

# National Green Tribunal Southern Zone vs The Principal Secretary To Government ... on 29 July, 2022

**Bench: K Ramakrishnan, K. Satyagopal**

Item No.:

Court No.1:

BEFORE THE NATIONAL GREEN TRIBUNAL  
SOUTHERN ZONE, CHENNAI  
Original Application No. 126 of 2020 (SZ)  
(Through Video Conference)

IN THE MATTER OF

Tribunal on its own motion SUO MOTU  
Based on the News Item in Dinamalar Newspaper  
Chennai Edition dated 17.07.2020, "Jalladiyanpet  
Lake destroyed by „Jalra Politicians".

...Applicant(s)

Versus

1. The Principal Secretary to Government,  
Public Works Department,  
Secretariat, Fort St. George,  
Chennai 600 009.
2. Additional Chief secretary to Govt. of Tamil Nadu,  
Revenue and Disaster Management Department,  
Govt. Secretariat, Fort. George  
Chennai Tamil Nadu 600 009.
3. The Secretary to Govt. of Tamil Nadu  
Department of Environment,  
Govt. Secretariat, Fort St. George,  
Chennai, Tamil Nadu - 600 009.
4. Additional Chief secretary to Govt. of Tamil Nadu,  
Municipal Administration and Water Supply Department,  
Govt. Secretariat, Fort. George  
Chennai Tamil Nadu- 600 009.
5. The Chairman,  
Tamil Nadu Pollution Control Board,  
No.76, Anna Salai, Guindy,  
Chennai, Tamil Nadu - 600 032.

6. The District Collector,

Kancheepuram District,  
Kancheepuram.

(R6 substituted as per order dated 27.07.2020)

1

7. Greater Chennai Corporation,  
Rep by its Commissioner,  
Ripon Building, Chennai 600 003.

...Respondent

For Applicant(s):

By Court

For Respondent(s):

Dr. D. Shanmuganathan for R1 to R4 & R6

Mr. S. Sai Sathya Jith for R5

Mrs. P.T. Rama Devi through

Mr. Raghul Adhitya and Ms. H. Sujithra for R7

Judgment Reserved on: 26th July 2022.

Judgment Pronounced on: 29th July 2022.

CORAM:

HON'BLE Mr. JUSTICE K. RAMAKRISHNAN, JUDICIAL MEMBER

HON'BLE Dr. SATYAGOPAL KORLAPATI, EXPERT MEMBER

Whether the Judgment is allowed to be published on the Internet - Yes/No

Whether the Judgment is to be published in the All India NGT Reporter - Yes/No

#### JUDGMENT

Delivered by Justice K. Ramakrishnan, Judicial Member

1. The above case was Suo Motu registered by this Tribunal on the basis of the news paper report published in „Dinamalar Chennai City Supplement Edition dated, 17.07.2020 under the caption "[hy;uh' murpay;thjpfshy;

[y;ybahd;Ngl;il Vup ehrk;" (Jalldiyanpet lake destroyed by 'Jalra' Politicians )

2. It was alleged in the newspaper report that on account of unauthorised encroachments in the Jalladiyanpettai Lake, there is a danger of lake disappearing soon. Originally the lake was having an extent of 150 acres adjoining the Marsh land in South Chennai. It was acting as a prime water source

for agriculture and drinking purpose in the area of Perumbakkam, Jalldiyanpettai and Pallikarani.

3. The bank of that lake was having a long length of 1.4 km and it spread along the Tambaram-Velacherry road up to old Mamallapuram link road.

It was slowly encroached by the encroachers. It was alleged in the newspaper report that it was being done with the active connivance and support of the local political party leaders, now it has been reduced to 70 acres as per the Government records. It has further reduced to 30 acres on account of the encroachments made.

4. It was also seen from the newspaper report that a survey was conducted in the year 2010 and found that around 298 houses were constructed unauthorisedly as per the official records, on the basis of the survey conducted. But as per the Tamil Nadu Protection of Tanks and Eviction of Encroachment Act, 2007, no construction can be permitted in the lake or its catchment areas. Though encroachments were found, even at that time no steps were taken by the Public Works Department to remove the encroachment. Due to the news item published in the same news paper under the caption „Kalamiranguvom Namakku Naame', some non Governmental organisations and social group have created some sensitisation among the people to protect the water bodies and on account of the same, some relief has been caused to rejuvenate certain water bodies around this area. But none had come to protect this water body due to fear of threat being caused by the encroachers with political support.

5. It was also alleged in the newspaper report that even, murderous threats were made against such persons who were interested in protecting the water body. It was stated that now is attached to Greater Chennai Corporation, Chennai, who has the responsibility to protect the same. But the Corporation authorities are also not taking any steps to protect the water body.

6. Further, this area was being used for dumping garbage apart from discharging sewage without treatment thereby affecting the water quality in the lake. If this is continued, then there is a possibility of this water body extinguished in future.

7. Since it was informed by the counsel appearing for the State Department submitted that this area was falling within Kancheepuram District, this Tribunal substituted 6th respondent as the District Collector, Kancheepuram District, instead of Chengalpattu District as per order dated 27.07.2020.

