

National Green Tribunal Southern Zone vs The Chief Secretary To Govt. Of ... on 31 May, 2022

Bench: K Ramakrishnan, K. Satyagopal

Item No.5:-

Court No.1

BEFORE THE NATIONAL GREEN TRIBUNAL
SOUTHERN ZONE, CHENNAI

(Through Video Conference)

Original Application No. 76 of 2020(SZ)

IN THE MATTER OF:

Tribunal on its own motion SUO MOTU
Based on the News Item in Tamil Newspaper
Dinamalar Chennai Edition dated 01.06.2020,
"Danger of Lake getting polluted due to
mixing of sewage and waste water"

WITH

1. The Chief Secretary to Government of Tamil Nadu
Govt. Secretariat, Fort St. George,
Chennai, Tamil Nadu - 600 009.
2. The Principal Secretary to Government
Public Works Department,
Secretariat, Fort St. 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. The Secretary to Govt. of Tamil Nadu
Health and Family Welfare Department
Govt. Secretariat, Fort St. 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
Thiruvallur District
First Floor, Collectorate
Thiruvallur - 602 001.

7. Avadi City Municipal Corporation
Represented by its Commissioner,
Avadi Corporation Office,
N.M. Road, Avadi,
Chennai - 600 054.

... Respondent(s)

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For Applicant(s):

Suo Motu by Court.

For Respondent(s):

Dr. D. Shanmuganathan for R1 to R4 & R6.

Mr. S. Sai Sathya Jith for R5.

Mr. P. Srinivas through

Mr. N.K. Ponraj for R7.

Date of Judgment: 31st May 2022.

CORAM:

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

HON'BLE DR. SATYAGOPAL KORLAPATI, EXPERT MEMBER

JUDGMENT

1. The above case has been Suo Motu registered by this Tribunal on the basis of newspaper report published in Dinamalar Chennai Edition dated 01.06.2020 under the caption "fopT ePu; fyg;ghy; Vup khrilAk; mghak;".

2. It was alleged in the newspaper report that taking advantage of the lockdown period, the persons engaged in transporting waste water and sewage water are discharging the same in the water bodies by name Arafath Lake, spread over 32 acres in Thirumullaivoyal near Avadi.

3. According to the report, though the original lake extent was having 32 acres, the Public Works Department is in control of only 10 acres and the original extent has been reduced due to increase in encroachments since, 2004. It was also alleged that there was no proper sewage or drainage system in the settlement in that area. The waste water and sewage generated from household and industries are allowed to flow into the lake through pipes. The waste water and sewage water collected by tanker lorry in Avadi Municipality are also discharging untreated sewage water in the water body there by polluting the water body indiscriminately.

4. Though the matter was brought to the notice of the Avadi Municipal Corporation, no action was taken.

5. As per order dated 03.06.2020, since this Tribunal was satisfied that arises with substantial question of environment, this Tribunal admitted the matter and appointed a Joint Committee consisting of the District Collector, Tiruvallur District, Superintending Engineer, Public Works Department, Water Resources Organisation, Tiruvallur District, Tamil Nadu Pollution Control Board, Municipal Commissioner, Avadi Municipal City Corporation to inspect the area in question and submit a factual as well as action taken report. The committee was directed to ascertain as to whether the tanker lorries are undertaking the work for collection and disposal of waste water are being registered and having necessary permission from the Municipal Corporation and whether they are maintaining records from where it is collected and where it is discharged. The committee was also directed to trace out the persons who are responsible for such illegal activities and suggest the course of action to be taken against those people including initiation of prosecution which the regulating authorities, are expected to carry out.

6. The committee was directed to submit an action plan (long term and short term with shorter timeline for its implementation) for the purpose of remedying the situation and protecting the aforesaid water body in future including removal of encroachments if any which has been done unauthorizedly. The committee was directed to assess the environment compensation against the violators. The Superintending Engineer, Public Works Department and WRO was designated as Nodal Agency for providing necessary logistics for this purpose.

