establishing such an industry in that area will cause damage to environment, affect the productivity of the agricultural land and also cause odour pollution to the nearby area affecting the health of the people.

12. It is also contended by them that without getting permission from the authorities under the Town and Country Planning Act, 2017, the 1<sup>st</sup> respondent herein had converted the land and without obtaining permission from the local body, construction of building was also carried out. The Pollution Control Board has got powers to issue directions taking into account the possible pollution that is likely to be caused on account of such units. So according to them, the rejection order was proper.

13. They have further contended that after the disposal of the appeals directing the Pollution Control Board to issue the consent to establish, they have issued the same on 27.10.2021 before the order of this Hon'ble Tribunal directing the order of Appellate Authority kept in abeyance was communicated. But later the same was directed to be kept in abeyance when they came to know about the orders passed by this Tribunal directing to keep in abeyance of the orders passed by the Appellate Authority during the pendency of the Appeals. So, they prayed for passing appropriate orders accepting their contentions.

14. The appellant filed rejoinder to the counter filed by the 1<sup>st</sup> respondent reiterating their grounds raised by them in appeal

memorandum and also the counter statement filed by them before the Appellate Authority and prayed for allowing the appeals.

15. They have further reiterated that the reasons given by the Appellate Authority for allowing the Appeals are not sustainable and without getting the clarification from the Commissioner of Sugarcanes as directed by the Hon'ble High Court of Madras at Madurai Bench in the Writ Petition filed by the 1<sup>st</sup> respondent, the Appellate Authority should not have come to the conclusion that manufacturing of jaggery is exempted from the provisions of Sugar Control Order, 1966 by virtue of amendment notification, 2007. It is also alleged in the appeal memorandum as well as rejoinder that the respondent had not obtained the re-classification of non-planned area and not obtained any building permit and without getting the same, they have constructed the building and such a person is not entitled to get an equitable relief and as such they Pollution Control Board was perfectly justified in rejecting their applications.

16. Further, the appellant sugar unit being functioning there since 1988 and the 1<sup>st</sup> respondent wants to establish present unit in the guise of manufacturing of jaggery within the reserved area allocated to appellant unit without getting any permission from the authorities, the Appellate Authority should not have allowed the 1<sup>st</sup> respondent unit to come up without obtaining such permissions from the authorities under the said laws. Further, under the provisions of the relevant regulations, what was

exempted is only manufacturing of jaggery as a cottage industry, investment of which will be less than 5 lakh whereas the nature of unit that is being established by the 1<sup>st</sup> respondent is intended to manufacture Khandsari sugar which is not exempted under Notification of 2007. Further, it cannot be treated as a cottage industry for whose benefit such an exemption was granted by the Government. So they prayed for allowing the Appeals.

17. Heard Mr. K.S. Viswanathan, Learned Counsel appearing for the appellant, Ms. Ritachandrasekar, Learned Counsel appearing for the 1<sup>st</sup> respondent and Mr. Sai Sathya Jith, Learned Counsel appearing for respondent nos. 2 and 3 in both the appeals.

18. Learned Counsel appearing for the appellant argued that on the basis of the directions issued by the Hon'ble High Court of Madras at Madurai Bench in Writ Petition filed by the 1<sup>st</sup> respondent, the Commissioner, Sugarcane has to consider those aspects after hearing the objections of the parties who are opposing the project and then pass a reasoned order. But, in fact, the 1<sup>st</sup> respondent was relying on a letter said to have been sent by Additional Chief Secretary, who is the Commissioner of Sugarcane as well, to the District Collector to consider the question of allocation by the Demarcation Committee under the Sugar Control Order, 1966, as jaggery manufacturing unit is exempted under 2007 Notification. It cannot be said to be a reasoned order passed as directed by the Hon'ble High Court.

There is nothing mentioned about the representation submitted by the appellant regarding the nature of industry that 1<sup>st</sup> respondent intended to start. Further, the reasons given by the Appellate Authority that they cannot claim right in the reserved area as regards the Bodinaickanur taluk is concerned, after its bifurcation, no further allocation order was obtained as they obtained such further order in respect of another area and as such it cannot be said that they are still have rights over that area is not correct and sustainable in law. The question whether 2007 amendment will apply to 1st respondent unit or not is a matter to be considered by the Commissioner of Sugarcane and not by the Appellate Authority.

19. Further, the person who had violated the Town and Country Planning Act and also the provisions of the Water (Prevention And Control Of Pollution) Act, 1974 and Air (Prevention And Control Of Pollution) Act, 1981 is not entitled to claim equity on the ground that the houses which were noted by the Pollution Control Board in its order as one of the ground for rejection of consent are unauthorised layouts and as such the same need not to be considered especially when the letter produced by the 1<sup>st</sup> respondent themselves issued by the Additional Director, Town and Country Planning clearly mentioned that any construction made in a non-planned area without permission would be treated as unauthorised and this cannot be considered as a permission for construction as well.

20. Learned Counsel also argued that the Pollution Control Board is entitled to ask for certain clarification in the interest of protecting environment and that cannot be said to be beyond the powers and that is required for regulating pollution control mechanism to avoid future pollution to be caused in that area. The Appellate Authority was not justified in relying upon the communication issued by Assistant Director, Agriculture stating that since the land in question was noted as Tharisu land and industrial building in the revenue records for the Faslis years 2019-2021, the question of granting No Objection Certificate did not arise appears to be not correct especially when the report of the Pollution Control Board shows that the land in dispute is surrounded by agricultural land and without getting permission, conversion of agricultural land made by a person cannot claim benefit under that illegal act. These aspects were not properly considered by the Appellate Authority and as such the order passed by the Appellate Authority is not sustainable, the same has to be set aside and the order of the Pollution Control Board has to be restored. There is no bar for the 1<sup>st</sup> respondent to apply again after obtaining necessary permission from the authorities and the Pollution Control Board considering the same afresh in accordance with law. So they prayed for allowing the appeals.

21. The Learned Counsel appearing for Pollution Control Board also supported the reasons given by the Pollution Control Board for rejecting the application. The Learned Counsel also argued

that being a regulator, they are entitled to evaluate the pollution that is likely to be caused having impact on the neighbouring agricultural land, while considering the application for consent to establish. Since, the Appellate Authority had directed the Pollution Control Board to issue the consent to establish, they have issued the same immediately before the order directing the order of Appellate Authority to be kept in abeyance during pendency of this appeal passed by this Tribunal has been communicated to them. Immediately on coming to know about the same, they have issued order granting consent to establish to be kept in abeyance subject to final orders to be passed by this Tribunal.

22. Learned Counsel appearing for 1<sup>st</sup> respondent argued that the appellant had no locus standi to file the appeals as they being a rival unit holder. The grounds alleged by them are not to be considered by this Tribunal as those are to be considered by different authorities under the different enactments. The Appellate Authority had given valid reasons for setting aside the order passed by the Pollution Control Board subject to the undertaking given by them that they would not restart the work without obtaining necessary permission from all the concerned authorities and that is the safeguard taken by the Appellate Authority while allowing the appeals filed by the 1<sup>st</sup> respondent against the order passed by the Pollution Control Board. So, according to the Learned Counsel, there is nothing survives in

the matter and there is no need to interfere with the order of the Appellate Authority.

23. We have considered the pleadings, documents produced and submission made by the Learned Counsel appearing for the appellant as well as respondents and perused the written submissions filed by both the parties.

24. The points that arise for consideration are:

- i. Whether the order passed by the Appellate Authority is liable to be set aside for the reasons stated by the appellant in their appeal memorandum and the reasons given by the Pollution Control Board in their order rejecting the application?
- ii. If the order passed by the Appellate Authority is sustained, is there any necessity to impose any further conditions applying the precautionary principle?
- iii. Relief and costs.

### **Points**

25. As regards maintainability of the appeals by the appellant as contended by the Learned Counsel for 1<sup>st</sup> respondent is concerned, they are parties to the appeal filed by the appellant and if they are aggrieved by the same, they are entitled to file appeal. Further being a person aggrieved by establishment of such unit, which according to them is against the law then they are entitled to file the appeal under 16 of the National Green Tribunal Act, 2010. So the question of locus standi raised by

the 1<sup>st</sup> appellant is unsustainable in law and the same is rejected.

26. It is an admitted fact that the 1<sup>st</sup> respondent filed applications for consent to establish for starting a jaggery powder and jaggery block manufacturing unit in Sy. No. 892/3A, Sadayalpatti, Kodankipatti Village, Bodinaickanur Taluk, Theni District and the same was returned by the Pollution Control Board seeking certain clarification and then it was represented by them along with the communication dated 09.11.2020 issued by the Deputy Director, Town and Country Planning, Theni. It is also an admitted fact that the 1<sup>st</sup> respondent had converted the area which was originally an agricultural land without obtaining conversion permit and without obtaining building permission as well as consent to establish, they had put up an industrial shed in that property.

27. It was also an admitted fact that on the basis of the original application filed by the 1<sup>st</sup> respondent the Pollution Control Board had inspected the area and found that the construction of the shed in the property before obtaining consent to establish which was followed by a Show-Cause Notice to the 1<sup>st</sup> respondent and the 1<sup>st</sup> respondent filed reply wherein they had regretted for their act and assured that they would not continue with the work without obtaining consent and other permissions. It is also an admitted fact that on that basis a further inspection was also conducted and on the basis, of the observations made by the officials of the Tamil Nadu Pollution

Control Board at the time of inspection passed the impugned order rejecting the application for consent for the following reasons:

- I. The unit started its construction activities to establish their industrial plant in an agricultural land without obtaining consent to establish from the Board,
- II. The unit has not furnished any approved building plan/building permit obtained from Competent Authority to establish the industry at the S.F. No. 892/3A of Kodangipatti Village, Bodinaickanur Taluk, Theni District which is a non-planned area as per the letter issued by the Assistant Director, Town and Country Planning, Theni dated 09.11.2020,
- III. The unit's site is located adjacent to three number of houses with built area of approximately 250-350 sq. ft. Each, on western side, and a distance of 40 km from the Sadayalpatti area of Kodangipatti revenue village on southern side, which is having population of nearly 500 numbers.

28. It is also an admitted fact that aggrieved by the same, the 1<sup>st</sup> respondent had filed the appeals, namely, appeal nos. 10 of 2021 and 11 of 2021 before the Appellate Authority, Pollution Control Board, Chennai in which the present appellant got themselves impleaded and after hearing all the parties, the Appellate Authority had allowed the appeals relying on certain documents produced by the 1<sup>st</sup> respondent herein and also accepting the undertaking given by the 1<sup>st</sup> respondent that they would proceed with the work only after getting necessary permission/building permit etc from the concerned authorities. The Appellate Authority had come to the conclusion that as regards ground no.1 pointed out by the Pollution Control Board is concerned, the Appellate Authority found that they have stopped the work and given assurance that they would proceed with the work only after obtaining consent to establish and that will be sufficient.

29. As regards the second ground is concerned, the Appellate Authority had relied on the letter given by the Assistant Director, Agriculture to the effect that as per revenue records for the Faslis year 2019 to 2021, this area was shown as Tharisu and industrial building and as such the question of granting no objection did not arise and that was relied on by the Appellate Authority to come to the conclusion that no further permission is required as it is a non-planned area.

30. The Appellate Authority also came to the conclusion, though it is a non-planned area, there is no prohibition for establishing such industry in that area and no sitting criteria was provided and as such there is no bar for granting consent to establish for such unit in that area and also observed that while applying for consent to establish, there is no necessity to produce approved building plan and as such it is not a mandatory condition to produce the building plan for the purpose of considering the application for consent to establish and the construction can be proceeded with by the appellant only after obtaining necessary permissions or permit from the authorities.

31. As regards the third ground, the Appellate Authority came to the conclusion that on the basis of the letter produced by the 1<sup>st</sup> respondent issued by the Village Panchayat stating that the houses that were found by the Pollution Control Board were not approved constructions as no permission from the authorities had been obtained for that purpose and as such that need not considered as a ground to reject the application.

32. As regards the other grounds raised by the 3<sup>rd</sup> respondent in that case, who is the appellant herein, are considered, the Appellate Authority observed that they are not falling within the purview of the Pollution Control Board or the Appellate Authority and that will have to be decided by the different authorities under the different enactments. But however, relied on the communication produced by 1<sup>st</sup> respondent obtained by somebody under the Right to Information Act, 2005, that for jaggery manufacturing unit no permission from the Commission is required as it has been exempted under 2007 Notification from the provisions of Sugar Control Order, 1966 and also relied on the communications sent by the Commissioner of Sugarcanes to the District Collector, Theni to consider the question of allocation after getting opinion from the de-limitation Committee under the Sugar Control Order, 1966 as jaggery manufacturing unit is exempted from the provisions of Sugar Control Order, 1966 by 2007 Notification, to come to the conclusion that orders have been passed by the Commissioner as directed by the Hon'ble High Court. It is on this basis the Appellate Authority had allowed the appeals directing the Pollution Control Board to grant the consent to establish.

33. It is also an admitted fact that it is against that order, that these appeals have been filed by the appellant, who is the 3<sup>rd</sup> respondent in the appeals filed by the 1<sup>st</sup> respondent herein before the Appellate Authority. It is also an admitted fact that on the basis of the directions issued by the Appellate Authority,

the Pollution Control Board had issued the consent to establish by proceedings dated 27.10.2021, though this Tribunal had directed the order of the Appellate Authority to be kept in abeyance as per order dated 25.10.2021. Learned Counsel for the Pollution Control Board submitted that since there was some delay in communicating the order to the Pollution Control Board, the order was issued and subsequently on knowing about the order passed by this Tribunal ,further direction was issued to keep the order granting consent to establish in abeyance, pending disposal of the Appeal. So the subsequent order issued by the Pollution Control Board and the order of the Appellate Authority are under abeyance as directed by this Tribunal, subject to orders to be passed by this Tribunal in the appeals.

34. As regards the question as to whether the 1<sup>st</sup> respondent unit enjoys exemption under 2007 amendment to Sugar Control Order, 1966 and whether they are entitled to get declaration as claimed by them in the Writ Petition filed by them and whether any further allotment orders has to be obtained by the appellant on the basis of the sub-division of the earlier reserved area into different taluks etc. are all matters outside the purview of this Tribunal and the same will have to be considered by the concerned authorities under the respective statutes and rules and, if any, adverse orders being passed by the concerned authorities, the parties are at liberty to challenge the same before the appropriate forum as provided therein. So, we are not considering those aspects in these appeals.