8. After reiterating the responsibility of the State machineries to protect the water body, having satisfied that there arose a substantial question of environment, this Tribunal by order dated 27.07.2020 admitted the matter and appointed a Joint Committee comprising of (1) District Collector, Kancheepuram District (or) a Senior Officer not below the rank of Assistant Collector or Sub Divisional Magistrate of that area designated by the District Collector (2) Superintending Engineer of Public Works Department and Water Resources Organisation who is in charge of this water body, (3) Commissioner or a Senior Officer deputed by the Commissioner, Greater Chennai Corporation and (4) Senior Officer deputed by the Chairman, Tamil Nadu Pollution Control Board to inspect the area in question and submit a factual as well as action taken report, if there is any

violation found.

9. The Committee was directed to :

I. Ascertain the total original extent of the lake as per the revenue records and the extent of encroachments and the steps taken to remove the encroachment and also ascertain if there was any dumping of garbage and discharge of untreated sewage into the water body, then trace out the person or persons responsible and suggest the course of action including imposition of environmental compensation against such person applying the principles of „polluter pay .

II. To prepare an action plan showing the long term and short term measures with shorter time lines to protect the water body suggesting the persons responsible to carry out the same.

III. Ascertain as to whether there were any schemes launched by the Government or the District administration to protect the water bodies and if so, what was its present stage of implementation.

IV. Analysis the water quality in the lake and if there was any contamination found, then trace out the sources and also suggest and recommend the ways and means to remedy the same.

V. The Tamil Nadu State Pollution Control Board was also conducted the independent inspection to ascertain as to whether there were any violation of implementation of Solid Waste management Rules, 2016 including dumping of waste and discharging untreated sewage in to the water bodies and also collect water samples, so as to ascertain the present quality of the water and contamination and if there is contamination sources for contamination apart from assisted the committee in this regard.

10. The Public Works Department was designated as the nodal agency for co-

ordination and for providing all necessary logistics for this purpose.

11. Since no report was filed, the matter was adjourned from time to time either at the request of the counsel appearing for the parties or by notification.

12. The matter was taken up on 22.03.2022 and on that day, this Tribunal had considered the report submitted by the Superintending Engineer, WRD, Palar Basin Circle, Chennai dated Nil, e-filed on 21.09.2021 and extracted in Para (2) of the order which reads as follows:-

(i) It is alleged in the paper report that on account of unauthorised encroachments in the Jalladiyanpettai Lake, there is a danger of lake disappearing soon. Originally the

lake was having an extent of 150 acres adjoining the Marsh land in South Chennai. It was acting as a prime water source for agriculture and drinking purpose in the area of Perumbakkam, Jalldiyanpettai and Pallikkarana. (ii) . The bank of that lake is having a long length of 1.4 km and it is spread along the Tambaram - Velacheny road up to old Mamallapuram link road. It was slowly encroached by unauthorised encroachers. But in fact, it is being done with the active connivance and support of the local political party leaders. As a result of this, it has been reduced to 70 acres in the Government's record. Now it has been further reduced to 30 acres.

(ii) It is also seen from the report that a survey was conducted in the year 2010, and found that around 298 houses were constructed unauthorisedly as per the official records on the basis of the survey conducted. But as per the Water Protection Act 2007, no construction can be permitted in the lake or its catchment areas.

(iii) It is also alleged in the report that though encroachments were found, no action was taken by the Public Works Department to remove the encroachment. On account of severe water scarcity happened last year, due to the news item published in the same newspaper under the caption 'Walamiranguvom Namakku Naame', some non-Governmental organizations and social group have created some sensitization among the people to protect the water bodies and on account of the same some relief has been caused to rejuvenate certain water bodies around this area. But none had come to protect this water body due to fear of threat being caused by the encroachers with political support. Even, murderous threats were also issued against such persons who are interested in protecting the water body, the report continues..

(iv) Now it has been attached to Greater Chennai Corporation, Chennai, who has the responsibility to protect the same. But, none have taken any steps for this purpose. Unless, the encroachments are removed and steps are taken to desilt and protect the water body, then there is a possibility of extinguishment of the water body in future.

(v) It is also mentioned in the report that waste as well as garbage is being dumped in the lake, apart from discharging the sewage without treatment there by making this water body into a dumping ground as well as the sewage pond. Though there was a scheme for protecting the water bodies which include this water body as well, but, no steps were taken.

(vi) On-going through the allegations in the report, we are satisfied that there arises a substantial question of environment which requires the interference of this Tribunal for resolving the same. Time and again it has been reiterated by the Hon'ble Apex Court, as well as various Hon'ble high Courts and also the National Green Tribunal, the responsibility of the State Government and its Departments including the local bodies to protect the water bodies, which plays a great role in protecting environment apart from maintaining the biological equilibrium not only act as rain water harvesting to collect rainwater but also act as a ground water recharge system to

improve the groundwater level in that area. There is a duty cast on the Government and the State machineries the local bodies to protect the water bodies against the encroachment and pollution as a mandate of fundamental duty provided as directive principle Under Article 48 (A) of Constitution of India as providing clean water is treated as right to life as enshrined Under Article 21 of the Constitution of India. The regulating authorities are also expected to protect the water bodies against pollution.