7. The Committee as well as official responsible were directed to file their respective reports within two months.

8. On 24.08.2020, this Tribunal considered IA No.65/2020 filed by one M/s.

Avish Automotive Pvt. Ltd. to get themselves impleaded in the proceedings on the ground that a notice was served on them during 2016 that they have encroached into the Arafath Eri situated in Survey No. 567 to the extent of 147 sq. meters and on receipt of the same, the vendor of the applicant approached the Hon'ble High Court of Madras by filing Writ Petition in W.P. No.26887/2016 challenging the notice and the Hon'ble High Court by Judgment dated 08.08.2016 disposed of the same with the following observations:

"Thereafter, it is for the respondents-authorities i.e., Divisional Officer to verify withdraw the notice served on the petitioner and proceed against the correct person who has encroached upon the land in question. The Writ Petition is disposed of accordingly."

9. Thereafter, again they received another notice on 23.11.2017 vide Notice No. KO11/PA/2016 dated 21.11.2017 where they have mentioned that they encroached 140 sq.m. of Arafath Eri and that was also challenged before the Madras High Court by filing Writ Petition 3246/17 and High Court by Judgment dated 13.12.2017 disposed the matter thereby directing the Writ Petitioner to submit a representation before the Divisional Officer, for appropriate relief.

10. Though representation was made on 02.02.2018, no reply was received.

During July 2020, 8th Respondent without issuing notice to the Petitioner measured the property and marked a larger extent of property as alleged encroachment and an enquiry was made and 8th respondent informed that as per the orders of this Tribunal in Suo Motu proceedings initiated proceedings and property was measured.

11. After considering the grievances in this application, this Tribunal dismissed the application leaving open the right of the applicant to approach the authority, who issued notice alleging encroachment and the authority was directed to consider and pass appropriate orders in accordance with law. The matter was adjourned to 20.11.2020 for consideration of report.

12. On 25.02.2021, when the matter was taken up this Tribunal considered the draft Joint Committee Report dated nil received on 25.02.2021 which was extracted in para 3 of the order which reads as follows:

"Draft Joint Committee Inspection Report based on the orders of the Hon'ble National Green Tribunal in O.A. NO.76/2020 Dated 03.06.2020 Based on the receipt of the order, the joint committee has conducted inspection on 15.07.2020 in the area in question and submitted the report as follows. The Arafath lake is situated in S.F.No. 567 of Thirumullaivoyal village in Avadi taluk of Thiruvallur District. It is located amidst residential colonies within the catchment area of the lake. It abuts the Avadi-Thirupathi main road on the eastern side. Arafath Lake forms one of the important constituent of the chain of lakes, which feeds to Ambattur tank in the downstream. Arafath lake has a free catchment area of 0.07 sq.km. As per the memoir, the water spread area is 61.0.0 hectare. However, the available water spread area is 13.02 hectare only. The maximum discharge as per the memoir is 233 cusecs and calculated discharge from local drain is 123 cusecs. Hence total discharge is 356 cusecs. The committee observed that during night time sewage/sullage water collected by tanker lorries was let into the Arafath lake through storm water inlet near Suzuki showroom in Ambathur - Thiruvallur main road in Thirumullaivoyal village. The Thirumullaivoyal T-10 Sub-Inspector of Police registered a case in CR.No. 457/2020 u/s 277 IPC on 31.05.2020 against the lorry driver of TN 09 B 4964 who let the sewage water in the Arafath lake through the above said place. The committee instructed the Inspector of Police, Thirumullaivoyal, to check this inlet point periodically and take stringent action against them. The Commissioner, Avadi Municipal Corporation addressed that a meeting had been already convened with the private sewage tanker lorry owners and instructed them to dispose the untreated sewage in the sewage treatment plant and assured before the committee to ensure it. The committee suggested to cover the storm water drain with a sealed concrete/ steel cover and the drain should be constructed with cover slab to a further distance of 10 meters to avoid the illegal disposal of untreated sewage and the work should be completed by the Avadi Municipal Corporation before three months as a short term plan. The Committee inspected the lake portion in S.F.No.568 where the drainage water (sullage) let into the lake in 9th street of Saravana nagar of Manigandapuram which drains from first to fourteenth street of Saravana nagar of Manigandapuram.