35. As regards one of the grounds raised by the Pollution Control Board for rejection was that the 1<sup>st</sup> respondent had started construction in the property without obtaining consent to establish and the construction was almost complete. Further, even after issuing the Show-Cause notice and assurance given by them that they would not do anything, the inspection conducted by the Pollution Control Board showed that some work was in progress regarding installation of the machinery. So under such circumstances, when there is violation of commencement of the construction itself against the Water (Prevention and Control of Pollution) Act, 1974 and Air (Prevention and Control of Pollution) Act, 1981, then they are entitled to take appropriate action on that basis, which may include rejection as well. In such cases, in order to get assurance as to whether they have obtained necessary building permission from the authorities and whether conversion permissions under the respective statutes in respect of non-planned area as required therein, directing them to produce along before considering application for consent to establish cannot be said to be an act which is outside the purview of the Pollution Control Board. The violators cannot take their act of violations as a ground to rectification without complying with the direction issued by the Pollution Control Board. If such a liberal attitude is taken stating that these things need not be insisted by the Pollution Control Board, then once the consent to establish is granted, then the other authorities will ratify the

violation committed by the violator automatically without taking any further action for the violation committed by them under the respective statute. That will only encourage the violators to commit violations again and again as no stringent action will be taken, even if violations are found later and if such an impression is given, it is very difficult for the regulator to implement the environmental laws in its letter and spirit. So, the observation made by the Appellate Authority that there is no necessity to produce the building permit along with the consent to establish in the circumstance of the case cannot be said to be justifiable and we are not agreeing to that observation to set aside the direction issued by the Pollution Control Board showing that such a permission has not been produced as a ground for rejection.

36. We are also not satisfied in the manner in which the regulating authority under the Town and Country Planning Act, 1971 making observation regarding the nature of the land. The counter filed by the Pollution Control Board before the Appellate Authority as well as before this Tribunal will go to show that the land surrounding the land in dispute are agricultural lands and agricultural activities are going on. The authorities who had issued a letter stating that since this area is noted as Tharisu and industrial building in the revenue records of Faslis years 2019 to 2021, issuance of any No Objection Certificate for conversion of the land does not arise, appears to be illogical. Whenever permissions are sought for conversion of agricultural

land for non-agricultural purpose, they are expected to consider those applications after considering the impact of those industries or the purpose for which conversion is sought for on the neighbouring agricultural lands, if the neighbouring land owners are voluntarily involved in protecting their agricultural activity as source of income. Further, a person who has violated the rules and converted the land which was shown as agricultural land earlier without obtaining necessary permission and kept it follow voluntarily by reclaiming it and making some construction that too without permission, then such an activity should not be taken as a ground for declaring that land as a non-agricultural land as envisaged under the Town and Country Planning Act, 1971 and subsequent notification of 2017 in this regard. The very purpose of the provisions provided under the Town and Planning Act, 1971 for getting prior permission for changing the non-planned area for other purposes into planning area and without getting such permission, the question as to whether any industrial building can be constructed there also has not been properly appreciated by the authorities who are expected to provide building permits and licenses.

37. It may be true that in a non-planning area, there may not be any restriction for doing any industrial activity. But that does not mean that they can do the same without converting the same for the particular purpose as required under the required statutes. If such an attitude is allowed to continue by the persons who are violating the same, then it will give a room for

such violators to prosper and that should not be the attitude of the regulators and the authorities who are expected to pass orders taking into consideration the interest of the environment and if the regulators properly appreciate these aspects and passed order, then when such violators file an appeal before the Appellate Authority against the order passed by the regulators, then the violators will have to be taken into account very seriously and certain stringent directions will have to be given instead of ratifying their act and getting their assurance that they will proceed with the construction only after obtaining necessary permissions.

38. Further, the Pollution Control Board is also having powers to take further action against such persons including prosecution apart from imposing compensation for committing violation of the statutory laws in making construction of industrial purposes without complying with the environmental laws. If that be the case, whenever such violations are brought to the notice and if any person, who is making the construction in violations of the environmental laws, while considering the application for consent to establish, they can also impose a compensation as directed by the Principal Bench in considering the violation of condition cases or violation of environmental laws, as a condition for granting necessary consent. So under such circumstances, we are not able to agree with the observations made by the Appellate Authority that since 1<sup>st</sup> respondent had already applied for building permit and gave an undertaking that

they would not proceed with the work without getting necessary permission and approvals as a ground for setting aside the order passed by the Pollution Control Board and directed the Pollution Control Board to issue the consent to establish.

39. As regards the ground regarding existing of village and buildings are concerned, we are not in an agreement with the observation made by the Appellate Authority that since those constructions were unapproved constructions, they will not get protection especially when the persons, who had applied for consent to establish themselves have violated the rules and made the construction without obtaining necessary permission and permit from the authorities including the Pollution Control Board. So, the person, who has come to the Court or Tribunal or Authority with un-cleaned hands, is not entitled to get any equity of protecting their violations on the ground that others are not entitled to get that equity because of violations committed by them.

40. It may be true that since there is no guideline or sitting criteria provided for starting a jaggery manufacturing unit, existence of houses may not be relevant in the nearby places. But at the same time, if there is any possibility of pollution to be caused by such industries in such circumstances may not be a ground for rejection but the Pollution Control Board has a responsibility to consider all probable pollution that is likely to be caused due to operation of the proposed unit and provide necessary conditions to mitigate the same to avoid any loss being caused to the

agricultural activities of the neighbouring land and also to the people living nearby.

41. So under such circumstances, we are not in an agreement with the order passed by the Appellate Authority setting aside the order rejecting the application for consent to establish for the reasons mentioned above, though not on all grounds raised by the Pollution Control Board and the appeals are allowed in part and the order passed by the Appellate Authority in Appeal No. 10 of 2021 and 11 of 2021 are set aside for the reasons stated and with the following directions:

I. The order passed by the Appellate Authority in Appeal No. 10 of 2021 and 11 of 2021 setting aside the order of rejection passed by the Pollution Control Board of the application for consent to establish filed by the 1<sup>st</sup> respondent is set aside and we restore the order of rejection with following observations and directions:

i. The Pollution Control Board is within its power to direct the project proponent to produce necessary permission for conversion of non-planning area for a particular purpose as provided under the Town and Country Planning Act, 1971 and the rules issued by the State of Tamil Nadu by notification by notification G.O Ms. No. 79 dated 04.05.2017 (Housing and Urban Development [UD4(3)] Department by name Tamil Nadu Change of Land Use (From Agriculture to Non-agriculture purposes in Non-planning Areas) Rules, 2017 especially when the

1<sup>st</sup> respondent had started construction and almost completed the construction of industrial building and installed machinery without obtaining consent to establish under Water (Prevention And Control Of Pollution) Act, 1974 and Air (Prevention And Control Of Pollution) Act, 1981, though we are not agreeable with the 3<sup>rd</sup> ground for its rejection.

- ii. This will not prevent the Pollution Control Board to consider the application filed by the 1<sup>st</sup> respondent afresh after obtaining necessary planning permit and conversion permit as required under the Town and Country Planning Act, 1971 and notification issued in 2017 as mentioned above and while considering the application, they must also consider the question of violation of putting up the construction before getting consent to establish as required under the Water (Prevention And Control Of Pollution) Act, 1974 and Air (Prevention And Control Of Pollution) Act, 1981 as a violation case and impose environmental compensation as directed by the Principal Bench on the basis of the CPCB guidelines after giving an opportunity to the 1<sup>st</sup> respondent in this regard as a condition for granting the consent to establish, though it may amount to ex-post facto grant but the violation will have to be taken note of while considering such activities as that will give a message to others that they are not expected to start

any unit without getting necessary consent, if such category falls under consent mechanism and pass appropriate orders on merits in accordance with law.

- iii. The consent to establish issued on the basis of the direction issued by Appellate Authority as per order in Appeal No. 10 of 2021 and 11 of 2021 during the interregna period of communicating the order of keeping the order of Appellate Authority in abeyance is set aside subject to liberty to 1<sup>st</sup> respondent to apply afresh after obtaining necessary permission.
- iv. Whenever agricultural lands are to be converted for non-agricultural purpose, the authorities who are considering those applications for issuance of No Objection Certificate are directed to consider the original nature of the land prior to the conversion by the party by themselves without getting prior permission to make it appear that it is a non-agricultural land as per the revenue records prior to three years and whether the conversion was made without getting permission in order to circumvent the provisions of the rules and whether granting such permission will affect the nearby agricultural lands, who are bonafidely involved in cultivating their agricultural land for the purpose of their livelihood and if so what are all necessary conditions to be imposed for that purpose etc are to be considered as protecting agriculture land is a prime

concern and allowing agricultural land for non-agricultural purpose should be an exception.

The points are answered accordingly.

42. In the result, the appeals are allowed and the order passed by the Appellate Authority, Pollution Control Board, Chennai in Appeal Nos. 10 of 2021 and 11 of 2021 are set aside and the order of the Pollution Control Board is restored with following directions:

- I. The Pollution Control Board is within its power to direct the project proponent to produce necessary permission for conversion of non-planning area for a particular purpose as provided under the Town and Country Planning Act, 1971 and the rules issued by the State of Tamil Nadu by notification by notification G.O Ms. No. 79 dated 04.05.2017 (Housing and Urban Development [UD4(3)] Department by name Tamil Nadu Change of Land Use (From Agriculture to Non-agriculture purposes in Non-planning Areas) Rules, 2017 especially when the 1<sup>st</sup> respondent had started construction and almost completed the construction of industrial building and installed machinery without obtaining consent to establish under Water (Prevention And Control Of Pollution) Act, 1974 and Air (Prevention And Control Of Pollution) Act, 1981, though we are not agreeable with the 3<sup>rd</sup> ground for its rejection.

- II. This will not prevent the Pollution Control Board to consider the application filed by the 1<sup>st</sup> respondent afresh after obtaining necessary planning permit and conversion permit as required under the Town and Country Planning Act, 1971 and notification issued in 2017 as mentioned above and while considering the application, they must also consider the question of violation of putting up the construction before getting consent to establish as required under the Water (Prevention And Control Of Pollution) Act, 1974 and Air (Prevention And Control Of Pollution) Act, 1981 as a violation case and impose environmental compensation as directed by the Principal Bench on the basis of the CPCB guidelines after giving an opportunity to the 1<sup>st</sup> respondent in this regard as a condition for granting the consent to establish, though it may amount to ex-post facto grant but the violation will have to be taken note of while considering such activities as that will give a message to others that they are not expected to start any unit without getting necessary consent, if such category falls under consent mechanism and pass appropriate orders on merits in accordance with law.
- III. The consent to establish issued on the basis of the direction issued by Appellate Authority as per order in Appeal No. 10 of 2021 and 11 of 2021 during the interregna period of communicating the order of keeping

the order of Appellate Authority in abeyance is set aside subject to liberty to 1<sup>st</sup> respondent to apply afresh after obtaining necessary permission.

- IV. Whenever agricultural lands are to be converted for non-agricultural purpose, the authorities who are considering those applications for issuance of No Objection Certificate are directed to consider the original nature of the land prior to the conversion by the party by themselves without getting prior permission to make it appear that it is a non-agricultural land as per the revenue records prior to three years and whether the conversion was made without getting permission in order to circumvent the provisions of the rules and whether granting such permission will affect the nearby agricultural lands, who are bonafidely involved in cultivating their agricultural land for the purpose of their livelihood and if so what are all necessary conditions to be imposed for that purpose etc are to be considered as protecting agriculture land is a prime concern and allowing agricultural land for non-agricultural purpose should be an exception.
- V. Considering the circumstances, parties are directed to bear the respective costs in both the appeals.
- VI. The Registry is directed to communicate this order to the Appellate Authority as well as to the Pollution Control Board and other official respondent including the Assistant Director for Agricultural and Director, Town

and Country Planning Authority for their information and guidance in future in considering such issues in the light of protection of environment and promote agriculture.

43. With the above observations and directions the appeals are allowed in part and disposed of accordingly.

.....J.M.  
(Justice K. Ramakrishnan)

.....E.M.  
(Dr. Satyagopal Korlapati)

Appeal No.73/2021(SZ)&  
Appeal No. 74of 2021(SZ)  
28<sup>th</sup> January, 2022 AM.



**TAMIL NADU POLLUTION CONTROL BOARD**

Category of the Industry :

**ORANGE**

**CONSENT ORDER NO. 2301149104099**

**DATED: 13/01/2023.**

**PROCEEDINGS NO.F.0836TEN/OS/DEE/TNPCCB/TEN/W/2023 DATED: 13/01/2023**

**SUB:** TNPC Board-Consent for Establishment-M/S GKN FOOD PRODUCTS S.F No. 892/3A & 893/13, KODANKIPATTI Village, Bodinaickanur Taluk, Theni District - for the establishment or take steps to establish the industry under Section 25 of the Water (Prevention and control of Pollution) Act, 1974, as amended in 1988 (Central Act 6 of 1974)- Issued- Reg.

**REF:** 1. The unit's application No 49104099 for CTE -New dated 21.12.2022  
2. IR.No : F.0836TEN/OS/AE/TEN/2023 dated 13/01/2023  
3. 178th Minutes of DLCCC Meeting held on 13.01.2023 (Item No: 178-01)

Consent to establish or take steps to establish is hereby granted under Section 25 of the Water (Prevention and control of Pollution) Act, 1974, as amended in 1988 (Central Act 6 of 1974) (hereinafter referred to as 'The Act') and the Rules and Orders made there under to

The Managing Partner,  
GKN FOOD PRODUCTS

Authorizing occupier to establish or take steps to establish the industry in the site mentioned below:

S.F. No.892/3A & 893/13,  
KODANKIPATTI Village,  
Bodinaickanur Taluk,  
Theni District.

This Consent to establish is valid upto **March 31, 2027**, or till the industry obtains consent to operate under Section 25 of the Water (Prevention and control of Pollution) Act, 1974, as amended in 1988 whichever is earlier subject to special and general conditions enclosed.