(vii) In order to ascertain the present state of affairs, and genuineness of the allegations in the report and also steps taken by the authorities to remove the encroachments if any and restore the water body, we feel it appropriate to appoint a joint committee comprising of 1) the District Collector, Kancheepuram District, or a Senior Officer, not below the rank of Assistant Collector or Sub Divisional Magistrate of that area designated by the District Collector, 2) Superintending Engineer of Public Works Department and Water Resources Organization, who is in charge of that area, 3) the Commissioner or a Senior Officer, deputed by the Commissioner, Greater Chennai Corporation who is in charge of maintenance of the lakes and 4) a Senior Officer deputed by the Chairman, Tamil Nadu State Pollution Control Board to inspect the area in question and submit a factual as well as action taken report if there is any violation found.

(viii) The committee is directed to ascertain the total original extent of land as per the revenue records and the extent of encroachments and the steps taken to remove the encroachment and also ascertain if there is any dumping of garbage and discharge of untreated sewage into the water body and if so, trace out the person or persons responsible and suggest the course of action including imposition of environmental compensation against such person applying the principles of 'polluter pay, to prepare an action plan showing long term and short term measures with shorter time lines to protect the water body suggesting the persons responsible to carry out the same, ascertain as to whether there were any schemes launched by the Government or the District administration for protecting the water bodies and if so, what is its present stage of implementation, analysis of the water quality in the lake and if there is any contamination, trace out the sources and also -- suggest and recommend the ways and means to remedy the same..

(ix) The Public Works Department will be the nodal agency for co-ordination and for providing all necessary logistics for this purpose".

1. The report pertaining to the Greater Chennai Corporation is awaited and immediately on receipt of the same, of the Joint Committee will be is filed before this Hon'ble Tribunal,

## 2. REPORT OF THE WATER RESOURCES DEPARTMENT:

(i) The Jalladianpettai eri is a PWD tank with the storage capacity of 0.24 MCM and was intended to feed 80.16 Ha. Its water spread area is extending in 8.27 Sq.km with

its own catchment of 1.31 sq.km. About 496 encroachments would be prevalent in the Jalladianpettai Tank as per PWD estimation in the water spread area in an extent of 0.09.92 Ha. Hence, fresh survey of the tank has to be made by the Survey Officials as per the Tamil Nadu Protection of Tank and Eviction of Encroachment Act, 2007 and the particulars have to be sent in Forms I and II as per the Tamil Nadu Protection of Tank and Eviction of Encroachment, Rules, 2007 for taking up eviction process under the due process of law.

(ii) The pollutant factors have to be examined by the Tamil Nadu Pollution Control Board by taking water samples from the lake and action has to be initiated under the relevant Environmental Law and the WRD has no locus in this aspect.

13. The Greater Chennai Corporation also filed a report signed by the officer on 25.08.2021, e-filed on 08.02.2022 and extracted in Para (3) of the order which reads as follows:-

It is alleged in the paper report that on account of unauthorised encroachments in the Jalladiyanpettai Lake, there is a danger of lake disappearing soon. Originally the lake was having an extent of 150 acres adjoining the Marshi land in South Chennai. It was acting as a prime water source for agriculture and drinking purpose in the area of Perumbakkam, Jalldiyanpettai and Pallikarani.

3. The bank of that lake is having a long length of 1.4 km and it is spread along the Tambaram-Velacherry road up to old Mamallapuram link road. It was slowly encroached by unauthorised encroachers. But in fact, it is being done with the active connivance and support of the local political party leaders. As a result of this, it has been reduced to 70 acres in the Government's record. Now it has been further reduced to 30 acres.

4. It is also seen from the report that a survey was conducted in the year 2010, and found that around 298 houses were constructed unauthorisedly as per the official records on the basis of the survey conducted. But as per the Water Protection Act 2007, no construction can be permitted in the lake or its catchment areas.

5. It is also alleged in the report that though encroachments were found, no action was taken by the Public Works Department to remove the encroachment. On account of severe water scarcity happened last year, due to the news item published in the same news paper under the caption 'Kalamiranguvom Namakku Naame', some non Governmental organisations and social group have created some sensitisation among relief has been caused to rejuvenate certain water bodies around this area. But none had come to protect this water body due to fear of threat being caused by the encroachers with political support. Even, murderous threats were also issued against such persons who are interested in protecting the water body, the report continues.

6. Now it has been attached to Greater Chennai Corporation, Chennai, who has the responsibility to protect the same. But none have taken any steps for this purpose. Unless, the encroachments are

removed and steps are taken to desilt and protect the water body, then there is a possibility of extinguishment of the water body in future.

7. It is also mentioned in the report that waste as well as garbage is being dumped in the lake, apart from discharging the sewage without treatment there by making this water body into a dumping ground as well as the sewage pond. Though there was a scheme for protecting the water bodies which includes this water body as well, but, no steps were taken.

8. When the matter came up for hearing for admission today through Video Conference, Sri. Kamalesh Kannan represented respondents 1 to 4 and 6, Smt. P.T. Rama Devi through Sri. Raghul Adhitya represented 7th respondent and Sri. Kasirajan through M/s. Meena represented 5th respondent. Service is complete.

