

C.Ramu vs The District Collector on 31 March, 2022

Bench: K. Ramakrishnan, Satyagopal Korlapati

Item No.10:

BEFORE THE NATIONAL GREEN TRIBUNAL
SOUTHERN ZONE, CHENNAI

(Through Video Conference)

Original Application No. 103 of 2021 (SZ)

IN THE MATTER OF:

C. Ramu,
Devampattu Village,
Ponneri Taluk, Tiruvallur District & Anr.

...Applicant(s)

Versus

The District Collector,
Thiruvallur District and Ors.

...Respondent(s)

Date of hearing: 31.03.2022.

CORAM:

HON'BLE Mr. JUSTICE K. RAMAKRISHNAN, JUDICIAL MEMBER
HON'BLE Dr. SATYAGOPAL KORLAPATI, EXPERT MEMBER

For Applicant(s): None.

For Respondent(s): Dr. D. Shanmuganathan for R1 to R3, R6 to R8.
Mr. S. Sai Sathya Jith for R4 & R5.

Page 1 of 12
ORDER

1. As per order dated 01.12.2021, this Tribunal had passed the following order:-

"1.As per order dated 19.05.2021, this Tribunal had admitted the matter and directed the Tamil Nadu Pollution Control Board and the District Collector, Tiruvallur District to submit a report and the Fisheries Department was also directed to file a detailed report regarding the number of shrimp culture/hatcheries and other fish/ornamental fish farms that are operational in that area and if there is any unit running without permission, what is the nature of action taken by them.

2. Further, the Tamil Nadu Pollution Control Board was also directed to ascertain the soil condition and the remedial measures to be taken. We also appointed a Joint Committee to go into the question and the case was originally posted to 09.06.2021 for appearance of parties, filing independent response and also for consideration of report.

3. Thereafter, the matter has been adjourned from time to time by notification. It was again taken up on 21.10.2021 and at the request of the counsel appearing for the respective departments, the case was adjourned to 11.11.2021. On 11.11.2021, it was adjourned to today by notification.

4. Even today, reports have not been filed. They want some time to file the report. It is quite unfortunate that though the case is pending from 19.05.2021, none of the parties have filed any independent statement, apart from the Joint Committee not filing the report as well. This Tribunal in several matters of this nature expressed its displeasure to the Government Departments and the Government officials who have been made as part of the committee for not discharging their responsibility to submit the report to this Tribunal. When the Court/Tribunal is appointing a committee to go into the question, apart from their official capacity, they will become an officer of the Court/Tribunal to collect the data and submit the same before the Court/Tribunal.

5. However, considering the request made by the counsel appearing for the respective departments, we feel that some more time can be granted to them. They are directed to submit the respective reports to this Tribunal on or before 24.12.2021 by e-filing in the form of Searchable PDF/OCR Supportable PDF and not in the form of Image PDF along with necessary hardcopies to be produced as per Rules.

6. If the official respondents did not file their independent statement before the next hearing date (i.e. 24.12.2021), then they are liable to pay a cost of Rs.10,000/- (Rupees Ten Thousand only) each to be deposited with the Tamil Nadu State Legal Service Authority and this amount should be recovered from the officers who are responsible for filing such statements as well, instead of spending the amount of coffer of the State Government. If the Joint Committee did not file the report, then the committee members are directed to show cause as to why action should not be taken against them for non-compliance of the directions as contemplated under

Section 25 and 28 of the National Green Tribunal Act, 2010.

7. The Registry is directed to communicate this order to the members of the committee and also to the official respondents including the Chief Secretary, State of Tamil Nadu for his information and issuing necessary directions to the subordinate officials to avoid penal consequence being taken against by them."

2. The case was originally posted to 24.12.2021 for completion of pleadings and consideration of report. Thereafter, the matter has been adjourned from time to time by successive notifications and lastly, it was adjourned to today by notification dated 24.03.2022.

3. Today, there was no representation for the applicant.

4. The State Pollution Control Board has filed the report along with analysis report signed by the officer on 20.09.2021, e-filed on 23.09.2021 which reads as follows:-

"REPORT FILED ON BEHALF OF THE 4TH & 5TH RESPONDENTS TAMILNADU POLLUTION CONTROL BOARD.

I, R. Rajamanickam, S/o. P.M. Ramasamy , Hindu, aged about 57 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 and I am filing this Report on behalf of the 4th & 5th Respondent Board and as such I am well acquainted with the facts of the case as per records.