The drainage was constructed few years back by the Avadi City Municipal Corporation. There is no drainage facilities found in first and second cross streets of 9th street of Saravana nagar which is adjacent to lake. People residing in this area used to let their drainage outlet directly into the lake. Since no proper drainage facilities available in the first and second cross streets of 9th street of Saravana nagar the residents facing flooding of drainage water when the Arafath lake attains its full tank level. Every monsoon season the residents from this area used to damage the tank surplus weir and thus create law and order issue. The Committee observed that there was no discharge of Industrial Effluent into the Arafath lake. The Commissioner Avadi city municipal corporation assured to construct a leak proof sump in the 9th street of Saravana nagar near the border of Arafath lake where all the drains of first to fourteenth street of Saravana nagar of Manigandapuram are collected and the sullage water will be carried to the sewage treatment plant then and there as a short term plan. The Tahsildar, Avadi was instructed to complete the survey work within a week and demarcate the boundary of lake to the officials of Avadi Municipal corporation. The above sump work should be completed by the Avadi City municipal corporation within a month of time as a short term plan until then sewage/sullage water should be lifted from the existing drain itself and should be carried to the sewage treatment plant. Hereafter no sewage/sullage water should be disposed to the Arafath lake. The Commissioner, Avadi Municipal corporation should prepare a detailed project report to construct a underground sewage system (UGSS) for Manigandapuram residential area and should be implemented within a period of two years as a long term plan. Further, drainage facilities should be made for the residents of first and second cross streets in 9th street of Saravana nagar within a period of three months as a short term plan. Water samples were collected from the storm water drain (sullage) let into the Arafath lake in 9th street of Saravana nagar of Manigandapuram and also from the Arafath Lake to assess the water quality. The analysis reports are enclosed as Annexure- 1 to 3.

The analysis results of the water samples collected by the committee for the parameters such as pH, TSS, TDS, BOD, COD, Fecal coliform indicate that the Lake pollution is due to mixing of untreated sewage/sullage from the nearby residential areas. The Committee perused the encroachment details available with the Public Works Department and found 38 encroachments in the Lake S.F.B No.567. The Form 3 notice already issued by the Public Works Department to all the encroachers. The Tahsildar, Avadi was instructed to survey the field within a week and ensure the above encroachments. Further, if there is any other encroachments found during the survey the same has to be communicated to the nodal officer within two weeks of time.

The Executive Engineer, Public Works Department, Thiruvallur should take expeditious steps for early removal of encroachments as a long term plan by abiding the due course of law procedures and eviction should be completed within a year. The damaged portion of weir in Arafath lake was sealed using concrete by the Public

Works department. The Executive engineer, PWD should prepare an action plan to protect the foreshore area, construction of weir, construction of surplus course upto Ambattur lake and other restoration works of Arafath lake. The restoration work should be completed within two years of time as a long term plan.

The action plan for the restoration of Arafath lake summarized as below:

SHORT TERM PLAN S. DESCRIPTION OF WORK DEPARTMENT TIME No.
SCHEDULE 1 Providing cover slab for existing storm water Commissioner, Avadi 3 months drain and extent its length for 10 meter near Municipal corporation Suzukhi showroom in Ambattur to Thiruvallur main road.

2	Construction of sump in 9th street of Saravana nagar, Manigandapuram	Commissioner, Avadi Municipal corporation
3	Surveying of Lake area and demarcating the boundary and assessment of encroachments	Thasildar, Avadi
4.	Providing drainage facilities for the residents of first and second cross streets in 9th street of Saravana nagar	Commissioner, Avadi Municipal corporation
LONG TERM ACTION PLAN		
1.	Construction of under ground sewage system for Manigandapuram residential area	Commissioner, Avadi Municipal corporation
2.	Eviction of encroachments in the Arafath lake area	Executive Engineer, PWD/WRD, Thiruvallur
3.	Restoration of lake by providing protection arrangements in the foreshore area, construction of weir, construction of surplus course upto Ambattur lake.	Executive Engineer, PWD/WRD, Thiruvallur

13. The matter was posted to 10.03.2021 for consideration of further action taken report to be filed by the District Collector, Commissioner Avadi Municipal Corporation, Public Works Department and Tamil Nadu Pollution Control Board regarding the recommendation of the Joint Committee.