9. It is informed by the learned counsel appearing for the State authorities that this area comes under the jurisdiction of Kancheepuram District and not Chengalpattu District. So, instead of District Collector, Chengalpattu, District Collector, Kancheepuram is substituted as 6th respondent. Office is directed to carry out the necessary amendment in the cause title.

10. On going through the allegations in the report, we are satisfied that there arises a substantial question of environment which requires the interference of this Tribunal for resolving the same. Time and again it has been reiterated by the Hon'ble Apex Court, as well as various Hon'ble high Courts and also the National Green Tribunal, the responsibility of the State Government and its Departments including the local bodies to protect the water bodies, which plays a great role in protecting environment apart from maintaining the biological equilibrium not only act as rain water harvesting to collect rainwater but also act as a ground water recharge system to improve the groundwater level in that area. There is a duty cast on the Government and the State machineries the local bodies to protect the water bodies against the encroachment and pollution as a mandate of fundamental duty provided as directive principle Under Article 48 (A) of Constitution of India as providing clean water is treated as right to life as enshrined Under Article 21 of the Constitution of India. The regulating authorities are also expected to protect the water bodies against pollution.

11. In order to ascertain the present state of affairs, and genuineness of the allegations in the report and also steps taken by the authorities to remove the encroachments if any and restore the water body, we feel it appropriate to appoint a joint committee comprising of 1) the District Collector, Kancheepuram District, or a Senior Officer, not below the rank of Assistant Collector or Sub Divisional Magistrate of that area designated by the District Collector, 2) Superintending Engineer of Public Works Department and Water Resources Organisation, who is in charge of that area, 3) the Commissioner or a Senior Officer, deputed by the Commissioner, Greater Chennai Corporation who is in charge of maintenance of the lakes and 4) a Senior Officer deputed by the Chairman, Tamil Nadu State Pollution Control Board to inspect the area in question and submit a factual as well as action taken report if there is any violation found.

12. The committee is directed to ascertain the total original extent of land as per the revenue records and the extent of encroachments and the steps taken to remove the encroachment and also ascertain



if there is any dumping of garbage and discharge of untreated sewage into the water body and if so, trace out the person or persons responsible and suggest the course of action including imposition of environmental compensation against such person applying the principles of 'polluter pay', to prepare an action plan showing long term and short term measures with shorter time lines to protect the water body suggesting the persons responsible to carry out the same, ascertain as to whether there were any schemes launched by the Government or the District administration for protecting the water bodies and if so, what is its present stage of implementation, analysis of the water quality in the lake and if there is any contamination, trace out the sources and also suggest and recommend the ways and means to remedy the same.

13. The Public Works Department will be the nodal agency for co ordination and for providing all necessary logistics for this purpose.

14. The Tamil Nadu State Pollution Control Board is also at liberty to conduct independent inspection to ascertain as to whether there were any violation in the implementation of Solid Waste management Rules, 2016 including dumping of waste and discharging untreated sewage in to the water bodies and also collect water samples so as to ascertain the present quality of the water and contamination if any and if there is contamination sources for contamination apart from assisting the committee in this regard."

**REPORT OF THE GREATER CHENNAI CORPORATION IN THE JOINT COMMITTEE REPORT**  
Jalladinapettai Lake is located at survey no.214 of in Jaladampet Village of Sholinganallur Taluk in Chennai District. coming under Greater Chennai Corporation, Zone-14, Unit - 43, Division-191 and it is having a water spread area to an extent of 27.78 Ha Garbage Generation and Disposal Details:

The segregated wet waste is composted on a daily basis at the Micro Composting Centre (MCC) located at the Pudhu Nagar, Jalladianpettai, Compost Yard in div 191.

This lake is under the maintenance of Public Works Department There is no Under Ground Sewerage system for the area in Div 191 of Jalldianpettai. The households were provided with individual septic tank arrangements.

**JOINT INSPECTION OF THE COMMITTEE** The members of the Joint committee have carried out the inspection in the area in question on 02/11/2020.

#### **COMMITTEE RECOMMENDATIONS:**

Based on the above observation, the joint committee submits the following recommendation before the Hon'ble National Green Tribunal (Southern Zone)

01. Greater Chennai Corporation shall ensure that CMWSSB to provide and implement UGSS in the area in question, also take steps to intercept, transport, treat and dispose the sewage/sullage generated in the foreshore area of the Jalladiyanpet Lake within six months.

02. Greater Chennai Corporation shall arrange for the regular monitoring of the water body to avoid dumping of solid waste if any into the lake.

03. Greater Chennai Corporation shall levy fine on the violators dumping solid waste and CMWSSB shall take action against the disposing the sewage/ sullage into the Jalladiyanpet Lake under Local body Acts.

04. Greater Chennai Corporation shall create awareness among the public with the help of Residential Welfare associations in the local body area for proper segregation of solid waste.

05. PWD and Greater Chennai Corporation with the help of Revenue Authorities shall make survey to identify encroachments in the Jalladianpettai Lake within six months and to take necessary steps to evict them.