2. It is respectfully submitted that the applicant filed this application No. 103 of 2021 before this Hon'ble NGT (SZ) with the following prayer:

"directing the respondents to take appropriate action against the unauthorised shrimp and Vannameen (Ornament fish) farms/hatcheries established over and adjacent to agricultural lands in Devampattu, Agaram, Pallipalayam, Uppunelvayal and Periyakarumbur Villages in Kolar Sub-Taluk, Ponneri Taluk, Tiruvallur District by removing the farms and take necessary action to restore the lands back to agricultural use".

3. It is respectfully submitted that, the Hon'ble National Green Tribunal (SZ) in its order dated 28.06.2021 directed inter alia that:

"Para 8: In the mean time the Pollution Control Board and the District Collector, Tiruvallur District are directed to conduct the inspection of these areas and submit a factual as well as action taken report if there is any violation found.

Para 9: The Pollution Control Board is also directed to conduct the soil study and if any untreated sewage generated is being discharged in to the nearby water bodies that also may be ascertained and the water quality of such water body has to be ascertained and if there is any contamination caused they will have to identify the violator and also to assess the environmental compensation against such persons".

4. It is respectfully submitted that, in pursuance to the said order, the Joint Committee comprising of Revenue Divisional Officer, Ponneri, Tiruvallur District, Senior officer from Fisheries Department, Pnneri, Tiruvallu Dstrict and the District Environmental Engineer, TNPCB, Gummidipoondi inspected the ornament fish culture ponds located in Lakshmipuram, Periyar nagar in Pamadhukulam Panchayat, Sarathkandigai, Krishnampet, Mettupalayam and Konimedu on 25.06.2021, 09.07.2021 and 14.07.2021. During inspection waste water samples were collected in the discharge points of vannameen culture ponds in various villages. The waste water samples were analysed in the TNPCB lab and the Report of Analysis (ROA) have been received. The copy of consolidated report of ROA is submitted herewith as Annexure

5. It is respectfully submitted that on perusal of the report of analysis, the following conclusions were arrived:

I. The analysed parameters in waste water samples from the ornament fish culture in small concrete tanks are within the permissible limits.

II. The TDS in the waste water samples collected from the ornament fish culture in earthen lagoons exceeds the permissible limit. This is because of deep borewells and withdrawal of higher quantity of ground water for the fish culture.

III. The complainant Mr.Ramu, Devampattu stated that due to the construction of earthen ponds with high raise earthen bunds, the rain water does not drain properly leading to inundation of crops and loss of revenue and hence objected the fish culture in the agricultural lands.

6. It is submitted that the soil samples were collected by the Fisheries Department to analyse in the Lab of Agricultural Department.

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

5. The District Collector - Thiruvallur has filed the action taken report dated 21.12.2021, e-filed on 29.12.2021 which reads as follows:-

"ACTION TAKEN REPORT FILED BY THE DISTRICT COLLECTOR THIRUVALLUR I, Alby John Varghese, S/o John Varghese., aged 33 years, residing at Collector's Bungalow, Master Plan Complex, Tiruvallur District - 602001, do

hereby solemnly affirm and sincerely state as follows:

1. I am the District Collector, Tiruvallur and 1st Respondent herein. I am acquainted with the facts of the case from the records available. I am filing this action taken report on behalf of Respondent No.1.

2. It is submitted that the Hon'ble National Green Tribunal, Southern Zone, Chennai has given an interim directions to the committee members as follows.

"4. Even today, reports have not been filed. They want some time to file the report. It is quite unfortunate that though the case is pending from 19.05.2021, none of the parties have filed any independent statement, apart from the Joint Committee not filing the report as well. This Tribunal in several matters of this nature expressed its displeasure to the Government Departments and the Government officials who have been made as part of the committee for not discharging their responsibility to submit the report to this Tribunal. When the Court / Tribunal is appointing a committee to go into the question, apart from their official capacity, they will become an officer of the Court / Tribunal to collect the data and submit the same before the court / Tribunal.

5. However, considering the request made by the counsel appearing for the respective departments, we feel that some more time can be granted to them. They are directed to submit the respective reports to this Tribunal on or before 24.12.2021 by e-filing in the form of Searchable PDF / OCR Supportable PDF and not in the form of Image PDF along with necessary hardcopies to be produced as per Rules.

6. If the official respondents did not file their independent statement before the next hearing date (i.e. 24.12.2021), then they are liable to pay a cost of Rs. 10,000/- (Rupees Ten Thousand only) each to be deposited with the Tamil Nadu State Legal Service Authority and this amount should be recovered from the officers who are responsible for filing such statements as will, instead of spending the amount of coffer of the State Government. If the Joint Committee did not file the report, then the committee members are directed to show cause as to why action should not be taken against them for non - compliance of the directions as contemplated under section 25 and 28 of the National Green Tribunal Act, 2010".