**District Environmental Engineer,  
Tamil Nadu Pollution Control Board,  
THENI**

To  
The Managing Partner,  
M/s.GKN FOOD PRODUCTS,  
M/s.GKN FOOD PRODUCTS,  
SF.No:892/3A & 893/13, Kodangipatti Village, Bodinayakanur Taluk,  
Theni District.,  
Pin: 625534

**Copy to:**

- 1.The Commissioner, BODINAYAKANOOR-Panchayat Union, Bodinaickanur Taluk, Theni District .
2. Copy submitted to the Member Secretary, Tamil Nadu Pollution Control Board, Chennai for favour of kind information.
3. The District Environmental Engineer, Tamil Nadu Pollution Control Board, THENI for favour of kind information.
4. File

## SPECIAL CONDITIONS

1. This consent to establish is valid for establishing the facility for the manufacture of products/byproducts (Col. 2) at the rate (Col 3) mentioned below. Any change in the product/byproduct and its quantity has to be brought to the notice of the Board and fresh consent has to be obtained.

Sl. No.	Description	Quantity	Unit
<b>Product Details</b>			
1.	Jaggery Blocks and Jaggery Powder	120	Tons/Month

2. The unit shall provide Sewage Treatment Plant and /or Effluent Treatment Plant as indicated below.

<b>a Sewage Treatment Plant:</b>			
Treatment status: Septic Tank and SP/DT			
SL. No.	Name of the Treatment Unit	No. of Units	Dimensions in metres
1.	Septic Tank	1	2.5 x 2.0 x 2.0
2.	Soak Pit	1	2.0 Dia x 2.0
<b>b Effluent Treatment Plant:</b>			
Treatment status: Individual ETP			
SL. No.	Name of the Treatment Unit	No. of Units	Dimensions in metres
1.	Screen Chamber	1	0.6 x 0.6 x 0.6
2.	Oil Trap	1	1.0 x 0.75 x 1.0
3.	Equalization Tank	1	1.5 x 1.0 x 2.0
4.	Reaction Tank	1	1.25 Dia x 2.5
5.	Aeration Tank I	1	1.5 x 1.0 x 3.0
6.	Aeration Tank II	1	1.5 x 1.0 x 3.0
7.	Settling Tank	1	1.0 x 1.0 x 2.5
8.	Filter Feed Tank	1	1.35 Dia x 1.6
9.	Pressure Sand Filter	1	0.3 Dia x 1.35
10.	Activated Carbon Filter	1	0.3 Dia x 1.35
11.	Sludge Drying Beds	6	0.5 x 0.5 x 0.75

3. This consent to establish is valid for establishing the facility with the below mentioned outlets for the discharge of sewage/trade effluent. Any change in the outlets and the quantity has to be brought to the notice of the Board and fresh consent has to be obtained.

Outlet No.	Description of Outlet	Maximum daily discharge in KLD	Point of disposal
<b>Effluent Type : Sewage</b>			
1.	Sewage	1.0	On Industrys own land
<b>Effluent Type : Trade Effluent</b>			
1.	Trade Effluent	5.5	On land for irrigation

4. **Special Additional Conditions:**

The unit shall obtain No Objection Certificate (NOC) from the Tamil Nadu Bio Diversity Board /National Bio Diversity Authority if the unit is using any Biological resources or knowledge associated thereto as per the provisions of Biological Diversity Act 2002.

5. **Additional Conditions:**

1. The unit shall provide septic tank and soak pit for the treatment and disposal of the sewage.
2. The unit shall dispose the trade effluent generated through ETP.
3. The unit shall ensure that no untreated/treated effluent shall discharge/stagnate outside/inside the unit's premises under any circumstances.
4. The unit shall dispose the solid waste generated then and there for further beneficial use without any accumulation.
5. The unit shall utilise baggasse as only fuel for Boiler as proposed.
6. The unit shall ensure that unit's activity does not cause any nuisance to the nearby habitation.
7. The unit shall provide rainwater harvesting facilities to recharge the ground water in the vicinity.
8. The consent do not absolve from obtaining permission/Clearance from other authorities or other statues as applicable.
9. In case of revision of consent fee by the Government, the unit shall remit the difference in consent fee amount within one month from the date of notification. Failing to remit the consent fee, this consent order will be withdrawn without any notice and further action will be initiated against the unit as per law.
10. The unit shall not use "use and throw away plastics" such as plastic sheets used for food wrapping, spreading on dining table etc., plastic plates, plastic tea cups, plastic tumbler, water pouches and packets, plastic straw, plastic carry bag and plastic flags irrespective of thickness, within the industry premises. Instead, the unit shall encourage use of eco friendly alternative such banana leaf, arecaunut palm plate, stainless steel, glass, porcelain plates / cups, cloth bag, jute bag etc.,

**District Environmental Engineer,  
Tamil Nadu Pollution Control Board,  
THENI**

**GENERAL CONDITIONS**

1. This consent to establish cannot be construed as consent to operate and the unit shall not commence the operation without obtaining the Consent to operate.
2. The applicant shall make a request for grant of consent to operate at least thirty days, before the commissioning of trial production.
3. Any Change in the details furnished in the conditions has to be brought to the notice of the Board and got approved by the Board, before obtaining consent to operate under the said Act.
4. The unit has to comply with the provisions of Public Liability Insurance Act, 1991 to provide immediate relief in the event of any hazard to human beings, other living creatures/plants and properties while handling and storage of hazardous substances (wherever applicable).
5. Consent to operate will not be issued unless the unit complies with the conditions of consent to establish.
6. The unit shall provide adequate water sprinklers for the control of dust emission during the loading and unloading of construction material so as to minimize the dust emission.
7. The unit shall provide water sprinklers along the temporary roads inside the premises to avoid fugitive dust emission during the vehicle movements.
8. The unit shall develop green belt of adequate width around the premises.
9. In case there is any change in the management, the unit shall inform the change with relevant documents immediately.

**District Environmental Engineer,  
Tamil Nadu Pollution Control Board,  
THENI**

**\*\* This consent order is computer generated by OCMMS of TNPCB and no signature is needed\*\***



**TAMIL NADU POLLUTION CONTROL BOARD**

Category of the Industry :

**ORANGE**

**CONSENT ORDER NO. 2301249104099 DATED: 13/01/2023.**

**PROCEEDINGS NO.F.0836TEN/OS/DEE/TNPCCB/TEN/A/2023 DATED: 13/01/2023**

**SUB:** TNPC Board-Consent for Establishment-M/s. GKN FOOD PRODUCTS , S.F. No. 892/3A & 893/13, KODANKIPATTI village, Bodinaickanur Taluk and Theni District - for the establishment or take steps to establish the industry under Section 21 of the Air(Prevention and control of Pollution)Act,1981, as amended in 1987(Central Act. 14 of 1981)-Issued -Reg.

**REF:** 1. The unit's application No 49104099 for CTE -New dated 21.12.2022  
2. IR.No : F.0836TEN/OS/AE/TEN/2023 dated 13/01/2023  
3. 178th Minutes of DLCCC Meeting held on 13.01.2023 (Item No: 178-01)

Consent to establish or take steps to establish is hereby granted under Section 21 of the Air (Prevention and control of Pollution) Act,1981, as amended in 1987 and the Rules and Orders made there under to

The Managing Partner,  
M/s . GKN FOOD PRODUCTS  
S.F No.892/3A & 893/13,  
KODANKIPATTI Village,  
Bodinaickanur Taluk,  
Theni District.

Authorizing occupier to establish or take steps to establish the industry in the site mentioned below:

S.F No. 892/3A & 893/13,  
KODANKIPATTI Village,  
Bodinaickanur Taluk,  
Theni District.

This Consent to establish is valid upto **March 31, 2027**, or till the industry obtains consent to operate under Section 21 of the Air (Prevention and control of Pollution) Act, 1981, as amended in 1987 whichever is earlier subject to special and general conditions enclosed.

**District Environmental Engineer,  
Tamil Nadu Pollution Control Board,  
THENI**

To  
The Managing Partner,  
M/s.GKN FOOD PRODUCTS,  
M/s.GKN FOOD PRODUCTS,  
SF.No:892/3A & 893/13, Kodangipatti Village, Bodinayakanur Taluk,  
Theni District.,Theni District  
Pin: 625534

**Copy to:**

1. The Commissioner, BODINAYAKANOOR-Panchayat Union, Bodinaickanur Taluk, Theni District .
  2. Copy submitted to the Member Secretary, Tamil Nadu Pollution Control Board, Chennai for favour of kind information.
  3. The District Environmental Engineer, Tamil Nadu Pollution Control Board THENI for favour of kind information.
  4. File
-

## SPECIAL CONDITIONS

1. This consent to establish is valid for establishing the facility for the manufacture of products/byproducts (Col. 2) at the rate (Col 3) mentioned below. Any change in the product/byproduct and its quantity has to be brought to the notice of the Board and fresh consent has to be obtained.

Sl. No.	Description	Quantity	Unit
<b>Product Details</b>			
1.	Jaggery Blocks and Jaggery Powder	120	Tons/Month

2. This consent to establish is valid for establishing the facility with the below mentioned emission/noise sources along with the control measures and/or stack. Any change in the emission source/control measures/change in stack height has to be brought to the notice of the Board and fresh consent has to be obtained if necessary.

<b>I Point source emission with stack :</b>				
Stack No.	Point Emission Source	Air pollution Control measures	Stack height from Ground Level in m	Gaseous Discharge in Nm <sup>3</sup> /hr
1	Boiler (1.5 Ton/Hr)	Dust collectors with stack	30.0	
2	D.G.Set of 125 KVA	Acoustic enclosures with stack	6.0	
3	D.G.Set of 400 KVA	Acoustic enclosures with stack	6.0	
<b>II Fugitive/Noise emission :</b>				
Sl. No.	Fugitive or Noise Emission sources	Type of emission	Control measures	
1.	DG Set 125 KVA	Noise	Acoustic Enclosure	
2.	DG Set 400 KVA	Noise	Acoustic Enclosure	

3. **Special Additional Conditions:**

- The unit shall install the approved retrofit emission control device/equipment with at least 70% Particulate matter reduction efficiency on all DG sets with capacity of 125 KVA and above or otherwise the unit shall be shift to gas based generators within the time frame prescribed in the notification No. TNPCB/Labs/DD(L)02151/2019 dated 10.06.2020 issued by TNPCB.
- The unit shall obtain No Objection Certificate (NOC) from the Tamil Nadu Bio Diversity Board /National Bio Diversity Authority if the unit is using any Biological resources or knowledge associated thereto as per the provisions of Biological Diversity Act 2002.

4. **Additional Conditions:**

- The unit shall provide the Air Pollution Control Measures as proposed to the Boiler and Diesel Generator Sets so as to adhere to the Ambient Air Quality/Emission Standards prescribed by the Board.
- The unit shall adhere to the Ambient Noise Level Standards prescribed by the Board.
- The unit shall maintain good housekeeping.
- The unit shall provide closed shed for the storage of baggase as proposed.
- The unit shall not carry out any grinding/crushing activity of baggase as proposed and shall utilise the baggase as whole.
- The unit shall utilise baggase as only fuel for Boiler as proposed.
- The unit shall ensure that unit's activity does not cause any noise nuisance/fly nuisance to the nearby habitation.
- The consent do not absolve from obtaining permission/Clearance from other authorities or other statues as applicable.
- In case of revision of consent fee by the Government, the unit shall remit the difference in consent fee amount within one month from the date of notification. Failing to remit the consent fee, this consent order will be withdrawn without any notice and further action will be initiated against the unit as per law.

**District Environmental Engineer,  
Tamil Nadu Pollution Control Board,  
THENI**

**GENERAL CONDITIONS**

1. This consent to establish cannot be construed as consent to operate and the unit shall not commence the operation without obtaining the Consent to operate.
2. The applicant shall make a request for grant of consent to operate at least thirty days, before the commissioning of trial production.
3. Any Change in the details furnished in the conditions has to be brought to the notice of the Board and got approved by the Board, before obtaining consent to operate under the said Act.
4. The unit has to comply with the provisions of Public Liability Insurance Act, 1991 to provide immediate relief in the event of any hazard to human beings, other living creatures/plants and properties while handling and storage of hazardous substances (wherever applicable).
5. Consent to operate will not be issued unless the unit complies with the conditions of consent to establish.
6. The unit shall provide adequate water sprinklers for the control of dust emission during the loading and unloading of construction material so as to minimize the dust emission.
7. The unit shall provide water sprinklers along the temporary roads inside the premises to avoid fugitive dust emission during the vehicle movements.
8. The unit shall develop green belt of adequate width around the premises.
9. In case there is any change in the management, the unit shall inform the change with relevant documents immediately.

**District Environmental Engineer,  
Tamil Nadu Pollution Control Board,  
THENI**

**\*\* This consent order is computer generated by OCMMS of TNPCB and no signature is needed\*\***

**TAMIL NADU POLLUTION CONTROL BOARD**

Category of the Industry :

**ORANGE****CONSENT ORDER NO. 2304152844183****DATED: 20/05/2023.****PROCEEDINGS NO.F.0836TEN/OS/DEE/TNPCB/TEN/W/2023 DATED: 20/05/2023**

**SUB:** Tamil Nadu Pollution Control Board –CONSENT TO OPERATE –After CTE -M/s. GKN FOOD PRODUCTS PRIVATE LIMITED (PREVIOUSLY GKN FOOD PRODUCTS) , S.F.No. 892/3A & 893/13, KODANKIPATTI village Bodinaickanur Taluk and Theni District - Consent for the operation of the plant and discharge of sewage and/or trade effluent under Section 25 of the Water (Prevention and Control of Pollution) Act, 1974 as amended in 1988 (Central Act 6 of 1974) – Issued- Reg.

**REF:** 1. CTE Procs.No.F.0836TEN/OS/DEE/TNPCB/TEN/W&A/2023 dated 13.01.2023  
2. Unit's application no 52844183 for CTO-after CTE dated 13.05.2023  
3. IR.No : F.0836TEN/OS/AE/TEN/2023 dated 20/05/2023  
4. 185th Minutes of DLCCC Meeting held on 20.05.2023 (Item No:185-03)

CONSENT TO OPERATE is hereby granted under Section 25 of the Water (Prevention and Control of Pollution) Act, 1974 as amended in 1988 (Central Act, 6 of 1974) (hereinafter referred to as "The Act") and the rules and orders made there under to

The Director  
M/s . GKN FOOD PRODUCTS PRIVATE LIMITED (PREVIOUSLY GKN FOOD PRODUCTS)  
S.F No. 892/3A & 893/13  
KODANKIPATTI Village  
Bodinaickanur Taluk  
Theni District.