06. PWD shall strengthen of the bunds and surplus water disposal by constructing proper drains in the said water body and create biodiversity parks/ tree-

planting around the banks of the water body, so as to protect the lake against the future encroachment within six months by obtaining necessary funds from the Government  
REPORT OF  
THE GREATER CHENNAI CORPORATION - ZONE XIV:

The Greater Chennai Corporation had taken action necessary action as follows:

In exercise of the powers conferred under section 3,6 and 25 of the Environment (Protection) Act, 1986 (Central Act 29 of 1986), the Central Government have made the Solid Waste Management Rules, 2016 to regulate the management of solid waste. The Solid Waste Management Rules, 2016 shall apply to every municipal authority which shall, within their territorial area be responsible for the implementation of the provisions of these rules, and for any infrastructure development for collection, storage, segregation, transportation, processing and disposal of municipal solid wastes. Further, it shall be the responsibility of the generator of wastes to co-operate with the municipal authority concerned to avoid littering and ensure delivery of segregated wastes in accordance with the collection and segregation system as notified under the Solid Waste Management Rules, 2016.

In exercise of the power conferred under section 349 of the Chennai City Municipal Corporation Act, 1919 (Tamil Nadu Act IV of 1919) and under Rule 15 of the Solid Waste Management Rules, 2016 and in order to ensure effective solid waste management in the Corporation of Chennai, the Council hereby makes the Solid Waste Management Bye Laws, 2019.

This bye-law applies to the domestic, institutional, commercial and any other non-residential solid waste generators, situated in the Corporation area, and the

public who throw the solid waste in to storm water drain, underground sewerage system, water bodies within the limits of Corporation of Chennai.

#### COMMITTEE RECOMMENDATIONS

01. Greater Chennai Corporation shall ensure that CMWSSB to provide and implement UGSS in the area in question, also take steps to intercept, transport, treat and dispose the sewage/sullage generated in the foreshore area of the Jalladiyanpet Lake within six months.

REPLY THE CHENNAI METROPOLITAN WATER SUPPLY AND SEWERAGE - SUPERINTENDING ENGINEER REPORT THE CHENNAI METROPOLITAN WATER SUPPLY AND SEWERAGE ACT, 1978. (TAMIL NADU ACT 28 OF 1978).

As Amended upto 30th November 1998. The Chennai Metropolitan Water Supply and Sewerage (Second Amendment) Act, 1997.

For Statement of Objects and Reasons see Part IV - Section 1 of the Tamil Nadu Government Gazette Extraordinary, dated the 10th January 1978, page 196; For Act see Part IV - Section 2 of the Tamil Nadu Government Gazette Extraordinary, dated the 14th June 1978 pages 269-341. Received the assent of the President on the 8th June 1978, first published in the Tamil Nadu Government Gazette Extra-ordinary on the 14th June 1978.

The detailed Project report for Providing Underground Sewerage Scheme to Jalladampettai (Division 191, area XIV) is under revision. The revision of DPR will be completed by the month of October 2021. After obtaining necessary funds, the work will be taken up.

02. Greater Chennai Corporation shall arrange for the regular monitoring of the water body to avoid dumping of solid waste if any into the lake.

REPLY  
SOLID

WASTE

MANAGEMENT

BYE - LAWS

OF

THE

CORPORATION, FRAMED UNDER SECTION 349 OF THE CHENNAI CITY MUNICIPAL CORPORATION ACT, 1919 (TAMIL ANDU ACT IV OF 1919) AND UNDER RULE 15 OF THE SOLID WASTE MANAGEMENT RULES, 2016.

a. Definition:

(50) □Public Place includes any road, arch road, viaduct, lane, footway, alley or passage whether a thoroughfare or not over which the public have a right of passage, and such places to which the public has access such as parks, gardens, recreation grounds, playgrounds, beaches, water bodies, water courses, public plazas and promenades, government and municipal buildings, public hospitals, markets, slaughter houses, courts, etc.;

The Greater Chennai Corporation, Zone 14, Division 169, there are about 39,600 total populations. The Division consists of 9,900 number of Households. In this division, wet waste garbage compactor bins 47 Nos. & dry waste compactor bins of 47 Nos. have been placed in several locations. Garbage is being segregated & collected from every household and is being collected through 19 Nos. of Battery Operated Vehicles.

About 6300 kgs of wet waste collected is processed on a daily basis in Micro Composting Centre (MCC) located at the Pudhu Nagar, Jalladianpettai, Compost Yard in div 191.

Apart from wet waste; Dry waste fractions like garden garbage, chappals, e- waste, coconut shells, plastics, thermocol, cardboards, pet bottles etc are collected and stored in Resource recovery centre located in Division 191.

Plastics collected are bailed using bailing machine and bailed bundles of plastics and thermocol are sent to Dalmia Cement. Otherhand, garden garbage and coconut husk are being processed separately.

Since all wastes are segregated and processed, there is no dumping of garbage around Jalladianpettai Lake and its surroundings. The Conservancy Inspector, Conservancy Supervisors and Assistant Executive Engineer (Conservancy) Solid Waste Management will be regular monitoring of the water body to avoid dumping of solid waste into the lake and vehicle marchouts; source segregation, sweeping activities on a daily basis throughout the entire Zone - XIV area regularly.