3. It is submitted that, in order to comply the order of the Hon'ble National Green Tribunal, Southern Zone, Chennai, the necessary directions has been given to the Assistant Director of Fisheries, Ponneri, the District Environmental Engineer, Gummidipoondi and Revenue Divisional Officer, Ponneri for taking necessary action on the prayer of the petitioner. Accordingly the officials concerned submitted their reports and the same is revealed as follows:

i) It is submitted that, the District Environmental Engineer, Tamil Nadu Pollution Control Board, Gummidipoondi, has reported that, the Joint Committee comprising

of Revenue Divisional Officer, Ponneri, Assistant Director of Fisheries, Tiruvallur, the District Environmental Engineer, Tamil Nadu Pollution Control Board, Gummidipoondi, have inspected the subject location on 09.07.2021 and observed that the following activities.

a) Fish culture activity, the earthen bunds are raised to 2 to 3 feet and filled with borewell water. The small fishes are grown in the earthen ponds to the required size, No chemicals or salts are added in the water for the fish culture activity. The prepared foods with natural grains are kept in the pond for the consumption of fish and the certain quantity of Borewell water is filled at regular intervals.

b) During inspection, waste water samples were collected in the discharge points of vannameen culture ponds. The waste water samples were analysed in the TNPCB lab and the result of analysis report is detailed below(Copy enclosed):

☐ Except the Total Dissolved solids(TDS) and chlorides, all other parameters are within the prescribed standards.

☐ The TDS exceeds the permissible limit. This is because of the nature of the ground water in that area and withdrawal of higher quantity of ground water for the fish culture activity.

☐ The complainant Mr.Ramu, Devampattu stated that due to the construction of earthen ponds with high raise earthen bunds, the rain water does not drain properly leading to inundation of crops and loss of revenue and hence objected the fish culture in the agricultural lands.

☐ As TNPCB does not have facility to analyze the soil samples and the fish culture activity is carried out in the agricultural lands, the soil samples were collected by the Fisheries Department to analyse in the Lab of Agricultural Department and the report is received from the fisheries Department. In the report, it has been stated that the land is not suitable for agriculture purposes due to the presence of higher quantity of salts.

☐ These fish culture ponds are not coming under the purview of TNPCB, since the aquaculture farm with more than 5.0 hectare land area only comes under the purview of TNPCB as per the CPCB guidelines. As far as TNPCB concerned, no violations were noticed in these type of fish culture activities.

ii) It is submitted that, the Assistant Director of Fisheries has reported that, in order to ascertain whether any damages or losses to the agriculture lands due to the ornamental fishing and shrimp farming, the water and sand samples were collected from the place of ornamental fishing pond and the adjacent agricultural lands including the petitioner's land and the same were analysed in the Agricultural

Research Lab, Kakkalur. In which, the Senior Agricultural Officer has reported that, there is no disparity between the sand and water samples taken from the ornamental fishpond and the adjacent agricultural lands, including the petitioner's land and the bore well.

iii) The Senior Agricultural Officer has further reported that, there is no damages caused to the land and water due to the formation and functioning of ornamental fishpond and the salt content of water (EC) in the above said location is naturally high in the Villages Devampattu, Agaram, Palipalayam, Uppunelvoyal and Periyakarumpur of Ponneri Taluk.

iv) It is submitted that, in order to avoiding the inundation of agricultural lands due to the release of water from the Periyakarumpur lake, the depth of water drain canal of Periyakarumpur lake has been increased to 25 feet from 10 feet."

Therefore, I pray that the Hon'ble National Green Tribunal, Southern Zone, Chennai may be pleased to accept my action taken report and thus render justice."

6. The State Pollution Control Board also filed another report signed by the officer on 30.12.2021, e-filed on the same date which reads as follows:-

"REPORT FILED ON BEHALF OF THE RESPONDENT TAMIL NADU POLLUTION CONTROL BOARD I, R. Rajamanickam, S/o. P.M.Ramasamy, Hindu, aged about 57 years, having my office at No. 76, Mount Salai, Guindy, Chennai - 600032, 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 Respondent Tamil Nadu Pollution Control Board and as such I am well acquainted with the facts of the case as per records.

2. It is respectfully submitted that the Hon'ble National Green Tribunal (Southern Zone) in its order dated 19.05.2021 has directed as follows:

"Para 06: In the mean time the Pollution Control Board and the District Collector, Tiruvallur District are directed to conduct the inspection of these areas and submit a factual as well as action taken report if there is any violation found.

