

# **S John Fernandez vs The Chairman Tamil Nadu Pollution ... on 31 August, 2021**

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

Item No.11:

BEFORE THE NATIONAL GREEN TRIBUNAL  
SOUTHERN ZONE, CHENNAI

Original Application No. 278 of 2017 (SZ)  
(Through Video Conference)

IN THE MATTER OF:

S. John Fernandez,  
S/o. Susai, Inayam,  
Inayam Post, Kanyakumari District.

... Applicant(s)

Versus

The Member Secretary,  
Tamil Nadu Pollution Control Board,  
No.76, Mount Road, Guindy,  
Chennai and Ors.

...Respondent(s)

Date of hearing: 31.08.2021.

CORAM:

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

For Applicant(s):

None.

For Respondent(s):

Dr. D. Shanmuganathan for R2, R4 & R7 to R10.  
Mr. Abdul Saleem and  
Mr. Saravanan for R5 & R6.

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ORDER

1. The above case has been posted to today for consideration of further reports.

2. The Tamil Nadu Pollution Control Board has filed a report dated Nil, e-

filed on 07.08.2021 and received on 13.08.2021 which reads as follows:-

"REPORT FILED ON BEHALF OF THE RESPONDENTS TAMIL NADU POLLUTION CONTROL BOARD.

I, R. Rajamanickam, slo P.M. Ramasamy, Hindu, aged about 57 years, having my office at No. 76, Mount Salai, Guindy, Chennai - 32, 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 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 NGT in its order dated 03.06.2021 has directed inter alia as follows:

" It is seen from the report that they have assessed the environmental compensation of Rs. 39,41,250/- against the unit by name M/s Nanjil Sea foods, located at D. No. 24/251, Mullurthurai, Araiyanthoppu, Vilavancod taluk, Kanyakumari District and this was challenged before the Hon'ble High Court of Madras at Madurai Bench by one Mr. Antony Kanselin as Writ Petition (MD) No. 15189 of 2020. But it was not mentioned in the report as to whether any stay has been granted by the Hon'ble High Court and what is the present stage of proceedings as well. Further, in the case of construction in CRZ zone without obtaining CRZ clearance, then the Coastal Zone Management Authority is expected to take action against that unit not only by closure but also for demolition of the same as the construction was made without any clearance and it is illegal construction. But no such coercive steps have been taken by the authority so far and they have not filed any further action taken report as well. So, the Coastal Zone Management Authority is directed to file a further detailed report regarding the legal action taken by them against the 11th respondent unit, who are conducting the unit without getting necessary clearances under the CRZ Notification, 2011.

3. It is submitted that, subsequently the Hon'ble NGT in its order dated 29.06.2021 directed as follows:

"The Tamil Nadu Coastal Zone Management Authority (TNCZMA), District Collector, Kanyakumari District and the Tamil Nadu Pollution Control Board are directed to file their respective reports as directed by this Tribunal as per order dated 03.06.2021 on or before 16.07.2021."

4. It is respectfully submitted that, earlier Thiru. G. Antony Kanselin, S/o Gnanaprahasam Gabrail, 24/251, Anbiam 1 to 2 Nanjil Cottage, Thengapattanam Post, Mullurthurai Village, Vilavancode Taluk, Kanniyakumari District (respondent unit) filed a Writ Petition (MD) 15189 of 2020 before the Hon'ble Madurai Bench of Madras High Court challenging the orders issued by the Board vide Board Proc. T1 / TNPCB / LAW / LAIII / NGT / 32895 / NGLIA / Show Cause Notice / 2020 dated 12/10/2020 and directions for closure and disconnection of power supply issued by the Board vide Board Proc. No. T1 / TNPCB / F.32895 / OS / NGL / W&A / 2020-1 dated 27/10/2020.

Now, the Hon'ble Madurai Bench of Madras High Court vide their order dated 21.04.2021 has disposed the W.P. (MD) 15189 of 2020 and W.M.P. (MD) Nos. 13257 to 13259 of 2020 as follows.

"The impugned order is a consequential order pursuant to the order passed by the National Green Tribunal dated 18.08.2020 in O.A. No. 278 of 2017, in which the writ petitioner is also a party. Therefore, unless and until the order passed by the National Green Tribunal is challenged before the appropriate forum, the challenge to the consequential order passed by the Tamil Nadu Pollution Control Board cannot be entertained.