3. Greater Chennai Corporation shall levy fine on the violators dumping solid waste and CMWSSB shall take action against the disposing the sewage/ sullage into the Jalladiyanpet Lake under Local body Acts.

REPLY  
SOLID

WASTE

MANAGEMENT

BYE - LAWS

OF

THE

CORPORATION, FRAMED UNDER SECTION 349 OF THE CHENNAI CITY MUNICIPAL CORPORATION ACT, 1919 (TAMIL ANDU ACT IV OF 1919) AND UNDER RULE 15 OF THE SOLID WASTE MANAGEMENT RULES, 2016.

5.1 Levying Penalties The powers for levying penalties for non-compliance of Solid Waste Management (SWM) Rules, 2016 as mentioned in Schedule IV of this Bye law is vested with ward level Assistant Engineers and Conservancy Inspectors of Corporation of Chennai.

8.0 Penalties for contravention of these Bye-laws:

(1) On and after the date of commencement of these Bye-laws, there will be a familiarization/warning period of 30 days, after which, any contravention of these Bye-laws shall be punishable with fines as per the Schedule of Fines (Schedule IV) for every instance of breach of these Bye-laws. In case the generator of waste is found

contravening any of these Bye laws next time, the fine amount will be doubled.

(2) In case of a person or any polluter is not able to pay the fine as mentioned in Schedule, while contravening any of these Bye-laws he/she will be prosecuted under the provisions made in City Police Act and District Police Act / Indian Penal Code.

The Greater Chennai Corporation, Zone 14, Zonal Officer, Assistant Executive Engineer - SWM, Conservancy Supervisors and Conservancy Inspectors had collected the fine amount of Rs. 7,500/- as per the Bye-laws in Solid Waste Management (SWM) Rules, 2016 Schedule of Fines (Schedule IV) for Debris and Garden garbage & Source Segregation. The Fines amount has been deposited in the Treasury, Greater Chennai Corporation as follows:

4. Greater Chennai Corporation shall create awareness among the public with the help of Residential Welfare associations in the local body area for proper segregation of solid waste.

REPLY SOLID WASTE MANAGEMENT BYE-LAWS OF THE CORPORATION, FRAMED UNDER SECTION 349 OF THE CHENNAI CITY MUNICIPAL CORPORATION ACT, 1919 (TAMIL ANDU ACT IV OF 1919) AND UNDER RULE 15 OF THE SOLID WASTE MANAGEMENT RULES, 2016.

5.0 Responsibilities of the Corporation of Chennai (23) Create public awareness through information, education and communication campaign and educate the waste generators on the following; namely:

- (i) not to litter;
- (ii) minimize generation of waste;
- (iii) reuse the waste to the extent possible;
- (iv) practice segregation of waste into bio-degradable, non-biodegradable (recyclable and combustible), sanitary waste and domestic hazardous wastes at source;
- (v) practice home composting, vermin-composting, bio gas generation or community level composting;
- (vi) wrap securely used sanitary waste as and when generated in the pouches provided by the brand owners or a suitable wrapping as prescribed by the local body and place the same in the bin meant for non-biodegradable waste;
- (vii) storage of segregated waste at source in different bins;
- (viii) handover segregated waste to waste pickers, waste collectors, recyclers or waste collection agencies; and

(ix) pay monthly user fee or charges to local bodies or any other person authorized by the local body for sustainability of solid waste management.

The Greater Chennai Corporation, Source Segregated awareness programs have been conducted for various "Resident Welfare Association" in Zone XIV. Also awareness extended on daily basis through battery operated vehicle helpers using Radio Speakers while collecting segregated garbage from households. Private Urbaser Sumeet IEC (Information Education Communication) Executive conducted awareness through □Drama Play in various locations in Greater Chennai Corporation, Zone -XIV.

Apart from BOV-helpers, division conservancy inspectors also give source Segregation awareness to all those garbage non- Segregated houses.

5. PWD and Greater Chennai Corporation with the help of Revenue Authorities shall make survey to identify encroachments in the Jalladianpettai Lake within six months and to take necessary steps to evict them.

REPLY The Greater Chennai Corporation a letter dated 18.08.2021 has been addressed to the Tahsildar, Sholinganallur Taluk requesting to furnish a report stating the land classification, extent of encroachment to the PWD Department and Greater Chennai Corporation. I further submit that the Jalladianpettai Lake is being maintained by the Public Works Department and they are the authority to remove the encroachment. The Greater Chennai Corporation will provide the men and material for removing the encroachment. I further submit that the Tahsildar, Sholinganallur Taluk furnish a report after inspecting the site in question for taking further action. □

14. Though, it was filed as reply to the recommendations of the Joint Committee, the Joint Committee report was not filed. Further it was seen from the report submitted by the Water Resources Department that it was Public Works Department tank with a storage capacity of 0.24 MCM and was intended to feed 80.16 Ha. Its water spread area is extending in 8.27 Sq.km with its own catchment of 1.31 Sq.km. About 496 encroachments at present as per the estimation of the Public Works Department and fresh survey will have to be conducted to ascertain the total number of encroachments and enable the department to take action for eviction under the provisions of Tamil Nadu Protection of Tank and Eviction of Environment Act, 2007.