Para 09. The Pollution Control Board is also directed to conduct the soil study and if any untreated sewage generated is being discharged in to the nearby water bodies that also may be ascertained and the water quality of such water body has to be ascertained and if there is any contamination caused they will have to identify the violator and also to assess the environmental compensation against such persons.

3. It is respectfully submitted that, as per the Hon'ble NGT Order dated: 19.05.2021 a Joint Committee was constituted and it comprising of Revenue Divisional Officer, Ponneri, Thiruvallur District, Senior Officer from Fisheries Department, Ponneri, Thiruvallur District, District Environmental Engineer, Tamil Nadu Pollution Control Board, Gummidipoondi were inspected the ornament fish culture ponds located in Devampattu village on 09.07.2021.

4. It is respectfully submitted that in the fish culture activity, the earthen bunds are raised to 2 to 3 feet and filled with borewell water. The small fishes are grown in the earthen ponds to the required size. No chemicals or salts are added in the water for the fish culture activity. The prepared foods with natural grains are kept in the pond for the consumption by the fish; certain quantity of borewell water is filled at regular intervals.

5. It is respectfully submitted that during inspection, waste water samples were collected in the discharge points of vannaheen culture ponds. The waste water samples were analysed in the TNPCB lab and the Report of Analysis (ROA) are enclosed in Annexure-I.

6. It is respectfully submitted that on perusal of the report of analysis, the followings were observed.

Except the Total Dissolved solids (TDS) and chlorides, all other parameters are within the prescribed standards, for trade effluent discharge into inland water bodies. The TDS exceeds the permissible limit. This is because of the nature of high TDS ground water in that area and withdrawal of higher quantity of ground water for the fish culture activity. The complainant Mr. Ramu, Devampattu stated that due to the construction of earthen ponds with high raise earthen bunds, the rain water does not drain properly leading to inundation of crops and loss of revenue and hence objected the fish culture in the agricultural lands. iv. As TNPCB does not have facility to analyse the soil samples, and the fish culture activity is carried out in the agricultural lands, the soil samples were collected by the Fisheries Department to analyse in the Lab of Agricultural Department. The report of the soil samples is enclosed in Annexure-III. These aquaculture/ fish pond units are in operation in the wet agricultural lands without obtaining NOC from Ground Water Department. vi. The aqua /shrimp farms has to be established and operated in compliance with guidelines for shrimp farms as per the Coastal Aquaculture Authority Act, 2005. The Aquaculture authority has made it mandatory that all shrimp farms of 5.0 hectare should have an effluent treatment system or effluent treatment ponds/facility.

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

7. Though the State Pollution Control Board had stated in the report that some of the ingredients of water and the soil are not in conformity with the standard provided for agricultural lands, the District Collector's report shows that the presence of excess TDS and Chloride were not due to the functioning of the ornamental fish culture units and it is due to natural soil conditions. None of the reports mentioned as to whether there is any regulatory mechanism provided for the purpose of supervising such activities, whether any license or registration is required and if so, from which department the same has to be obtained. The Fisheries Department will be the competent authority who can enlighten on these aspects.

8. The District Collector also did not mention anything about the regulatory mechanism for checking such illegal units flourishing up and the mechanism by which violations committed by them can be checked.

9. When this was pointed out, the learned counsel appearing for the State Departments submitted that they will come with the detailed statement regarding these aspects, if some time is granted.

10. It is true that in one of the matters this Tribunal had observed on the basis of the want of materials available that there was no bar for conducting ornamental fish farms in agricultural land. Further, it cannot be taken as a ground to come to the conclusion that they will not be coming under any regulatory mechanism, as sometimes they require some registration with the concerned authorities who are having control over the same, atleast for the purpose of providing necessary financial assistance or otherwise.

11. The District Collector and the Fisheries Department are directed to file their statement regarding the regulatory mechanism to supervise the activities of the ornamental fish farms and if so, units that are functioning have obtained such permissions or not and if not, what is the nature of action taken by them in this regard.

12. They are directed to file their respective reports to this Tribunal on or before 27.04.2022 by e-filing in the form of Searchable PDF/OCR Supportable PDF and not in the form of Image PDF along with necessary hardcopies to be produced as per Rules.

13. The Registry is directed to communicate this order to the official respondents, especially to the Fisheries Department and the District Collector - Thiruvallur District by e-mail for their information and compliance of directions.

14. For completion of pleadings and consideration of report, post on 27.04.2022.

Sd/-

Justice K. Ramakrishnan, JM Sd/-

Dr. Satyagopal Korlapati, EM O.A. No. 103/2021(SZ) 31st March 2022. Mn.