14. On 10.03.2021, this Tribunal considered the action taken report filed by the 7th Respondent, Avadi City Municipal Corporation, dated 09.03.2021 e-filed on the same day extracted in Para 4 of the order which reads as follows:-

"Action Taken Report Filed by the 7th RESPONDENT ACTION PLAN

2. The Commissioner, Avadi City Municipal Corporation has prepared the short term and long term action plans as below to control the discharge of sewage generated from Manikandapuram in to Arabath Lake Short Term Action Plan Sl. Description of

issue Action plan for the issue Target date No

1. During the raining season all In order to avoid / control the Currently the above said the rain water from sullage water disposal in the area coming under Thirumullaivoyal Area culvert area, Corporation containment zone of crossing along CTH road planed to rectify the culvert COVID -19 and due to through Culvert which has cover slab damaged portion north east monsoon been located at CTH road near and constructing side wall rainfall this area is fully Hanuman nagar and reaching from road edge to Lake. For flooded. Due to heavy rain Arabath Eri. Due to damage in the work of Rs.5.00 lakhs the ground water table culvert sullage vehicle estimate cost and tender increased so the work can't disposing Sullage water quoted on 14.08.2020 and start by February month. through the damaged portion also work awarded to Hence the work planned of culvert. Contractor on 18.08.2020. to start by march 1st week and it will be completed by April 2021.

2. Due to Non availability of In order to control the grey Currently the above said Under Ground Sewerage water mixing rain water in area coming under system Ward no 9 the above said area. containment zone of Manikandapuram area around Corporation planning to COVID -19 and due to 500 residents disposing grey construct common grey water north east mansoon water to the open drain and collecting sump in Saravana rainfall this area is fully same water travelling and Nagar 9th Street and flooded. Due to heavy rain reaching Arabath Eri. collecting all grey water to the ground water table this sump. From the sump we increased so the work can't have planed to providing start by February month.

motor pump set with pipe line to dispose grey water to UGSS head manhole which is located at Cholambedu Main Road near VAO Office. The Estimate cost of the above work is Rs. 15.00 Lakhs and tender quoted on 14.08.2020 and also work awarded to Contractor on 18.08.2020.

Hence the work to start by mar and it will be April 2021.

Sl. No	Description of issues	Long Term Action Plan Action plan for the issue	T
1.	During the raining season all the rain water from Thirumullaivoyal Area crossing along CTH road through Culvert which has been located at CTH road near Hanuman nagar and reaching Arabath Eri. Due to damage in	In order to achieve 100% UGSS in Avadi City Municipal Corporation Area. We have started the leftout area UGSS implementation Activities in that already we have to complete the survey work through TWIC. The	The detailed pr for UGSS survey work has completed by Ta Water Investmen Ltd. The consul fixed by Commis Municipal Admin

	culvert disposing through the of culvert.	sullage Sullage damaged portion	vehicle water portion	Preparation of Project Report under progress	Detailed	Chennai-28, As survey preliminary Det Report for completed identification stations a Treatment Plant progress. After land identifica Detailed projec cost will be pr TamilNadu Investment Comp further approva project period planned to comp before 2025. The detailed pr for UGSS
2.	Due to Non availability of Under Ground Sewerage			In order to achieve 100% UGSS in Avadi City		
	system Manikandapuram area around 500 residents disposing grey water to the open drain and same water travelling and reaching Arabath Eri.	Ward no 9		Municipal Corporation Area. We have started the leftout area UGSS implementation Activities in that already we have to complete the survey work through TWIC. The Preparation of Detailed Project Report under progress		survey w completed Water Inv Ltd. The fixed by Municipal Chennai-2 survey prelimina Report completed identific stations Treatment progress. land iden Detailed cost will TamilNadu Investmen further a project p planned t before 20

15. Thereafter, this Tribunal adjourned the case for the regulators to file their further action taken report.

16. The matter was again taken up on 14.07.2021. On that day, this Tribunal expressed its displeasure for not filing the report by the respective regulators and adjourned the case to a future date.

17. The matter was again taken up on 13.09.2021 and on that day, this Tribunal considered the report submitted by the Pollution Control Board signed on 26.08.2021 e-filed on 12.09.2021 extracted in Para 3 of the order which reads as follows:-

"REPORT FILED ON BEHALF OF THE TAMIL NADU POLLUTION CONTROL BOARD It is respectfully submitted that the Commissioner, Avadi City Municipal Corporation vide e-mail dated 27.5.2021 has furnished the action Plan on implementing the short term and Long term measures on the issues related to discharge of sewage/sullage from Saravana Nagar and Manigandapuram residential area into Arafath Lake which is as follows:

4. It is respectfully submitted that the Board vide Proceeding dated:26.07.2021, has issued directions to the Commissioner, Avadi City Municipal Corporation, under Section 33A of the Water(Prevention and Control of Pollution) Act 1974 to comply the following:

I. Avadi City Municipal Corporation shall provide full fledged Underground Sewerage System (UGSS) with Sewage Treatment Plant to treat the sewage/sullage generated from Saravana Nagar and Manigandapuram residential area so as to stop the discharge of sewage into Arafath Lake.