15. This Tribunal had adjourned the case to enable the Joint Committee and other official respondents to file the report.

16. The matter was taken up on 05.07.2022 and on that day, this Tribunal Suo Motu impleaded Chennai Metropolitan Water Supply and Sewerage Board as additional 8th respondent and directed them to file a further report and also posted the case to today for consideration of Joint Committee report and also further action - cum progress report.

17. On 26.07.2022 CMWSSB/8th respondent had submitted a report dated 22.07.2022 and e-filed on 23.07.2022 which reads as follows:-

18. Even on the date of hearing, no report was filed. Since this Tribunal had disposed of several matters of this nature giving directions to the Chief Secretary to Government, State of Tamil Nadu and other departments to take appropriate action, this Tribunal felt that there is no necessity to retain the case for long period and disposed of the matter with similar directions and taken the case for Judgment.

19. It is reiterated by the Hon ble Apex Court and also various High Courts, including Hon ble High Court of Madras and both Principal Bench of National Green Tribunal and also this Tribunal the responsibility of the State Government to protect the water bodies as they have got a constitutional obligation under Article 48(A) of the Constitution of India on this aspect.

20. Further, Hon ble Apex Court in one of the cases even mentioned about the necessity of protecting the water bodies as they are acting not only as water storing reservoirs, but also acting as rain water harvesting system and natural ground water recharge system in that area apart from acting as a flood control mechanism by collecting surplus rain water generated during rainy season, so as to avoid inundation of places due to flood. In the same decision Hon ble Apex Court also observed that merely because water body has become disused on account of negligence or want of maintenance from the Government departments, that will not lose its character as water body and the Government cannot shirk the responsibility of rejuvenating such water bodies and it is for them to rejuvenate the same instead of converting the same for other purposes. In the case of protection of water bodies, namely, Korattur Lake this Tribunal had given several directions in O.A. No. 268 of 2016 (Korattur People's Welfare & Association Trust vs. Government of India and others) by Judgment dated 01.07.2022.

21. Further the Principal Bench of National Green Tribunal while considering O.A. No. 606 of 2018 (PB) in respect of State of Tamil Nadu regarding the compliance of Municipal Solid Waste Rules, 2016 and other environmental issues by order dated 21.07.2022 after extracting various orders relating to implementation of Solid Waste Management Rules, 2016, Liquid Waste Management, protection of water bodies, removal of encroachment of water bodies etc., after recording the assurance given by the Chief Secretary to Government of Tamil Nadu disposed of the matter as regards Tamil Nadu is concerned to strictly implement the various directions issued in various cases of this nature including the directions issued in O.A. No. 606 of 2018 and such cases which were disposed of by the Tribunal and Special Bench and directed the Chief Secretary to Government to consider designating a Senior Nodal Officer in the rank of Additional Chief Secretary to regularly assess the progress in bridging the gaps in sewage and Solid Waste Management and establishing stock taking at district level and also take necessary steps to upgrade the existing Sewage Treatment Plant and provide further Sewerage Treatment Plants and use the treated water for agriculture and other industrial purposes disposal of legacy waste etc.,

22. Further, this Tribunal also reiterated in several cases, that it is not possible for the Tribunal to oversee the implementation of the rules and monitor the discharge of statutory obligations by the regulators perpetually and it is for them to take proactive steps in resolve the issues. Quite unfortunately in this case, the Joint Committee has not filed the report so far, the concerned District Collector did not file any independent report regarding the nature of action taken for removal of encroachments etc.,

23. The Hon ble High Court of Madras in several Writ Petitions directed the authorities to inventories the water bodies, ascertain the encroachments and take steps to remove the encroachments and rejuvenate the water bodies and series of directions were issued in the contempt proceedings initiated for non compliance of the direction. But in spite of all those things, the actions on the part of the regulators are slow and it is not moving to the expected by the Tribunal or Court. It is high time for the Chief Secretary to Government oversee these aspects with the assistance of Additional Chief Secretary to Government for Municipal Administration and Water Supply Department in coordination with the Principal Secretary to Government for Revenue and Disaster Management Department and Additional Chief Secretary to Government for Water Resources Department to remove the encroachment and protect the water bodies against encroachment and pollution.

24. Quite unfortunately in this case, the Tamil Nadu Pollution Control Board also did not file any report, though Suo - Motu case was registered as early as on July 2020 and Joint Committee was appointed even on the date of admission, namely, 27.07.2020. This is the sorry state of affairs can be attributed to the regulators failure to take proactive steps to protect the water bodies and implementation of environmental laws in the State.