Authorising the occupier to make discharge of sewage and /or trade effluent.

This is subject to the provisions of the Act, the rules and the orders made there under and the terms and conditions incorporated under the Special and General conditions stipulated in the Consent Order issued earlier and subject to the special conditions annexed.

This CONSENT is valid for the period ending **March 31, 2033**

**District Environmental Engineer,  
Tamil Nadu Pollution Control Board,  
THENI**

To  
The Director,  
M/s.GKN FOOD PRODUCTS PRIVATE LIMITED (PREVIOUSLY GKN FOOD PRODUCTS),  
S.F.No:892/3A & 893/13, Sadayalpatti, Kodangipatti Village, Bodinayakanur Taluk,  
Theni District.  
Pin: 625534

**Copy to:**

1. The Commissioner, BODINAYAKANOOR-Panchayat Union, Bodinaickanur Taluk, Theni District .
2. Copy submitted to the Member Secretary, Tamil Nadu Pollution Control Board, Chennai for favour of kind information.
3. The District Environmental Engineer, Tamil Nadu Pollution Control Board, THENI for favour of kind information.
4. File

**SPECIAL CONDITIONS**

1. This consent to operate is valid for operating the facility for the manufacture of products (Col. 2) at the rate (Col. 3) mentioned below. Any change in the products and its quantity has to be brought to the notice of the Board and fresh consent has to be obtained.

Sl. No.	Description	Quantity	Unit
<b>Product Details</b>			
1.	Jaggery Blocks and Jaggery Powder	120	Tons/Month

2. This consent to operate is valid for operating the facility with the below mentioned permitted outlets for the discharge of sewage/trade effluent. Any change in the outlets and the quantity has to be brought to the notice of the Board and fresh consent has to be obtained.

Outlet No.	Description of Outlet	Maximum daily discharge in KLD	Point of disposal
<b>Effluent Type : Sewage</b>			
1.	Sewage	1.0	On Industrys own land
<b>Effluent Type : Trade Effluent</b>			
1.	Trade Effluent	5.5	On land for irrigation

3. The effluent discharge shall not contain constituents in excess of the tolerance Limits as laid down hereunder.

Sl. No.	Parameters	Unit	TOLERANCE LIMITS - OUTLETS -Nos				
			Sewage		Trade Effluent		
			1		1		
1.	pH		5.5 to 9		5.5 to 9		
2.	Temperature	oC	-		-		
3.	Particle size of Suspended solids	-	-		-		
4.	Total Suspended Solids	mg/l	30		200		
5.	Total Dissolved solids (inorganic)	mg/l	-		2100		
6.	Oil & Grease	mg/l	-		10		
7.	Biochemical Oxygen Demand (3 days at 27oC)	mg/l	20		100		
8.	Chemical Oxygen Demand	mg/l	-		-		
9.	Chloride (as Cl)	mg/l	-		600		
10.	Sulphates (as SO4)	mg/l	-		1000		
11.	Total Residual Chlorine	mg/l	-		-		
12.	Ammonical Nitrogen (as N)	mg/l	-		50		
13.	Total Kjeldahl Nitrogen (as N)	mg/l	-		-		
14.	Free Ammonia (as NH3)	mg/l	-		-		
15.	Arsenic (as As)	mg/l	-		0.2		
16.	Mercury (as Hg)	mg/l	-		0.01		
17.	Lead (as Pb)	mg/l	-		1		
18.	Cadmium(as Cd)	mg/l	-		1		
19.	Hexavalent Chromium (as Cr+6)	mg/l	-		1		
20.	Total Chromium (as Cr)	mg/l	-		2		
21.	Copper (as Cu)	mg/l	-		3		
22.	Zinc (as Zn)	mg/l	-		1.5		
23.	Selenium (as Se)	mg/l	-		0.05		
24.	Nickel (as Ni)	mg/l	-		3		
25.	Boron (as B)	mg/l	-		2		
26.	Percent Sodium	%	-		60		
27.	Residual Sodium Carbonate	mg/l	-		5		
28.	Cyanide (as CN)	mg/l	-		0.2		
29.	Fluoride (as F)	mg/l	-		2		
30.	Dissolved Phosphates(as P)	mg/l	-		-		
31.	Sulphide (as S)	mg/l	-		2		
32.	Pesticides	mg/l	-		-		
33.	Phenolic Compounds (as C6H5OH)	mg/l	-		5		
34.	Radioactive materials a) Alpha emitters	micro curie/ml	-		10-8		
35.	Radioactive materials b) Beta emitters	micro curie/ml	-		10-6		
36.	Fecal Coliform	MPN/100ml	-		-		

4. All units of the sewage and Trade effluent treatment plants shall be operated efficiently and continuously so as to achieve the standards prescribed in SI No.3 above or to achieve the zero liquid discharge of effluent as applicable.
5. The occupier shall maintain the Electro Magnetic Flow Meters/water Meters installed at the inlet of the water supply connection for each of the purposes mentioned below for assessing the quantity of water used and ensuring that such meters are easily accessible for inspection and maintenance and for other purposes of the Act.
- Industrial Cooling, Spraying in mine pits or boiler feed.
  - Domestic purpose.
  - Process.

6. The occupier shall maintain the Electro Magnetic Flow Meters with computer recording arrangement for measuring the quantity of effluent generated and treated for the monitoring purposes of the Act.
7. Log book for each of the unit operations of ETP have to be maintained to reflect the working condition of ETP along with the readings of the Electro Magnetic Flow Meters installed to assess effluent quantity and the same shall be furnished for verification of the Board officials during inspection.
8. The occupier shall at his own cost get the samples of effluent/surface water/ground water collected in and around the unit by Board officials and analyzed by the TNPC Board Laboratory periodically.
9. Any upset condition in any of the plants of the factory which is, likely to result in increased effluent discharge and result in violation of the standards mentioned in Sl. No.3 above shall be reported to the Member Secretary / Joint Chief Environmental Engineer-Monitoring and the concerned District/Assistant Environmental Engineer of the Board by e-mail immediately and subsequently by Post with full details of such upset condition.
10. The occupier shall always comply and carryout the order/directions issued by the Board in this Consent Order and from time to time without any negligence. The occupier shall be liable for action as per provisions of the Act in case of non compliance of any order/directions issued.
11. The occupier shall develop adequate width of green belt at the rate of 400 numbers of trees per Hectare.
12. The occupier shall provide and maintain rain water harvesting facilities.
13. The occupier shall ensure that there shall not be any discharge of effluent either treated or untreated into storm water drain at any point of time.
14. In the case of zero liquid discharge of effluent units, the occupier shall adhere the following conditions as laid under.
  - i). The occupier shall ensure zero liquid discharge of effluent, thereby no discharge of untreated / treated effluent on land or into any water bodies either inside or outside the premises at any point of time.
  - ii) The occupier shall operate and maintain the Zero liquid discharge treatment components comprising of Primary, Secondary and tertiary treatment systems at all times and ensure that the RO permeate/Evaporator condensate shall be recycled in the process and the final RO reject shall be disposed off with the reject management system ensuring zero liquid discharge of effluents in the premises.
  - iii) The occupier shall operate and maintain the reject management system effectively and recover the salt from the system which shall be reused in the process if reusable or shall be disposed off as ETP sludge.
  - iv) In case of failure to achieve zero discharge of effluents for any reason, the occupier shall stop its production and operations forthwith and shall be reported to the Member Secretary/Joint Chief Environmental Engineer-Monitoring and the concerned District/Assistant Environmental Engineer of the Board by e-mail immediately and subsequently by Post with full details of such upset condition.
  - v) The occupier shall restart the production only after ascertaining that the Zero discharge treatment system can perform effectively for achieving zero discharge of effluents.

**Special Additional Conditions:**

The unit shall obtain No Objection Certificate (NOC) from the Tamil Nadu Bio Diversity Board /National Bio Diversity Authority if the unit is using any Biological resources or knowledge associated thereto as per the provisions of Biological Diversity Act 2002.

The industries shall take all efforts to use and popularize "Mission LiFE" logo and mascot which is available in TNPCB & MoEFCC website. They shall also request their employees to adopt "Mission LiFE" action points and document the same and furnish half yearly report to Board.

**Additional Conditions:**

1. The unit shall treat and dispose the sewage through septic tank followed by soak pit arrangements provided.
2. The unit shall operate and maintain the effluent treatment plant provided effectively and continuously so that the treated trade effluent satisfies the standards prescribed by the Board before being utilized.
3. The unit shall earmark adequate land to utilize the treated trade effluent for irrigation purposes at the hydraulic lading rate of not exceeding 35 KL/Hect/Day.
4. The unit shall ensure that there shall not be any stagnation or ponding of treated trade effluent on land at any point of time.
5. The unit shall ensure that no untreated/treated effluent shall be discharged outside the unit's premises under any circumstances.
6. The unit shall ensure that the treated trade effluent shall not gain access to any private land/well/water bodies etc, directly or indirectly.
7. The unit shall dispose the solid waste generated then and there for further beneficial use without any accumulation.
8. The unit shall not carry out any grinding/crushing activity of baggase as proposed and shall utilise the baggase as whole.
9. The unit shall adhere the provisions of the Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016.
10. The unit shall ensure that unit's activity does not cause any odour nuisance to the nearby habitation.
11. The unit shall continue to harvest the rain water through the rain water harvesting facilities so as to recharge the ground water potential in the vicinity.
12. The consent do not absolve from obtaining permission/Clearance from other authorities or other statues as applicable.
13. In case of revision of consent fee by the Government, the unit shall remit the difference in consent fee amount within one month from the date of notification. Failing to remit the consent fee, this consent order will be withdrawn without any notice and further action will be initiated against the unit as per law.
14. The unit shall not use "use and throw away plastics" such as plastic sheets used for food wrapping, spreading on dining table etc., plastic plates, plastic tea cups, plastic tumbler, water pouches and packets, plastic straw, plastic carry bag and plastic flags irrespective of thickness, within the industry premises. Instead, the unit shall encourage use of eco friendly alternative such banana leaf, arecaunut palm plate, stainless steel, glass, porcelain plates / cups, cloth bag, jute bag etc.,

**District Environmental Engineer,  
Tamil Nadu Pollution Control Board,  
THENI**

## GENERAL CONDITIONS

1. The occupier shall make an application along with the prescribed consent fee for grant of renewal of consent at least 60 days before the date of expiry of this Consent Order along with all the required particulars ensuring that there is no change in Production quantity and change in sewage/Trade effluent.
2. This Consent is issued by the Board in consideration of the particulars given in the application. Any change or alteration or deviation made in actual practice from the particulars furnished in the application will also be ground for review/variation/revocation of the Consent Order under Section 27 of the Act and to make such variation as deemed fit for the purpose of the Act.
3. The consent conditions imposed in this order shall continue in force until revoked under Section 27(2) of the Act.
4. After the issue of this order, all the 'Consent to Operate' orders issued previously under Water (Prevention and Control of Pollution) Act, 1974 as amended stands defunct.
5. The occupier shall maintain an Inspection Register in the factory so that the inspecting officer shall record the details of the observations and instructions issued to the unit at the time of inspection for adherence.
6. The occupier shall provide and maintain an alternate power supply along with separate energy meter for the Effluent Treatment Plant sufficient to ensure continuous operation of all pollution control equipments to maintain compliance.
7. The occupier shall provide all facilities to the Board officials for inspection and collection of samples in and around the factory at any time.
8. The occupier shall display the flow diagram of the sources of effluent generation and pollution control systems provided at the ETP site.
9. The solid waste such as sweepings, wastage, package, empty containers, residues, sludge including that from air pollution control equipments collected within the premises of the industrial plant shall be collected in an earmarked area and shall be disposed off properly.
10. The occupier shall collect, treat the solid wastes like food waste, green waste generated from the canteen and convert into organic compost.
11. The occupier shall segregate the Hazardous waste from other solid wastes and comply in accordance with Hazardous Wastes (Management, Handling and Transboundary Movement) Rules, 2008.
12. The occupier shall maintain good house-keeping within the factory premises.
13. All pipes, valves, sewers and drains shall be leak proof. Floor washings shall be admitted into the trade effluent collection system only and shall not be allowed to find their way in storm drains or open areas.
14. The occupier shall ensure that there shall not be any diversion or by-pass of trade effluent on land or into any water sources.
15. The occupier shall ensure that solar Evaporation pans shall be constructed in such a way that the bottom of the solar pan is at least 1 m above the Ground level (if applicable).
16. The occupier shall furnish the following returns in the prescribed formats to the concerned District office regularly.
  - a) Monthly water consumption returns of each of the purposes with water meter readings in Form-I on or before 5th of every month.
  - b) Yearly return on Hazardous wastes generated and accumulated for the period from 1st April to 31st March in Form-4 before the end of the subsequent 30th June of every year (if applicable).
  - c) Yearly Environmental Statement for the period from 1st April to 31st March in Form -V before the end of the subsequent 30th September of every year(if applicable).
17. If applicable, the occupier has to comply with the provisions of Public Liability Insurance Act, 1991 to provide immediate relief in the event of any hazard to human beings, other living creatures/plants and properties while handling and storage of hazardous substances.
18. The issuance of this consent does not authorize or approve the construction of any physical structures or facilities or the undertaking of any work in any natural watercourse or in Government Poromboke lands.
19. The issuance of this Consent does not convey any property right in either real personal property or any exclusive privileges, nor does it authorize any injury to private property or Government property or any invasion of personal rights nor any infringement of Central, State laws or regulation.
20. The occupier shall forth with keep the Board informed of any accident of unforeseen act or event of any poisonous, noxious or polluting matter or emissions are being discharged into stream or well or air as a result of such discharge, water or air is being polluted.
21. If due to any technological improvements or otherwise the Board is of opinion that all or any of the conditions referred to above requires variation (including the change of any treatment system, either in whole or in part) the Board shall, after giving the applicant an opportunity of being heard, vary all or any of such conditions and thereupon the applicant shall be bound to comply with the conditions as so varied.

22. In case there is any change in the constitution of the management, the occupier of the new management shall file fresh application under Water (Prevention and Control of Pollution) Act, 1974, as amended in Form-II alongwith relevant documents of change of management immediately and get the necessary amendment with renewal of consent order.
23. In case there is any change in the name of the company alone, the occupier shall inform the same with relevant documents immediately and get the necessary amendments for the change of name from the Board.
24. The occupier shall display this consent order granted to him in a prominent place for perusal of the inspecting Officers of this Board.