II. Avadi City Municipal Corporation shall ensure that no discharge of sewage into the Arafatti Lake.

5. Further it is respectfully submitted that the Avadi City Municipal Corporation was also informed that the local body is liable to pay Environmental Compensation as per the Hon'ble NGT (PB) order dt: 27.07.2020 in O.A No. 606 of 2018 for non commencement of setting up of STP before 31.03.2020 i.e., for the period from 01.04.2020 to July 2020. "

18. The Tribunal also considered the report submitted by the 7th Respondent dated 01.09.2021, e-filed on 12.09.2021 and extracted in Para (4) of the order which reads as follows:-

19. The Tribunal also considered the report submitted by the District Collector dated nil e-filed on 17.08.2021 which was extracted in Para 6 of the order which reads as follows:

"STATUS REPORT FILED BY THE DISTRICT COLLECTOR, TIRUVALLUR

It is submitted that in order to evict the encroachments in the Arafat Eri in S. No.567 of Thirumullaivoyal- II village, Avadi Taluk the form I & II under Tamil Nadu Protection of Tanks and Eviction of Encroachment Rules 2007, has been handed over to the Assistant Engineer, Redhills Water Resource Division, Public works Department, Chennai- 52 by the Tahsildar, Avadi vide his RC. No. 1295/2021/B1, Dated: 26.07.2021 for further action. It is submitted that the Executive Engineer, PWD, Kosasthalaiya Basin Division, WRD, Thiruvallur-602001 has reported that issuance of Form-III notice under Tamil Nadu Protection of Tanks and Eviction of Encroachments Act 2007 to the 38 encroachers is under process. He further assured to complete the eviction process shortly. I humbly submit that the District Administration is taking effective measures to evict the encroachments in Arafat Eri in S.No.567 of Thirumullaivoyal-II village, Avadi Taluk, Tiruvallur District.

20. Thereafter, this Tribunal passed the following order:-

"7. It is submitted by the District Collector that certain steps have been taken to remove the encroachment and the process of eviction will be completed shortly, as far as Arafat Eri is concerned. But, they have not mentioned as to how much time will be required for completion of the same.

8. Quite unfortunately, such issues are pending since long time though Suo Motu cases are being taken on the basis of the certain incident that is brought to our notice. Whenever such issues are analyzed in the matters pending before this Tribunal, the issues will be of providing UGSS to remedy the situation permanently and also for construction of Sewage Treatment Plant for treating the sewage before it is being let in to the water body.

9. It is high time for the Government to think about the recycling of treated water for other useful purpose than let in the same into the water bodies and minimise the discharge of treated water into the water body for the purpose of maintaining the e-flow or water level to improve the water recharge system, so that quantity of pollution that is likely to be caused on account of discharge of these treated water into the water body can be minimized, though not fully eradicated.

10. Further, the authorities must also have a feasible planning before going for such developmental activities of providing UGSS, whenever they are granting permission for development of flats and other residential Complexes. It is high time for the higher level officials of the Government to look into the issue and have a proper action plan for providing such facilities in a holistic manner with shorter time line and also to quicken the steps for finalizing the DPR and implementation of the system by applying the latest technology and scientific methods available, so that longer time line can be avoided and all these can be effectively implemented in shorter time line.

11. So, the District Administration as well as the Executive Engineer, Public Works Department and Water Resource Department, Kosasthalaiyar Basin Division, Thiruvallur are directed to file their independent reports regarding the progress of removal of encroachment and other protective measures taken by them to protect the water body against the future encroachment and pollution.

12. The Joint Committee is also directed to go into the question of compliance of the short term measures and its effectiveness in resolving the issue till the permanent measures are implemented and if there is any short comings, the committee is directed to suggest the method by which improved short term measures can be implemented to resolve the issue till the long term measures are implemented.

13. In the meantime, the Additional Chief Secretary for Municipal Administration and Water Supply is also directed to consider the issue and come with a holistic short term action plan for resolving the issue effectively as directed by this Tribunal in the earlier paragraphs, after having a meeting with the concerned stakeholders and file a report to this Tribunal before the next hearing date.

14. The above said authorities are directed to file their respective reports to this Tribunal 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.