25. However instead of keeping this case, we feel that the matter can be disposed of by giving following directions:-

i. The District Collector, Chennai District in coordination with the Greater Chennai Corporation, Water Resources Department to conduct the survey of the „Jalladianpet Lake on the basis of the original revenue records and take appropriate steps to identify the encroachers and remove the same in accordance with law and take steps to provide protective measures by providing bio-fencing, green cover or other method, so as to avoid future encroachment and protect the water body against encroachment and pollution. This is subject to the orders already passed and to be passed by the Hon ble High Court of Madras in the pending Writ Petitions for removal of encroachment and rejuvenate the water bodies in the State of Tamil Nadu.

ii. The Greater Chennai Corporation is directed to implement the Solid Waste Management Rules, 2016 strictly in accordance with law within their jurisdiction and if there is any violation found, then they are directed to take appropriate action



against those person who are violating the same in accordance with law as has been directed by this Tribunal in several cases of this nature.

iii. The Chennai Metropolitan Water Supply and Sewerage Board is directed to implement the Underground Sewerage Scheme in this area at the earliest possible time to avoid discharge of untreated sewage into the water body, so as to avoid pollution being caused to the water body.

iv. The Greater Chennai Corporation as well as Chennai Metropolitan Water Supply and Sewerage Board are directed to explore the possibility of utilisation of treated sewage for agriculture and industrial purposes apart from using the same for gardening and watering in the parks and the medians, apart from discharging the same into the water body after attaining the standard provided for that purpose, so that so much amount of fresh water can be saved which can be used for irrigation and drinking water purposes.

v. The Tamil Nadu Pollution Control Board is directed to monitor the implementation of Solid Waste Management Rules, 2016, Liquid Waste Management and if there is any violation found in respect of dumping waste in water bodies and other places and discharge of untreated sewage into the water bodies or public drains, then they are directed to take appropriate action against those individuals/Institutions/local bodes including imposition of environmental compensation apart from initiating prosecution and other coercive steps taken under the statutes in accordance with law.

vi. The Tamil Nadu Pollution Control Board is also directed to strictly implement the direction issued by the Principal Bench of National Green Tribunal in O.A. No. 606 of 2018 and other cases relating to the Solid Waste Management, encroachment into the water body and protection of water bodies and also the directions issued by this Tribunal in several cases of this nature and if there is any violation found, then they are directed to take appropriate action against those violators strictly in accordance with law on the basis of the directions given by the Principal Bench of National Green Tribunal in O.A. No. 606 of 2018 and other related matters.

vii. The Chief Secretary to Government, State of Tamil Nadu to ensure that the Additional Chief Secretary to Government for Municipal Administration and Water Supply Department, Additional Chief Secretary to Government for Water Resources Department and also the Principal Secretary to Government for Revenue and Disaster Management are monitoring the implementation of the directions issued by this Tribunal to remove the encroachment in this particular water body, namely, „Jalladianpet Lake and other water bodies, and if there is any gap found, then they are directed to take appropriate steps by giving suitable directions to the stakeholder departments to implement the same in its letter and spirit.

viii. The Chief Secretary to Government, State of Tamil Nadu is directed to constitute a committee consisting of the Additional Chief Secretary to Government for Municipal Administration and Water Supply Department, Additional Chief Secretary to Government for Water Resources Department, the Additional Chief Secretary to Government for Finance Department or his nominee and also the Principal Secretary to Government for Revenue and Disaster Management, Director of Municipal Administration to monitor the implementation of the directions of this Tribunal in several cases including this case in respect of implementation of Solid Waste Management/Liquid Waste Management and Other Waste Management, protection of water bodies against the encroachment and pollution and rejuvenating the same after removing encroachment and if there are any proposals pending from the stakeholder department in respect of the same, they are directed to expedite the same by providing necessary administrative as well as financial sanction, so as to enable them to implement the same in an effective manner and no schemes should be stalled on account of paucity of funds thereby take proactive role in protecting environment which is a constitutional obligation of the State mandated under Article 48(A) of the Constitution of India. ix. The Chief Secretary to Government, State of Tamil Nadu is also directed to review the implementation of the directions by conducting regular review meeting with the stakeholder departments and if there is any gap found, then they are directed to give necessary directions to rectify the same and implement the directions in its letter and spirit in an effective manner.

x. Before parting, we wanted to bring to the notice of the Chief Secretary to Government, State of Tamil Nadu regarding the attitude of the officials who were not filing the reports on time or not filing report in spite of directions given and the opportunities given which in fact delay the disposal of the cases in an effective manner. It is high time for the Chief Secretary to Government, State of Tamil Nadu to look into issue and identify the officer who are responsible for the same and take appropriate action so that such attitude will not be repeated by the officials in future.

xi. The Registry is directed to communicate this order to the Commissioner - Greater Chennai Corporation, District Collector - Chennai District, Chairman-Tamil Nadu Pollution Control Board, Managing Director - Chennai Metropolitan Water Supply and Sewerage Board, the Additional Chief Secretary to Government for Municipal Administration and Water Supply Department, the Additional Chief Secretary to Government for Water Resources Department, Principal Secretary to Government for Revenue and Disaster Management Department and also to the Chief Secretary to Government, State of Tamil Nadu for their information and compliance of the direction.

26. With the above observations and directions, the Original Application is disposed of.

Sd/-

.....J.M. (Justice K. Ramakrishnan) Sd/-

.....E.M. (Dr. Satyagopal Korlapati) 29th July 2022. Sr.