Therefore, the Writ Petition is closed, giving liberty to the petitioner to approach the appropriate forum."

5. It is respectfully submitted that with respect to CRZ Clearance, it is submitted that the unit has submitted an application seeking Environmental Clearance under CRZ Notification 2011 for the fish processing unit, cold storage and ice plant at S.F. No. 478 / 4C Part, Painkulam village, Mulluthurai, Thengapattinam (PO), Vilavancode Taluk, Kanyakumari district and the subject was placed before the District Coastal Zone Management Authority in its 76th meeting held on 14.05.2018 vide Agenda No. 76 - 09. Since part of the S.F. No. 478 falls in CRZ-I (Between HTL & LTL) and part of S.F. No. 478 falls within 200 meters from HTL, the District Coastal Zone Management Authority resolved to request the Deputy Director, Town and Country Planning, Tirunelveli to verify the classification by carrying out field survey and to furnish report with detailed FMB Sketch.

Accordingly, the Deputy Director, Town and Country Planning, Tirunelveli has been requested to take action to furnish the report with detailed FMB Sketch of the site to ascertain the exact CRZ Area / Zone vide Lr. No. F.NGL - CRZ-I (245) / 18 Dt. 31.05.2018 and vide Lr. No. F.NGL - CRZ-I (245) / 18. Dt. 16.10.2018. In this regard, the Assistant Director, DTCP, Nagercoil vide letter dated: 15.04.2021 has stated that permission cannot be granted as per the Rule 36 (a), 36 (D) (i) (ii) Tamil Nadu Combined Development and Building Rules, 2019 and therefore informed that the local body may be requested to take necessary action.

6. It is respectfully submitted that as per the order dated 03.06.2021 of the Hon'ble NGT (SZ) in O.A. No. 278 of 2017, the Member Secretary, TNSCZMA & Director of Environment, Panagal Building, Saidapet, Chennai vide Letter R.C. No. P1 / 036 / 2019 dated 25.06.2021 has requested the District Collector & Chairman, DCZMA, Kanyakumari District and the District Environmental Engineer, TNPCB,

7. It is respectfully submitted that, at present the unit is under closure and E.B power supply to the unit was disconnected on 02/11/2020 as per the TNPC Board direction issued vide proceeding dt. 27/10/2020.

8. It is respectfully submitted that the subject on the further action to be taken against the unit of M/s. Nanjil Sea foods, S.F. No. 478 / 40 Part, Painkulam village, Vilavancode Taluk, Kanyakumari District as directed by the Hon'ble NGT order dated 03/06/21 in O.A. No. 278 of 2017 was placed before the District Coastal Zone Management Authority meeting conducted on 20/07/21 at 6.00 PM under the Chairmanship of the District Collector, Kanyakumari District. The District Coastal Zone Management Authority Committee has decided as follows:

"The committee discussed the issue in detail and was observed that the Environment Protection Act, 1986 empowers the District Level Committee to file case in the court which attract imprisonment upto five years with penalty. There are no powers conferred by the Act to demolish the construction. Accordingly, the Committee decided to file case in the court under Environment Protection Act, 1986 and the same to be reported to Tamil Nadu State Coastal Zone Management Authority"

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."

3. The report submitted by the Pollution Control Board is vague and they have not mentioned anything about the action taken as directed by this Tribunal. So, the Pollution Control Board is directed to file a proper report regarding the action taken by them as directed by this Tribunal by order dated 03.06.2021.

4. The learned counsel appearing for the State Departments submitted that the Tamil Nadu State Coastal Zone Management Authority wants to submit an action taken report before this Tribunal, for which, they want some more time.

5. Considering the circumstances, we feel that some more time can be granted to them to file their respective reports as directed by this Tribunal.

6. They are directed to submit their respective reports to this Tribunal on 09.09.2021 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.

7. The Registry is directed to communicate this order to the members of the committee and also to the official respondents, including the Chairman, Tamil Nadu Pollution Control Board, Member Secretary for Tamil Nadu State Coastal Zone Management Authority by e-mail immediately for their information and compliance of the direction.

8. For consideration of further report, post on 09.09.2021.

Sd/-

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

.....E.M. (Dr. K. Satyagopal) O.A. No.278/2017, 31st August, 2021. Mn.