**District Environmental Engineer,  
Tamil Nadu Pollution Control Board,  
THENI**

**\*\* This consent order is computer generated by OCMMS of TNPCB and no signature is needed\*\***

Category of the Industry :

ORANG  
E



CONSENT ORDER NO. 2304252844183

DATED: 20/05/2023.

PROCEEDINGS NO.F.0836TEN/OS/DEE/TNPCB/TEN/A/2023

DATED: 20/05/2023

**SUB:** Tamil Nadu Pollution Control Board –CONSENT TO OPERATE –After CTE -M/s. GKN FOOD PRODUCTS PRIVATE LIMITED (PREVIOUSLY GKN FOOD PRODUCTS) , S.F.No. 892/3A & 893/13, KODANKIPATTI village Bodinaickanur Taluk and Theni District - Consent for operation of the plant and discharge of emissions under Section 21 of the Air (Prevention and Control of Pollution) Act, 1981 as amended in 1987 (Central Act 14 of 1981) –Issued- Reg.

**REF:** 1. CTE Procs.No.F.0836TEN/OS/DEE/TNPCB/TEN/W&A/2023 dated 13.01.2023  
2. Unit's application no 52844183 for CTO-after CTE dated 13.05.2023  
3. IR.No : F.0836TEN/OS/AE/TEN/2023 dated 20/05/2023  
4. 185th Minutes of DLCCC Meeting held on 20.05.2023 (Item No:185-03)

CONSENT TO OPERATE is hereby granted under Section 21 of the Air (Prevention and Control of Pollution) Act, 1981 as amended in 1987 (Central Act 14 of 1981) (hereinafter referred to as "The Act") and the rules and orders made there under to

The Director  
M/s . GKN FOOD PRODUCTS PRIVATE LIMITED (PREVIOUSLY GKN FOOD PRODUCTS)  
S.F No. 892/3A & 893/13  
KODANKIPATTI Village  
Bodinaickanur Taluk  
Theni District.

Authorizing the occupier to operate the industrial plant in the Air Pollution Control Area as notified by the Government and to make discharge of emission from the stacks/chimneys.

This is subject to the provisions of the Act, the rules and the orders made there under and the terms and conditions incorporated under the Special and General conditions stipulated in the Consent Order issued earlier and subject to the special conditions annexed.

This CONSENT is valid for the period ending **March 31, 2023**

T P VISWANATHAN

District Environmental Engineer,  
Tamil Nadu Pollution Control Board,  
THENI

Digitaly signed by T P VISWANATHAN  
DN: cn=TAMIL NADU POLLUTION CONTROL BOARD, ou=O/ENHALL  
2.5.4.230a5905001070000c10431046919920511e9f0a670b62a41  
c06446178, postalCode=620032, st=Tamil Nadu,  
serialNumber=118592251015646747000001808051MFD75987  
396025420000041, cn=T P VISWANATHAN

To

The Director,  
M/s.GKN FOOD PRODUCTS PRIVATE LIMITED (PREVIOUSLY GKN FOOD PRODUCTS),  
S.F.No:892/3A & 893/13, Sadayalpatti, Kodangipatti Village, Bodinayakanur Taluk,  
Theni District.  
Pin: 625534

**Copy to:**

1. The Commissioner, BODINAYAKANOOR-Panchayat Union, Bodinaickanur Taluk, Theni District .
2. Copy submitted to the Member Secretary, Tamil Nadu Pollution Control Board, Chennai for favour of kind information.
3. The District Environmental Engineer, Tamil Nadu Pollution Control Board, THENI for favour of kind information.
4. File

-----

### SPECIAL CONDITIONS

1. This consent to operate is valid for operating the facility for the manufacture of products (Col. 2) at the rate (Col. 3) mentioned below. Any change in the products and its quantity has to be brought to the notice of the Board and fresh consent has to be obtained.

Sl. No.	Description	Quantity	Unit
<b>Product Details</b>			
1.	Jaggery Blocks and Jaggery Powder	120	Tons/Month

2. This consent to operate is valid for operating the facility with the below mentioned emission/noise sources along with the control measures and/or stack. Any change in the emission source/control measures/change in stack height has to be brought to the notice of the Board and fresh consent/Amendment has to be obtained.

I Point source emission with stack :				
Stack No.	Point Emission Source	Air pollution Control measures	Stack height from Ground Level in m	Gaseous Discharge in Nm <sup>3</sup> /hr
1	Boiler (1.5 Ton/Hr)	Cyclone Dust Collector with Stack	30.0	
2	D.G.Set of 125 KVA	Acoustic enclosures with stack	7.5	
3	D.G.Set of 400 KVA	Acoustic enclosures with stack	7.5	
II Fugitive/Noise emission :				
Sl. No.	Fugitive or Noise Emission sources	Type of emission	Control measures	
1.	D.G Set of 125 KVA	Noise	Acoustic Enclosure	
2.	D.G Set of 400 KVA	Noise	Acoustic Enclosure	

- 3(a). The emission shall not contain constituents in excess of the tolerance limits as laid down hereunder :

Sl.	Parameter	Unit	Tolerance limits	Stacks
-----	-----------	------	------------------	--------

Annexure enclosed if applicable. :-

- 3.(b) The Ambient Air in the industrial plant area shall not contain constituents in excess of the tolerance limits prescribed below.

Sl. No.	Pollutant	Time Weighted Average	Unit	Tolerance Limits	
				Industrial, Residential, Rural and other area	Ecologically Sensitive Area (notified by Central Govt.)
1.	Sulphur Dioxide (SO <sub>2</sub> )	Annual 24 hours	microgram/m <sup>3</sup> microgram/m <sup>3</sup>	50 80	20 80
2.	Nitrogen Dioxide (NO <sub>2</sub> )	Annual 24 hours	microgram/m <sup>3</sup> microgram/m <sup>3</sup>	40 80	30 80
3.	Particulate Matter (Size Less than 10 micro M) or PM10	Annual 24 hours	microgram/m <sup>3</sup> microgram/m <sup>3</sup>	60 100	60 100
4.	Particulate Matter (Size Less than 2.5 micro M) or PM2.5	Annual 24 hours	microgram/m <sup>3</sup> microgram/m <sup>3</sup>	40 60	40 60
5.	Ozone (O <sub>3</sub> )	Annual 24 hours	8 Hours 1 Hour	100 180	100 180
Sl. No.	Pollutant	Time Weighted Average	Unit	Tolerance Limits	
				Industrial, Residential, Rural and other area	Ecologically Sensitive Area (notified by Central Govt.)
6.	Lead (Pb)	Annual 24 hours	microgram/m <sup>3</sup> microgram/m <sup>3</sup>	0.5 1.0	0.5 1.0
7.	Carbon Monoxide (CO)	8 Hours 1 Hour	miligram/m <sup>3</sup> miligram/m <sup>3</sup>	02 04	02 04
8.	Ammonia (NH <sub>3</sub> )	Annual 24 hours	microgram/m <sup>3</sup> microgram/m <sup>3</sup>	100 400	100 400
9.	Benzene (C <sub>6</sub> H <sub>6</sub> )	Annual	microgram/m <sup>3</sup>	5	5
10.	Benzo(O) Pyrene (BaP) -particulate phase only	Annual	nanogram/m <sup>3</sup>	01	01
11.	Arsenic (As)	Annual	nanogram/m <sup>3</sup>	06	06
12.	Nickel (Ni)	Annual	nanogram/m <sup>3</sup>	20	20

3(c) The Ambient Noise Level in the industrial plant area shall not exceed the limits prescribed below:

Limits in L <sub>eq</sub> -dB(A)	Day Time	Night Time
Residential Area	55	45

- All units of the Air pollution control measures shall be operated efficiently and continuously so as to achieve the standards prescribed in Sl. No.3 above.
- The occupier shall not change or alter quality or quantity or the rate of emission or replace or alter the air pollution control equipment or change the raw material or manufacturing process resulting in change in quality and/or quantity of emissions without the previous written permission of the Board.
- The occupier shall maintain log book regarding the stack monitoring system or operation of the plant or any other particulars for each of the unit operations of air pollution control systems to reflect the working condition which shall be furnished for verification of the Board officials during inspection.
- The occupier shall at his own cost get the samples of emission/air/noise levels collected and analyzed by the TNPC Board Laboratory once in every 6 months/once in a year/periodically for the parameters as prescribed.

8. Any upset condition in any of the plants of the factory which is likely to result in increased emissions and result in violation of the standards mentioned in Sl.No.3 shall be reported to the Member Secretary / Joint Chief Environmental Engineer-Monitoring and the concerned District/Assistant Environmental Engineer of the Board by e-mail immediately and subsequently by Post with full details of such upset condition.
9. The occupier shall always comply and carryout the order/directions issued by the Board in this Consent Order and from time to time without any negligence. The occupier shall be liable for action as per provisions of the Act in case of non compliance of any order/directions issued.

**Special Additional Conditions:**

The unit shall obtain No Objection Certificate (NOC) from the Tamil Nadu Bio Diversity Board /National Bio Diversity Authority if the unit is using any Biological resources or knowledge associated thereto as per the provisions of Biological Diversity Act 2002.

The industries shall take all efforts to use and popularize "Mission LiFE" logo and mascot which is available in TNPCB & MoEFCC website. They shall also request their employees to adopt "Mission LiFE" action points and document the same and furnish half yearly report to Board.

**Additional Conditions:**

1. The unit shall operate and maintain the Air Pollution Control Measures provided for the Boiler and Diesel Generator Sets so as to adhere to the Ambient Air Quality/Emission Standards prescribed by the Board.
2. The unit shall adhere to the Ambient Noise Level Standards prescribed by the Board.
3. The unit shall not carry out any grinding/crushing activity of baggase as proposed and shall utilise the baggase as whole.
4. The unit shall continue to develop green belt development by planting 2m tall tree saplings all around the premises.
5. The unit shall maintain good housekeeping.
6. The unit shall ensure that unit's activity does not cause any odour nuisance/fly nuisance to the nearby habitation.
7. The consent do not absolve from obtaining permission/Clearance from other authorities or other statues as applicable.
8. In case of revision of consent fee by the Government, the unit shall remit the difference in consent fee amount within one month from the date of notification. Failing to remit the consent fee, this consent order will be withdrawn without any notice and further action will be initiated against the unit as per law.

**T P VISWANATHAN**

District Environmental Engineer,  
Tamil Nadu Pollution Control Board,  
THENI

Digitally signed by T P VISWANATHAN  
DN: cn=T P VISWANATHAN, o=TAMIL NADU POLLUTION CONTROL BOARD, ou=CI/ENH/AL,  
2.5.4.20=020032114790401844332451990751149480702041C,  
serial=176, postalCode=600033, st=TN, email=tpv,  
serialNumber=11837285181E2C0F47A7AFC9D348C451A6FD751978,  
9682542C0C629A47, c=IN, P=VISWANATHAN  
187-2018-02-25 09:51:02Z

### GENERAL CONDITIONS

1. The occupier shall make an application along with the prescribed consent fee for grant of renewal of consent at least 60 days before the date of expiry of this Consent Order along with all the required particulars ensuring that there is no change in production quantity and emission.
2. This Consent is given by the Board in consideration of the particulars given in the application. Any change or alteration or deviation made in actual practice from the particulars furnished, in the application will also be ground for review/variation/revocation of the Consent Order under Section 21 of the Act.
3. The conditions imposed shall continue in force until revoked under Section 21 of the Act.
4. After the issue of this order, all the 'Consent to Operate' orders issued previously under Air (Prevention and Control of Pollution) Act, 1981 as amended stands defunct.
5. The occupier shall maintain an Inspection Register in the factory so that the inspecting officer shall record the details of the observations and instructions issued to the unit at the time of inspection for adherence.
6. The occupier shall provide and maintain an alternate power supply along with separate energy meter for the Air Pollution Control measures sufficient to ensure continuous operation of all pollution control equipments to ensure compliance.
7. The occupier shall provide all facilities to the Board officials for collection of samples in and around the factory at any time.
8. The applicant shall display the flow diagram of the sources of emission and pollution control systems provided at the site.
9. The liquid effluent arising out of the operation of the air pollution control equipment shall also be treated in a manner and to the satisfaction of standards prescribed by the Board in accordance with the provisions of Water (Prevention and Control of Pollution) Act, 1974 as amended.
10. The air pollution control equipments, location of inspection chambers and sampling port holes shall be made easily accessible at all time.
11. In case of any episodal discharge of emission, the industry shall take immediate action to bring down the emission within the limits prescribed by the Board.
12. If applicable, the occupier has to comply with the provisions of Public Liability Insurance Act, 1991 to provide immediate relief in the event of any hazard to human beings, other living creatures/plants and properties while handling and storage of hazardous substances.
13. The issuance of this consent does not authorize or approve the construction of any physical structures or facilities or the undertaking of any work in any natural watercourse or in Government Poromboke lands.
14. The issuance of this Consent does not convey any property right in either real personal property or any exclusive privileges, nor does it authorize any injury to private property or Government property or any invasion of personal rights nor any infringement of Central, State laws or regulation.
15. The occupier shall forth with keep the Board informed of any accident of unforeseen act or event of any poisonous, noxious or polluting matter or emissions are being discharged into stream or well or air as a result of such discharge, water or air is being polluted.
16. If due to any technological improvements or otherwise the Board is of opinion that all or any of the conditions referred to above requires variation (including the change of any treatment system, either in whole or in part) the Board shall, after giving the applicant an opportunity of being heard, vary all or any of such conditions and thereupon the applicant shall be bound to comply with the conditions as so varied.
17. In case there is any change in the constitution of the management, the occupier of the new management shall file fresh application under Air (Prevention and Control of Pollution) Act, 1981, as amended in Form-I alongwith relevant documents of change of management immediately and get the necessary amendment with renewal of consent order.
18. In case there is any change in the name of the company alone, the occupier shall inform the same with relevant documents immediately and get the necessary amendments for the change of name from the Board.

- 19. The occupier shall display this consent order granted to him in a prominent place for perusal of the inspecting Officers of this Board.