15. The Registry is directed to communicate this order to the members of the committee, official respondents and also to the Additional Chief Secretary for Municipal Administration and Water Supply by e-mail immediately for their information and also for compliance of the direction."

21. Thereafter, the matter has been adjourned from time to time by successive notification and the matter was taken up on 08.02.2022 and on that day, this Tribunal considered the interim report submitted by the Executive Engineer, Public Works Department dated 07.10.2021 e-filed on 06.01.2022, on behalf of Principal Secretary to Government, Public Works Department, extracted in Para 3 of the order which reads as follows:-

22. This Tribunal also considered the further Joint Committee Report dated Nil, e-filed on 06.01.2022 and extracted in Para 4 of the order which reads as follows:-

23. Thereafter, this Tribunal passed the following order:-

"5. Quite unfortunately, this is nothing but extraction of status report submitted by District Collector and the Commissioner, Avadi City Municipal Corporation earlier, which was extracted in the order mentioned above. There is no much improvement shown in the works done by them. Even now for the purpose of implementation of the underground sewage system the Avadi City Municipal Corporation wanted time

till 2025. It is a longer date as it may have adverse health impact in that area especially when the untreated sewage is being let into the nearby water bodies. There is nothing mentioned about the implementation of the short term measures and how far it is effective in curbing the pollution and preventing discharge of untreated sewage water into the water body as the main grievance was that the lake is being polluted due to mixing of sewage and waste water.

6. Though, Public Works Department has mentioned in the report dated 08.10.2021 that they have issued certain show cause notices in the form of Form-II giving 21 days for removal of the encroachments but quite unfortunately, they have not filed any further report regarding the action taken pursuant to those notices issued. The District Collector being the head of the District Administration, who is expected to look into the encroachments and removal also has not filed any further status report regarding the action taken from their side in coordination with Public Works Department to remove encroachments and restore the Government land or water bodies to its original position.

7. The Commissioner, Avadi City Municipal Corporation is expected to visit the action plan to bring it within the shorter time line for implementation of the same as such issues are pending since long time not only in this case but also in several other cases pending before this Tribunal connected with this similar issues affecting number of water bodies in around that area on account of their inaction.

8. When this was pointed out, the Learned Counsel appearing for Avadi City Municipal Corporation submitted that due to elections declared for the Urban Local Bodies, they were not able to do any work at present and if some time granted, they may be able to come with proper action plan and also remedial measures taken from their side to mitigate these issues.

9. The District Collector, Public Works Department, Pollution Control Board and Commissioner, Avadi City Municipal Corporation are directed to file their further progress cum action taken reports on or before 30.03.2022 by e-filing in the form of Searchable PDF/OCR Supportable PDF and in the form of Image PDF along with necessary hardcopies to be produced as per Rules.

10. The Commissioner Administration, Additional Chief Secretary, Municipal Administration and Water Supply and the Chief Secretary are directed to look into the issue as similar issues were brought to their notices for non-implementation of the directions issued by this Tribunal to resolve the issue permanently in several similar matters which are pending before this Tribunal and it requires immediate attention of the above Senior Level Officials to resolve the issue permanently. They are also directed to file their independent reports regarding the action taken from their side to resolve the issue before the next date of hearing date namely 30.03.2022.

11. The Registry is directed to communicate this order to the official respondents including the District Collector, Public Works Department, Pollution Control Board, Commissioner, Avadi City Municipal Corporation, the Commissioner Municipal Administration, Additional Chief Secretary to Government Municipal Administration and Water Supply and the Chief Secretary for their information and compliance of the directions."

24. The matter was taken up on 29.04.2022 and also on 10.05.2022 and 30.05.2022 to enable the parties to file the respective reports and as per order dated 30.05.2022 it was posted to today for consideration of report.

25. Today, we have received the report submitted by the Director of Municipal Administration dated 25.05.2022 e-filed on 30.05.2022 which reads as follows:-

"Compliance Report on the NGT order in o.A. 76 of 2020 Hearing on 30.05.2022
Introduction Tamil Nadu is a fast growing and the most urbanised State in India. The link between economic development and urbanisation is well established. According to the 2011 Census, Tamil Nadu ranks third in the level of urbanisation (48.45%) in the country among the larger States. The urban population of Tamil Nadu is 34.95 million (Census of India, 2011) out of a total state population of 72.14 million and constitutes 48.45% of the population. While the percentage of urban population in the country increased from 10.85% to 31.16% during 1901-2011, Tamil Nadu registered a much higher percentage increase i.e., from 14.15% to 48.45% during the above period. Extended areas of Urban Agglomerations (UAS) in Tamil Nadu have also been witnessing rapid growth, with nearly 58% of the urban population living in the top 25 UAS.

