

# National Green Tribunal Southern Zone vs Engineer In Chief (Water Resources ... on 29 October, 2021

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

Item No.22:

BEFORE THE NATIONAL GREEN TRIBUNAL  
SOUTHERN ZONE, CHENNAI

Original Application No.238 of 2020 (SZ)

IN THE MATTER OF:

Tribunal on its own motion  
Suo Motu based on the news item in  
The Times of India Newspaper, Chennai Edition  
Dt. 29.10.2020, "Wall of gated community blocks  
Stream along OMR"

...Applicant(s)

Versus

Engineer in Chief (Water Resources Organization)  
and Chief Engineer (General)  
Public Works Department,  
Chepauk, Chennai and Ors.

...Respondent(s)

Date of hearing: 29.10.2021.  
CORAM:

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

HON'BLE DR. K. SATYAGOPAL, EXPERT MEMBER

For Applicant(s):

Suo Motu

For Respondent(s):

Dr. D. Shanmuganathan for R1to R3.

ORDER

1. As per order dated 31.08.2021, this Tribunal after considering the Joint Committee dated nil, e-filed 30.08.2021 which was extracted in para 3 of the order and then passed the following order:

"4. It is seen from the report in Para (9) that there are two major tanks, namely, Ottiyampakkam tank and Madurappakkam tank and the surplus channels of these

two tanks also terminate in the patta land which would indicate that the surplus water during rainy season would remain in the patta lands and would dry up after the rain is abated since the lands were fertile lands. Notwithstanding the above, the Highway Department has formed a road in the drainage source from Madurappakkam tank via patta lands S.Nos. 228, 297 and 298 of Karanai Village was due to conversion of ayacut lands into housing colony/plots.

5. It may be mentioned here, that whenever the surplus drainage channels or canals provided for the purpose of discharging the excess water from the tank and to terminate that the particular point, it cannot be said that the water will stagnate there itself since it is likely to flow down wards and join either another channel or water body. Whenever any obstruction is made to that natural water course during rainy season, it is likely to affect the environment, cause manmade floods in those areas. Whenever developments are to be made in such areas, it is for the authorities to take note of the fact as to whether the flow of water which normally happens during rainy season is likely to be obstructed on account of such conversions and if so, what is the nature of remedial measures to be taken while permissions were granted to ensure free flow of water during rainy season without causing any obstruction and causing inundation of the nearby areas. It is not known as to whether any such provision has been provided in the instant case. It is for the Public Works Department (PWD) and Revenue Divisional Officer, who are responsible to take action under Section 133 in the Code of Criminal Procedure, 1973 in such cases to avoid danger being caused to the public. Such a thing has not been mentioned in the report. It is also not known as to how the water that is being collected through the surplus drainage channel is now being discharged without causing any obstruction, is there any alternate method provided for that purpose to avoid inundation of water in those areas and that was intended by this Tribunal to be reported when appointed the committee.

6. When this was pointed out, the learned counsel appearing for the State Department submitted, if some time is granted they will come with a proper report in this regard. So, the committee is directed to revisit the area to examine these aspects and file a proper report as to how the situation is being remediated while constructions have been permitted in that area and if there is any possibility of flood during heavy rains in that area, what are the measures that they are going to take to avoid the same on account of such conversion or construction of the wall by the private parties for blocking the entire flow of water without providing any outlet for the same. They have also not answered the question as to whether flood is likely to be caused in that area, during rainy season and if yes, what is the methodology provided for remedying the situating in future as well, especially when there are certain allegations made to that effect in the newspaper report.

7. The official respondents are directed to submit a further to this Tribunal on or before 23.09.2021 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.

8. The Registry is directed to communicate this order to the members of the committee, official respondents through e-mail immediately so as to enable them to comply with the direction."

2. The case was originally posted to 23.09.2021 for filing further reports. On 23.09.2021, this Tribunal extracted the order dated 31.08.2021 in para 1 of the order and then passed the following order:

3. The learned counsel appearing for the State Departments submitted that he did not get any further instruction from the department as to whether they have prepared the report on the basis of the directions given by this Tribunal and if some time is granted, he will instruct the officials to submit the report as directed by this Tribunal.

4. They are directed to file their independent statement as well as further report as directed on or before 08.10.2021 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.

5. The Registry is directed to communicate this order to the members of the committee and also to the official respondents by e-mail immediately for their information and compliance of the direction.

3. The case was posted to 08.10.2021 for consideration of further reports.

On 08.10.2021, the matter was adjourned to today by notification.

4. Even on 23.09.2021, Learned Counsel appearing for the State Department submitted that he is not getting further instructions from the Department as to whether they have prepared the report on the basis of the direction given by the Tribunal and wanted some time so that he can instruct the officials to submit the report as directed by this Tribunal.

5. This shows the helplessness of the standing Counsel appearing for the State Departments for the manner in which they are considering the directions issued by this Tribunal. Without getting proper instructions from the persons who are expected to file the report, the standing Counsel may not be able to support the case of the Government before the Tribunal. This is high time for the higher officials to look into the issue and instruct the officials, who are responsible to file the report instruct the standing Counsel with necessary information and prepare the report and submit the same to this Tribunal.

6. This is not the first occasion, where we are expressing our displeasure in the official respondents not filing the reports. Without getting the proper report, it is not possible for this Tribunal to dispose of the cases as well, especially when environmental issues are raised, it cannot be casually

disposed of by giving certain directions alone. The Tribunal must also apply its mind and provide resolutory solution for meeting the situation on the basis of the suggestions given by the authorities in this regard. That must be the attitude of the official respondents while submitting the report as well. When this was pointed out, the Learned Counsel appearing for the State Department submitted that if some time is granted, he will instruct the official respondents to file the report as directed by this Tribunal. The concerned official are directed to file the report on or before 23.11.2021 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.

7. If the report is not filed as directed, then they are directed to appear in person to show-cause as to why action should not be taken against them for not complying with the directions issued by this Tribunal or for disobedience of the directions issued by this Tribunal as contemplated under Section 25 and 28 of the National Green Tribunal Act, 2010.

8. The Registry is directed to communicate this order to the members of the Committee and also the official respondents including the Principal Secretary for Environment and Principal Secretary for Revenue and Additional Chief Secretary for Public Works Department for their information and instructing their officials to comply with the direction issued by this Tribunal before the next hearing date.

9. For consideration of further report, post on 23.11.2021.

.....J.M. (Justice K. Ramakrishnan) .....E.M. (Shri. Dr. K. Satyagopal) O.A. No. 238/2020(SZ) 29th October, 2021. (AM)