**T P VISWANATHAN**  
District Environmental Engineer,  
Tamil Nadu Pollution Control Board,  
THENI

Digitally signed by T P VISWANATHAN  
DN: cn=TAMIL NADU POLLUTION CONTROL BOARD, o=CI HDHNAI,  
2.5.4.20=09A92011479092915043364961F907511ca79ad70702641c,  
c=IN, email=tpviswanathan@tamilnadupollutioncontrolboard.gov.in,  
serialNumber=1.3.37.2851.01162CF47A7AFCB03240C451A6F07759B73,  
2.5.4.20=09A92011479092915043364961F907511ca79ad70702641c,  
2.5.4.20=09A92011479092915043364961F907511ca79ad70702641c

POLLUTION CONTROL, CHENNAI 600 084

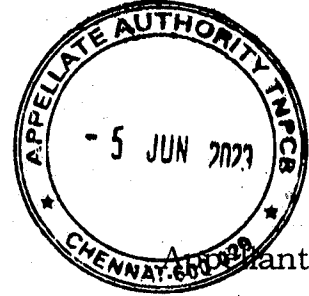
Appeal No. 65 of 2023

Against

PA-48

Order dated 20.05.2023 on the file of District Environmental Engineer, Tamil Nadu Pollution Control Board, Theni District

Rajshree Sugars & Chemicals Limited,  
Represented by its Chief Financial Officer  
C.S.Sathiyarayanan  
Unit-1, Varadaraj Nagar,  
Periyakulam Taluk,  
Theni District 625 562



VS

- 1) The Tamil Nadu Pollution Control Board  
Rep. by its Chairman  
NO.76 Anna Salai,  
Guindy Chennai 600 0032
- 2) The District Environmental Engineer  
Tamil Nadu Pollution Control Board  
Theni.
- 3) M/s. GKN Food Products Private Ltd., (Previously GKN Food Products)  
S.F.No.892/3A, Sadayalpatti,  
Kodankipatti Village, Bodi Taluk,  
Theni District  
Pin 625 534

... Respondents

**APPEAL FILED UNDER SECTION 28 OF THE WATER  
(PREVENTION AND CONTROL OF POLLUTION) ACT, 1974**

The Appellant is Rajshree Sugars & Chemicals Limited rep. by its Represented by its Chief Financial Officer, C.S.Sathiyarayanan Unit-1, Varadaraj Nagar, Periyakulam Taluk, Theni District 625 562.

The address for service of all notices and summons of the Appellant is that of their counsel M/s. T.Hemalatha, R.RajMohan and S.Deepika Advocates No.439, Law Chambers, High Court Buildings, Chennai 600 104.

The first Respondent is The Tamil Nadu Pollution Control Board, Rep. by its Chairman, No.76 Anna Salai, Guindy, Chennai 600 032.

The second Respondent is District Environmental Engineer, Tamil Nadu Pollution Control Board, Theni.

The third Respondent is M/s. GKN Food Products, Rep. by its Managing Partner, Mr. Sivamurugeswara Pandian. S.F.No.892/3A, Sadayalpatti, Kodankipatti Village, Bodi Taluk, Theni District Pin 625 534

The address for service of all notices and summons on the Respondents is the same as stated above.

The Appellant prefers the above appeal against the order passed by the District Environmental Engineer, Tamil Nadu Pollution Control Board, Theni, the 2nd Respondent herein in Proceedings No. **F.0836TEN/OS/DEE/TNPCB/TEN/W/2023** dated 20.05.2023 in and by which the second Respondent has granted consent to Operate the unit of the third respondent under **Sec.28** of the Water (Prevention and Control of Pollution) Act, 1974.

**FACTS OF THE CASE**

- 1) The Appellant is involved in the business of manufacture of Sugar and certain other products with their sugar industry located at Varatharaj Nagar, Periyakulam Taluk, Theni District.
  
- 2) The Taluks of Theni Periyakulam, Andipatty, Bodinayakanur and Uthamapalayam of Theni District and part of Usilampatty and Peraiyur Taluks of Madurai District were declared as reserved area for the sugar factory set up by the Appellant by the Government of Tamil Nadu under Clause (6) of the Sugarcane Control Order 1966 vide Proceedings dated 02.09.1987, 17.05.1988 and 21.06.1991 of the Director of Sugar and Cane Commissioner, Tamil Nadu. As per the provisions of the Sugarcane Control Order, in respect of the reserved area no other person is permitted to manufacture Sugar or buy sugarcane from the Sugarcane growers without a license from the Central Government.
  
- 3) In June 2020, the third Respondent started setting up a industrial unit by installing machineries at S.F.No.892/3A, Sadayalpatti Village, Kodankipatti Village, Bodinayakanur Taluk, Theni District. The above location falls under the reserved area of the Appellant and third Respondent started setting up the industry without any statutory permission under the Sugarcane Control Order. The Appellant sent representations dated 25.06.2020, 17.12.2020 and 26.03.2021 to the Commissioner of Sugar Chennai, complaining about the setting up of the industry by the third Respondent.

- 4) In the mean time, the third Respondent had approached the TNPCB for grant of Consent to Establish the unit for purported manufacture of Jaggery.
- 5) The appellant states that when the third respondent approached TNPCB for grant of consent to establish their unit for purported manufacturer of Jaggery, the application was rejected by Tamil Nadu Pollution Control Board by order dated 29.01.2021 on the following grounds.
- a) The unit had started its construction activities in agricultural lands without obtaining Consent from the Board
  - b) The unit has not furnished any approved building plan/ permit for the location which is a non plan area
  - c) The unit site is located to several houses.
- 6) The third respondent challenged the rejection of Consent to Establish in Appeal No. 10 and 11 of 2021 before this Hon'ble authority. The appellant was also impleaded in the above appeals and raised the following objections.
- a) The unit of the third Respondent is in the reserved area of the Appellant.
  - b) The amendment notification dated 31.07.2007 will not apply to the third Respondent as they are actually proposing to manufacture only Chakkar/Khandasari Sugar which products are not exempt.

- c) The third Respondent has installed machineries worth crores of rupees, while manufacturing of jaggery is a cottage industry not requiring any investment beyond Rs. 5 lakhs.
  - d) The manufacturing process shows what will be produced is not jaggery but only allied products of sugar.
  - e) The 3rd Respondent had not obtained permission under G.O.Ms.No.79 Housing and Urban Development Department dated 04.05.2017 for change of user in a non plan area.
  - f) The third Respondent themselves had made representations to the Commissioner of Sugar for exemption and filed a Writ Petition, viz., W.P.No.14415/2021 before Madurai Bench of Hon'ble Madras High Court for a Mandamus to consider their representation.
  - g) The Hon'ble High Court by order dated 16.08.2021 has directed the Commissioner of Sugar to consider the representation of the third Respondent and take a decision after affording a reasonable opportunity to all concerned parties and the decision is still awaited.
- 7) The appellate authority by order dated 6.10.21 allowed the appeal filed by the third respondent by setting aside the order of rejection and directed the board to grant consent to the third respondent.

- 8) Aggrieved by the aforesaid order, the appellant filed appeal No.73 && 74 of 2021 before the Hon'ble National Green Tribunal, SZ, Chennai. The appellant, during the course of the argument contended that the third respondent himself has filed an application for permission under G.O.Ms.No.79 dated 4.05.2017 seeking for permission to convert the agricultural land for industrial use and that no development in the non plan area can be started without obtaining such permission. The other contention raised was that pursuant to the order passed by the Hon'ble High Court of Madras dated 16.8.2021 in W.P.No.14455/21, the commissioner of Sugar has been directed to hear all the parties including the appellant in order to determine whether the appellant is actually manufacturing jaggery or other products that are covered by the sugarcane control order 1966.
- 9) During the pendency of the appeal, the third respondent had been granted consent even though interim orders were in force from 25.10.21 however the board kept the same in abeyance.
- 10) The Hon'ble National Green Tribunal, (SZ) Chennai after hearing all the parties passed final orders on 28.01.2022 allowing the appeals by setting aside the orders of the Appellate Authority observing as follows:
- a) The PCB has power to direct the project proponent to produce necessary permission for conversion of non planning area as per G.O.MS.No.79 dated 04.05.2017

- b) The board may consider any fresh application by the third respondent after obtaining such permission for conversion and planning permit and while considering the board shall consider it as a violation case (since unit had been established without consent) and impose environmental compensation as per CPCB guidelines.
  - c) The consent already granted on 27.10.21 to the third respondent is set aside.
  - d) The issue regarding applicability of the sugarcane control order 1966 based on the orders passed in writ petition are the matter outside the purview of the tribunal and the same will have to be considered by the concerned authorities.
- 11) The appellant states that it appears that the third respondent has subsequently filed a fresh application for Establishment of the unit on 21.12.22 for the very same location to the board. The second respondent board by order dated 13.01.2023 has granted the same. Subsequently it appears that the board has considered the application for consent to operate filed by the unit on 13.05.2023 and has granted Consent to Operate on 20.05.2023. The factum regarding the grant of Consent to Establish and the present Consent to Operate has come to the knowledge of the appellant only now when the appellant noticed certain activities in the factory site of the third respondent.

12) Aggrieved by the aforesaid order of consent to Operate issued by the second respondent to the third respondent unit, the present appeal is filed to call for the records of the second respondent bearing proceedings No.F.0836TEN/OS/DEE/TNPCB/TEN/W/2023 dated 20.05.2023 in and by which the second respondent has granted consent to Operate the unit under **Sec.28** of the Water (Prevention and Control of Pollution) Act, 1974 and quash the same on the following among other

#### GROUNDS

- a) The board was fully aware of the serious objections raised by the appellant to the grant of consent to the third respondent which finally culminated in the order passed by the Hon'ble National Green Tribunal dated 28.01.2022 in Appeal No.73 & 74/2021. Therefore it was incumbent on the part of the board to put the appellant on notice as a "Person Interested" before granting consent to operate to the third respondent. Under these circumstances the impugned order passed without an opportunity of hearing to the appellant is in violation of the principles of Natural Justice.
- b) The order dated 13.01.2023 initially granting Consent to Establish to the third respondent is identical to the earlier order dated 27.10.21 for Consent to Establish which was set aside by the Hon'ble Tribunal by its order dated 28.1.22. It was incumbent on the part of the board to follow the directions issued by the Hon'ble National Green Tribunal before proceeding to grant the aforesaid consent to Establish to the unit.

- c) It is submitted that nothing is reflected in the impugned order granting consent to operate to suggest that the board has considered the observations/directions issued by the National Green Tribunal in its order dated 28.01.2022.
- d) The impugned order has been issued, to the best of knowledge of the appellant, without production of appropriate permission for conversion of agricultural land for non agricultural purposes as per G.O.Ms.No.79 dated 04.05.2017.
- e) The impugned order is also in violation of the directions issued by the Hon'ble High Court dated 16.8.21 in W.P.No.1445/21 wherein the Hon'ble High court has directed the Commissioner of Sugar to take a decision on the representation made by the third respondent that he was entitled to establish a jaggery unit at the proposed site after affording a reasonable opportunity to all the parties. Till date, the Commissioner of Sugar has not decided the issue by hearing all the parties concerned. Under such circumstances the impugned order granting Consent to Operate without awaiting the decision of the statutory authority viz., the Commissioner of Sugar to be taken in pursuance of the directions issued by the High Court is premature and liable to be set aside.
- f) The impugned order has been issued without determining and recovering environmental compensation as directed by the NGT in its order dated 28.01.2022.

13) The appellant does not have complete information in respect of the proceedings of Pollution Control Board prior to issuance of impugned order. Therefore the appellant reserves its liberty to raise additional grounds at a later point of time.

The Appellant therefore prays that this Hon'ble Appellate Authority may be pleased to call for the records of the second respondent bearing proceedings No.F.0836TEN/OS/DEE/TNPCB/TEN/W/2023 dated 20.05.2023 in and by which the second respondent has granted consent to Operate the unit under **Sec.28** of the Water (Prevention and Control of Pollution) Act, 1974 and quash the same and pass such further or other orders as this Hon'ble Tribunal may deem fit and proper and thus render justice.

Counsel for Appellant

APPELLANT

**VERIFICATION**

I, , C.S.Sathyanarayanan, S/o Seshadri, aged about 52 years, working as Chief Financial Officer, M/s Rajshree Sugars & Chemicals Limited, the Applicant herein situate at Unit-1, Varadaraj Nagar, Periyakulam Taluk, Theni District 625 562, do hereby verify and declare that what is stated in Para Nos. 1 to 12 are true to my personal knowledge and Grounds (a) to (f) believed to be true on legal advice and that I have not suppressed any material fact.

Date :  
Place: Chennai

APPELLANT

BEFORE THE APPELLATE AUTHORITY  
TAMIL NADU POLLUTION CONTROL,  
CHENNAI 600 084

Appeal No. of 2023

Against

Order dated 13.01.2023 on the file of  
DEE, Tamil Nadu Pollution Control  
Board, Theni District

Rajshree Sugars & Chemicals Limited,  
Represented by its Chief Financial  
Officer

C.S.SathiyaNarayanan  
Unit-1, Varadaraj Nagar,  
Periyakulam Taluk,  
Theni District 625 562

...Appellant

Versus

1. The Tamil Nadu Pollution Control  
Board

Rep. by its Chairman  
No.76 Anna Salai, Guindy,  
Chennai 600 0032 & 2 others

... Respondents

**APPEAL FILED UNDER SECTION 28**  
**OF THE WATER**  
**(PREVENTION AND CONTROL OF**  
**POLLUTION) ACT, 1974**

JL  
2

M/s. T.HEMALATHA-R.No.2021/2008  
R.RAJMOHAN-2029/2021  
&S.DEEPIKA - R.No.5263/2022  
COUNSEL FOR APPELLANT

9940294233, 7358042107

**BEFORE THE APPELLATE AUTHORITY TAMIL NADU  
POLLUTION CONTROL, CHENNAI 600 084  
Appeal No. 65 & 66 of 2023**

Rajshree Sugars & Chemicals Limited  
Represented by its Chief Financial Officer  
C.S. Sathiyarayanan Unit -1,  
Varadaraj Nagar, Periyakulam Taluk,  
Theni District - 625 562

...Appellant

-Vs-

- 1) The Tamil Nadu Pollution Control Board  
Represented by its Chairman  
No. 76, Anna Salai,  
Guindy, Chennai - 600 0032
- 2) The District Environmental Engineer  
Tamil Nadu Pollution Control Board  
Theni.
- 3) M/s. GKN Food Products Private Limited  
( Previously GKN Food Products)  
S.F.No. 892/3A, Sadayalpatti, Kodankipatti Village,  
Bodi Taluk, Theni District - 625 534

...Respondents

**COUNTER AFFIDAVIT FILED ON BEHALF OF THE 1<sup>st</sup> and 2<sup>nd</sup>  
RESPONDENTS - TAMILNADU POLLUTION CONTROL BOARD**

I, R. Sarasavani, Daughter of Thiru. J. Raghavan, Hindu, aged about 58 years having office at No.76, Mount Salai, Guindy, Chennai 600 032 do hereby solemnly affirm and sincerely state as follows:

1) I am the Joint Chief Environmental Engineer, Tamil Nadu Pollution Control Board, Chennai and I am filing this report on behalf of the Respondents 1 and 2 and as such I am well acquainted with the facts of the case from the records and authorized to file this report on behalf of the respondents.

2) The answering respondents deny all the averments contained in the appeal except those that are specifically admitted herein. None of the allegations contained in the said appeal shall be deemed to be admitted merely for want of a specific denial. Before responding to any of the averments contained in the appeal, the answering respondents submit the brief facts of the case for appreciation of this Hon'ble Appellate Authority.

3) It is respectfully submitted that this appellant has challenged the Consent to Operate Proceedings granted to the unit 3<sup>rd</sup> respondent vide its Proceedings No. F. 0836TEN / OS / DEE / TNPCB / TEN / W / 2023 dated 20.05.2023 under Section 28 of Water (Prevention and Control of Pollution) Act 1974, and has prayed to quash the same. The 2<sup>nd</sup> respondent explains the facts compendiously leading to file the appeal and is as follows.

4) It is respectfully submitted that the averments in Para No. 1, 2 & 3 invokes no response from this respondent and put the petitioner to strictly prove the same.

5) It is respectfully submitted that in response to the averments of the appellant in para-4 this respondent submits that the 3<sup>rd</sup> respondent M/s. GKN Food Products, represented by its Managing Partner, Mr. Sivamurugeswara Pandian situated at S.F.No. 892/3A, Sadayalpatti, Kodankipatti Village, Bodi Taluk, Theni District - 625 534 is in the process of manufacturing jaggery powder and jaggery cake and applied for consent to establishment (CTE) to the Board through OCMMS vide Application No. 35115377 dated 10.10.2020. The application was returned and resubmitted on 04.12.2020. On 16.12.2020 the unit was inspected and was found to be operating without prior consent as required under Water & Air Acts. The 3<sup>rd</sup> respondent vide their letter dated 24.12.2020 regretted for not obtaining CTE and further stated that they have not installed heavy machineries.

6) It is respectfully submitted that the unit was again inspected on 18.01.2021 and the following were observed:

- a. The unit has installed 5 numbers of reaction vessels, cooling tower in the industrial shed and the civil works for the construction of foundation for the erection of boiler and stack were found under progress.
- b. The unit has undertaken the construction of their industry in an agricultural land which is surrounded by agriculture lands;
  - i. Kodangipatti - Sadayalpatti village road in the North
  - ii. Agricultural land on the East.
  - iii. Sadayalpatti village having population nearly 500 to 600 is situated on southern side at a distance of 40 m from the unit's premises.
  - iv. Three houses with buildup area of approximately 250 - 350 Sq.feet are located on western side of the unit premises.
- c. The unit site is located in the Non-planned area with respect to the land use classification made by the Directorate of Town and Country Planning Department vide letter dated 09.11.2020 issued by the Assistant Director, Directorate of Town and Country Planning, Theni.

7) It is respectfully submitted that in response to the averments of the appellant in para-5 this respondent submits that in the District Level Consent Committee meeting held on 27.01.2021, it was decided by the committee that the unit's application for the "Consent To Establishment" be rejected for the following reasons and the same was communicated to the Managing Partner of the unit vide DEE Proc No F.0836TEN/OS/DEE/TNPCB/25/W&A/2021, dated 29.01.2021.

- a. The unit started its construction activities to establish their industrial plant in an Agricultural land without obtaining "Consent to Establishment" of the Board.
- b. The unit had not furnished any approved building plan/building permit obtained from Competent Authority to establish the industry, at S.F.No. 892/3A of Kodangipatti Village, Bodinaickanur

Taluk, Theni District, which is a non-planned area as per the letter issued by the Assistant Director, Directorate of Town and Country Planning, Theni dated 09/11/2020.

- c. The unit's site is located adjacent to three numbers of houses with a build-up area of approximately 250 – 350 sq. feet each, on western side, and at a distance of 40 m from the Sadayalpatti area of Kodangipatti revenue village on southern side, which is having population of nearly about 500 numbers.

8) It is respectfully submitted that in response to the averments of the appellant in para-6 & 7 this respondent submits that the 3<sup>rd</sup> respondent M/s GKN Food Products preferred an appeal vide Appeal No. 10 & 11 of 2021 before the Hon'ble Appellate Authority against the rejection order issued by the Tamil Nadu Pollution Control Board.

9) It is respectfully submitted that the Appellant M/s Rajshree Sugars and Chemicals limited, situated at Kullapuram Village, Periyakulam Taluk, Theni District filed an appeal in Appeal No. 10 & 11 of 2021, stating that the 3<sup>rd</sup> respondent M/s GKN Food Products was establishing a jaggery unit in the reserved area of M/s Rajshree Sugars and Chemicals limited, which is a violation under the Clause (6) of Sugarcane Control Order, 1966. However, the Sugarcane Control Order, 1966 is not within the purview of Tamil Nadu Pollution Control Board and hence the Tamil Nadu Pollution Control Board has not offered any remarks on the subject.

10) It is respectfully submitted that the Hon'ble Appellate Authority vide its order dated 06.10.2021 set aside the rejection order passed by the Board vide its proceedings dated 29.01.2021 to the 3<sup>rd</sup> respondent unit and directed the Board to grant CTE-NEW to the 3<sup>rd</sup> respondent unit M/s GKN Food Products for establishing jaggery manufacturing unit in the area concerned with any general and/or special condition as they deem fit and proper (copy enclosed as Annexure 1).

11) It is respectfully submitted that subsequent to the orders passed by the Hon'ble Appellate Authority, the unit M/s GKN Food Products submitted

application for consent to establishment to the Tamilnadu Pollution Control Board on 20.10.2021 vide application No. 41639720.

12) It is respectfully submitted that in response to the averments of the appellant in para-8 & 9 this respondent submits that the 3<sup>rd</sup> respondent unit's site was again inspected on 27.10.2021 and the observations were placed before the District Level Consent Clearance Committee Meeting on 27.10.2021 and consent to establish was issued to the unit vide proceedings dated 27.10.2021 as per the Hon'ble Appellate Authority order dated 06.10.2021. Aggrieved by the orders of this respondent this appellant preferred an appeal before the NGT (SZ) in Appeal No. 73 & 74/2021. The Hon'ble National Green Tribunal (SZ) vide its order dated 28.01.2022 allowed the appeals and the order passed by the Hon'ble Appellate Authority in Appeal Nos. 10 and 11 of 2021 were set aside and the order of the Pollution Control Board was restored with certain directions as follows:

*"II. This will not prevent the Pollution Control Board to consider the application filed by the 1<sup>st</sup> respondent afresh after obtaining necessary planning permit and conversion permit as required under the Town and Country Planning Act, 1971 and notification issued in 2017 as mentioned above and while considering the application, they must also consider the question of violation of putting up the construction before getting consent to establish as required under the Water (Prevention And Control Of Pollution) Act, 1974 and Air (Prevention And Control Of Pollution) Act, 1981 as a violation case and impose environmental compensation as directed by the Principal Bench on the basis of the CPCB guidelines after giving an opportunity to the 1st respondent in this regard as a condition for granting the consent to establish, though it may amount to ex-post facto grant but the violation will have to be taken note of while considering such activities as that will give a message to others that they are not expected to start any unit without getting necessary consent, if such category falls under consent mechanism and pass appropriate orders on merits in accordance with law."*

13) It is respectfully submitted that the unit vide letter dated 22.11.2022 has informed its intention to apply fresh consent of the TNPC Board. Meanwhile, in compliance to the directions of the Hon'ble National Green Tribunal (SZ) direction in its order dated 28.01.2022 Environmental Compensation was imposed to the the 3<sup>rd</sup> respondent unit vide Board proceeding dated 03.01.2023 and directed the 3<sup>rd</sup> respondent unit to pay Rs. 2,65,625/- (Rupees Two Lakhs Sixty five Thousands Six Hundred and Twenty Five only) as Environmental Compensation.

14) It is respectfully submitted that the 3<sup>rd</sup> respondent unit remitted Rs. 2,65,625/- (Rupees Two Lakhs Sixty five Thousands Six Hundred and Twenty Five only) vide TNPCB HO, receipt No. 779 dated: 10.01.2023 towards Environmental Compensation as directed by the Board vide letter dated 05.01.2023.

15) It is respectfully submitted that the 3<sup>rd</sup> respondent submitted applications for consent to operate vide application No.49104099 dt:21.12.2022, based on the application, the unit was inspected on 11.01.2023 and during inspection the following were observed:

- a. The unit has established the industrial shed, 5 numbers of reaction vessels, cooling tower and foundation works for boiler and stack.
- b. The manufacturing process involves crushing of sugar cane and juice extraction followed by heating of juice in series of vessels for the making of jaggery blocks and jaggery powder after obtaining required concentration.
- c. The unit has proposed to provide septic tank and soak pit arrangements to treat and dispose the sewage to be generated.
- d. The unit has proposed to provide ETP to treat 5.5 KLD of trade effluent generated from the unit
- e. The unit has proposed to provide boiler of 1.5T/Hr along with dust collector with stack and baggasse is used as fuel for the boiler.
- f. The unit has provided one number DG set of 125 KVA and 400 KVA capacity.

- g. The unit is surrounded by Agriculture lands on northern sides, kodangipatti - sadayalpatti road on eastern side, agriculture land and sadayalpatti village with a population of approximately 500 - 600 (on observation) is located at a distance of 40 m from the unit's premises on southern side and agriculture lands & three numbers of houses with buildup area of approximately 250 - 350 sq.feet is located adjacent to unit's premises on western side.
- h. As per the DTCP vide letter dated 18.11.2022, the land use classification is non planned area.
- i. The unit has obtained and furnished the planning permit from DTCP.

16) It is respectfully submitted that in response to the averments of the appellant in para-11 this respondent submits that as per the B.P.Ms.No. 6 dated 02.08.2016 vide serial No.2007-Food and food processing including fruits and vegetable processing comes under Orange category. The Gross Fixed Asset (GFA) of the unit is Rs.364.26 Lakhs. Hence the unit falls under Orange/ small category.

17) It is respectfully submitted that the subject was placed before the District Level Consent Clearance Committee Meeting held on 13.01.2023 and consent to establishment was issued to the unit vide proceedings No. F.0836TEN/OS/DEE/TNPCB/TEN/W/2023 dated 13.01.2023.

18) It is respectfully submitted that the respondent Board at the time of issuing CTE, issued certain conditions to be complied by the unit which are as follows:

- a. The unit shall provide septic tank and soak pit for the treatment and disposal of the sewage.
- b. The unit shall dispose the trade effluent generated through ETP.
- c. The unit shall ensure that no untreated/treated effluent shall discharge/stagnate outside/inside the unit's premises under any circumstances.

- d. The unit shall dispose the solid waste generated then and there for further beneficial use without any accumulation.
- e. The unit shall utilise baggasse as only fuel for Boiler as proposed.
- f. The unit shall ensure that unit's activity does not cause any nuisance to the nearby habitation.
- g. The unit shall provide rainwater harvesting facilities to recharge the ground water in the vicinity.
- h. The consent do not absolve from obtaining permission/Clearance from other authorities or other statues as applicable.
- i. In case of revision of consent fee by the Government, the unit shall remit the difference in consent fee amount within one month from the date of notification. Failing to remit the consent fee, this consent order will be withdrawn without any notice and further action will be initiated against the unit as per law.
- j. The unit shall not use "Use and throw away plastics" such as plastic sheets used for food wrapping, spreading on dining table etc., plastic plates, plastic tea cups, plastic tumbler, water pouches and packets, plastic straw, plastic carry bag and plastic flags irrespective of thickness, within the industry premises. Instead, the unit shall encourage use of eco friendly alternative such banana leaf, arecaunut palm plate, stainless steel, glass, porcelain plates/cups, cloth bag, jute bag etc.

19) It is respectfully submitted that subsequently, the unit applied for Consent to operate to the Board in the name of M/s.GKN Food Products Private Limited (Previously GKN Food Products) through the application no 52844183 dated 13.05.2023. The unit was inspected on 19.05.2023 and the subject was placed before the District Level Consent Clearance Committee Meeting on 20.05.2023 and consent to operate was issued to the unit vide proceedings No.F.0836TEN/OS/DEE/TNPCB/TEN/W/2023 dated 20.05.2023 issued under Water (Prevention & Control of Pollution) Act, 1974 as amended and under Air (Prevention & Control of Pollution) Act, 1981 as amended.

20) It is respectfully submitted that before issuing CTO, there were certain conditions issued under Water Act by the Board to be followed by the unit and the unit has complied with the said conditions and upon being satisfied with the compliance, CTO was issued to the unit and further the unit assured to strictly adhere to the conditions:

S. NO	CONDITIONS	COMPLIANCE
1	The unit shall provide septic tank and soak pit for the treatment and disposal of the sewage.	Complied. The unit has provided septic tank and soak pit for treatment and disposal of sewage.
2	The unit shall dispose the trade effluent generated through ETP.	Agreed to comply. The unit has provided ETP with the capacity of 10KLD
3	The unit shall ensure that no untreated/treated effluent shall discharge/stagnate outside/ inside the unit's premises under any circumstances.	The unit had provided pipeline arrangements to dispose the treated trade effluent to irrigation land of about 0.5179 Hectares whereas 75 Numbers of Coconut Trees and 20 Numbers of Asoka trees are planted in the land for the disposal of treated trade effluent of 5.5KLD.
4	The unit shall dispose the solid waste generated then and there for further beneficial use without any accumulation.	Agreed to comply. The unit will generate boiler ash of 100 T/Month (sold out for composting), scum/mud of 30T/Month (used as manure), ETP Sludge of 3 Kgs/day (used as manure) and bagasse of 400 T/Month (Partly captive as boiler fuel & balance sold out)
5	The unit shall utilise baggasse as only fuel for Boiler as proposed.	The unit has informed that Bagasse will be partly used for own boiler as fuel and balance quantity will be sold out for further beneficial purpose without accumulation.

6	The unit shall ensure that unit's activity does not cause any nuisance to the nearby habitation.	The unit agreed to comply
7	The unit shall provide rainwater harvesting facilities to recharge the ground water in the vicinity.	The unit has provided rainwater harvesting facilities
8	The consent do not absolve from obtaining permission/Clearance from other authorities or other statues as applicable.	The unit agreed to comply
9	In case of revision of consent fee by the Government, the unit shall remit the difference in consent fee amount within one month from the date of notification. Failing to remit the consent fee, this consent order will be withdrawn without any notice and further action will be initiated against the unit as per law.	The unit agreed to comply
10	The unit shall not use "use and throw away plastics" such as plastic sheets used for food wrapping, spreading on dining table etc., plastic plates, plastic tea cups, plastic tumbler, water pouches and packets, plastic straw, plastic carry bag and plastic flags irrespective of thickness. within the industry premises. Instead, the unit shall encourage use of eco friendly alternative such banana leaf, arecaunut palm plate, stainless steel, glass, porcelain plates / cups, cloth bag, jute bag etc.,	Unit agreed to comply

21) In response to Para (a) the appellant has failed to substantiate that whether there has been any personal loss or Environmental damages arising out of the consent granted to the 3<sup>rd</sup> respondent. Further the appellant claiming himself as person interested cannot be considered as there has been no order passed by the Hon'ble NGT (SZ) directing the Board to include the appellant as a necessary party and to take decision in consultation with the appellant. Further the appellant being a third party has got no right to state that opportunity of being heard was not granted.

22) In response to Para b, c & d the appellant contention that consent to establish order is identical with earlier order was made on mere assumption and without any knowledge of the proceedings of the Board and the statements made are extraneous. In compliance to the orders of the Hon'ble NGT (SZ) in Appeal No. 73 & 74/2022, Environmental compensation amount of Rs. 2, 65, 625 was levied on the 3<sup>rd</sup> respondent. Further, the Joint Director of Agriculture, Theni District vide letter dated 16.05.2022, informed that the land being "Dry land" is not suitable for Agriculture purpose and the land can be used for non agricultural purposes by considering the "Land owners request".

23) It is respectfully submitted that the Assistant Director, Directorate of Town and Country Planning, Theni vide letter dated 18.11.2022 has informed that the "Land is located in non planned area and land use is not classified". Further, vide Proceedings dated 30.09.2022, Technical approval is given to the jaggery food factory building.

24) It is respectfully submitted that in response to Para-e, it has been stated that the decision to grant "Consent to Establish" was taken without awaiting the decision of the statutory authority is false and the appellant must ascertain the facts before making any statements. The Commissioner of Sugars vide their RC.No. 1607/Cane-2/2021 dated 24.08.2021, addressed to the District Collector has stated that in pursuance of the letter to take needful action on the petition submitted by M/s. Rajshree Sugars & Chemicals Limited on the installation of Jaggery and allied products, commercial plants in Theni district by Thiru. Seenivasagan, as per the existing provisions of (Sugarcane control

order- 1966). It is that the sugarcane (Control) Order, 1966 was amended in the year 2007. In the amended order, 2007, gur, gul & jaggery words were omitted from Clauses 2(a), 2(f), 6(1)(e), 7(b)(ii), 7(d), 8 & 9(b) of Sugarcane (Control) Order, 1966 (Copy of the Gazettee is enclosed as Annexure 2).

25) It is respectfully submitted that further the Commissioner of Sugar vide its letter in RC.No. 1607/Cane-2/2021 dated 01.09.2021 has stated that as per the orders of the Hon'ble Madurai Bench of Madras High Court in WP.(MD).No. 14415 of 2021 filed by M/s. GKN Food Products has directed the Commissioner of Sugar to consider the representations of M/s GKN Food Products dated 28.06.2021 and 23.07.2021 and dispose the same by a reasoned order after taking into account the Sugarcane (Control) Order, 2007 within a period of four weeks from the date of receipt of a copy of the order. It was further mentioned that;

“Matter is examined in detail. In this connection, it is informed that District Collector, Theni has been informed about the provisions of Sugarcane (Control) (Amendment) order, 2007. In respect of cane area demarcation to sugar mills, the subject will be decided by the Area Delimitation Committee by following due procedure and existing norms”.

26) It is respectfully submitted that in addition the 3<sup>rd</sup> respondent unit submitted reply to the questions put forth by him to the Commissioner of Sugar cane situated at No. 3A, 2<sup>nd</sup> floor, Aavin house, Pasumpon muthuramalinganar road, Nandhanam, Chennai 600 036 and received by way of RTI, vide Proceedings No. NA.KA.No. 5330A/Cane-2/2021 dated 02.09.2022 and the answer given by the above said authority is that sugarcane control amendment order 2007 doesn't bind manufacturing of jaggeries and no prior license/Authorization has to be obtained from the said office for preparing jaggery products. This Board after perusing the documents granted consent to the 3<sup>rd</sup> respondent unit and the same was proper and done in accordance with law.

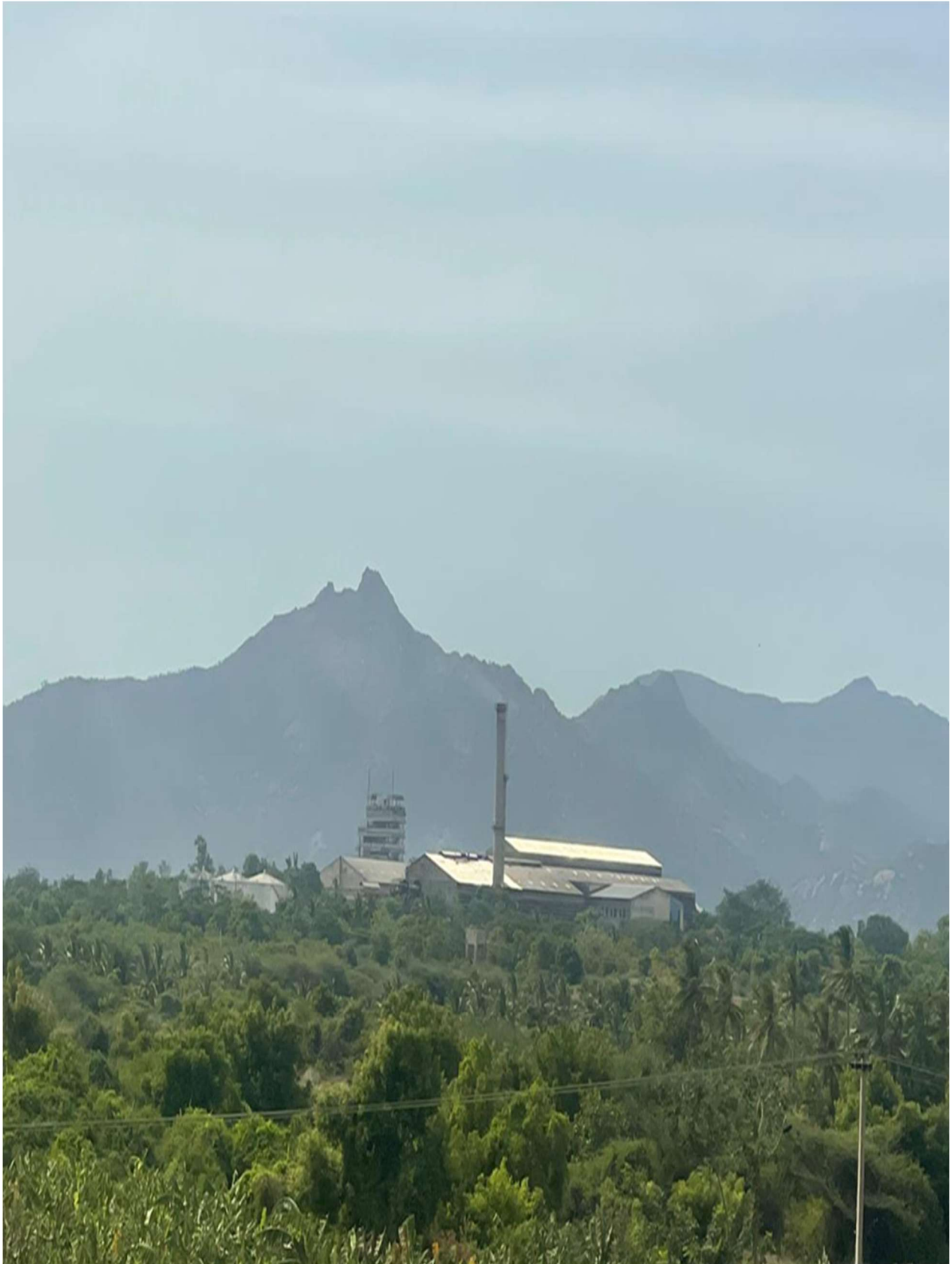
27) It is respectfully submitted that in response to Para (f) Environmental compensation was calculated and levied accordingly.

For the reasons stated above, it is therefore humbly prayed that this Hon'ble Appellate Authority may be pleased to pass such order or other orders as this Hon'ble Appellate Authority may deem fit and necessary in the circumstances of the case and thus render justice.

*Mani*  
25/7/23  
JOINT CHIEF ENVIRONMENTAL ENGINEER  
TAMILNADU POLLUTION CONTROL BOARD  
70, MOUNT SALAI, GUINDY,  
CHENNAI - 600 032.  
**BEFORE ME**

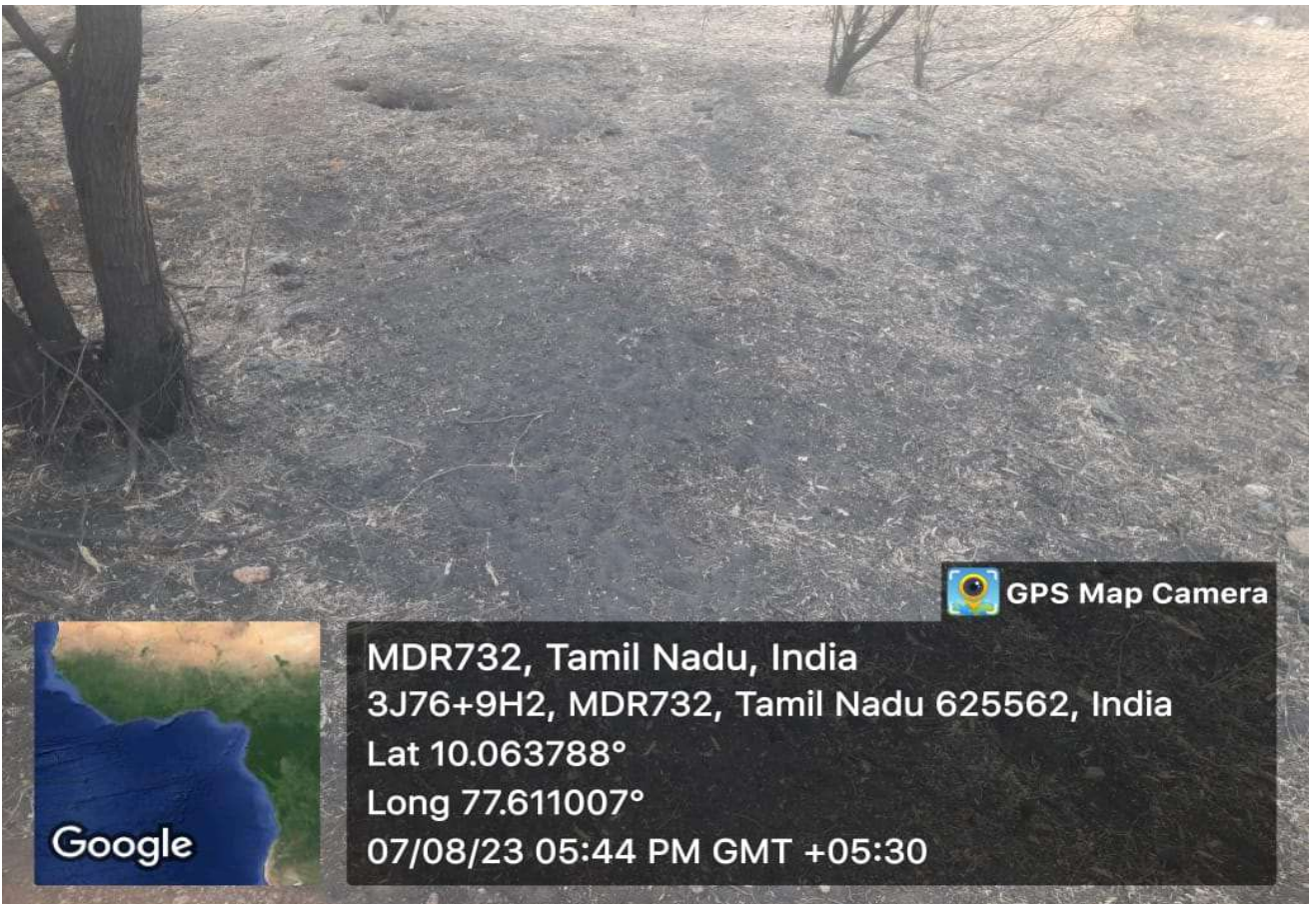
Solemnly affirmed at Chennai  
On this the day of July 2023  
and signed his name in my presence.

**ADVOCATE: CHENNAI**



Rajshree Sugars and Chemicals , Unit 1 Varadharaj Nagar , Theni District - Factory is running/  
operating without a valid consent as on date

Burnt Ashes being dumped in the open lands belonging to the 6<sup>th</sup> Respondent Industry





Huge Quantity of Bagasee dumped in the open lands, which produces nitrogen, carbon and sulfur oxides. Further, the particulate matter which is very light and escapes in the atmosphere and travels long distance and creates pollution which tends to make dizziness and irritation in eyes, nose, throat, lungs, etc.,



Trade Effluent Waste / Muds are being dumped in the soil



 GPS Map Camera



MDR732, Tamil Nadu, India  
3J76+9H2, MDR732, Tamil Nadu 625562, India  
Lat 10.063788°  
Long 77.611007°  
07/08/23 05:38 PM GMT +05:30