In Tamil Nadu, Municipal Administration and Water Supply Department has the administrative control over Greater Chennai Corporation, Directorate of Municipal Administration and Commissionerate of Town Panchayat. The Commissioner of Greater Chennai Corporation administers the Greater Chennai Corporation with a population of 68,67,184. The Directorate of Municipal Administration manages 20 Corporations and 138 Municipalities with a Population of 1,87,27,049. Similarly 490 Town Panchayats with a Population of 98,76,996 are managed by the Commissioner of Town Panchayat.

Report Filed by Director of Municipal Administration on behalf of Chief Secretary to Government of Tamil Nadu I submit that the Joint Committee has filed its report and gave certain recommendations to be followed by the authorities. The Joint Committee has given certain recommendations to the Avadi City Municipal Corporation to be followed in the form of Short Term Measures and Long Term Measures to be followed to stop the pollution in the Arafat Lake.

3. I submit that based on the recommendations of the Joint Committee, The Commissioner, Avadi City Municipal Corporation has taken steps to Implement the recommendations of the Joint Committee. The following action was taken by the Commissioner, Avadi City Municipal Corporation as Short Term Measure to stop the Sullage Water reaching Arafath Lake.

o.A.No.76/2020 (SZ) : Avadi Corporation Prayer: Pollution of Arafath Lake due to mixing of sewage

1. During the raining season most of the rain water from Thirumullaivoyal Area crossing along CTH road through Culvert which has been located at CTH road near Hanuman Nagar and reaching Arafath lake.

2. Due to Non availability of Under Ground Sewerage system Ward No 9 Manikandapuram area around 500 residents disposing grey water to the open drain and same water flowing and reaching Arafath lake.

Action Taken: Short Term Action Plan in order to avoid / control the sullage water disposal at the culvert area, Corporation in order to rectify the culvert cover slab damaged portion and constructing side wall from road edge to Lake work order was given on 18-08 2020 at the cost of Rs.5.00 lakhs and the work was completed now. In addition to that as per the direction of this office the Superintending Engineer attached to this office has inspected the spot on 14-03-2022 and directed the Corporation to establish an Grey Water Treatment Plant with capacity of 20 KLD to treat the grey water and to discharge the treated water. Based on the instruction given by the Superintending Engineer, Quotation was received from specialized agency by the Corporation and the proposal was sent to this office for Approval and the same will be considered in due course and the approval will be given to the corporation. After giving approval Tender will be floated and the work will be completed on or before 31-08-2022 and the work will be monitored by this office on regular basis for earlier completion of work.

In order to control the grey water mixing rain water in the above said area the Corporation planned to construct common grey water collecting sump in Saravana Nagar 9th Street and collecting all grey water to this sump. From the sump have planned to provide motor pump set with pipe line to dispose grey water to UGSS head manhole which is located at Cholambedu Main Road near VAO Office. The Estimate cost of the above work is Rs. 15.00 Lakhs and tender quoted on 14.08.2020 and also work awarded to Contractor on 18.08.2020 with a time limit of 3 months to finish the said work. But due to several factors, the contractor has not able to start the work and two show cause notices were given by the corporation to the Contractor. In addition to that as per the direction of this office the Superintending Engineer attached to this office has inspected the spot on 14-03-2022 and directed the Corporation to establish a Grey Water Treatment Plant with capacity of 40 KLD to

treat the grey water and to discharge the treated water. Based on the Instruction given by the Superintending Engineer, Quotation was received from specialized agency by the Corporation and the proposal was sent to this office for Approval and the same will be considered in due course and the approval will be given to the corporation After giving approval Tender will be floated and the work will be completed on or before 31-08- 2022 and the work will be monitored by this office on regular basis for earlier completion of work. The following action was taken by the Commissioner, Avadi City Municipal Corporation as Long Term Measure to stop the Sullage Water reaching Arafath Lake.

In order to achieve 100% UGSS in Avadi City Municipal Corporation Area the Corporation has proposed to implement the UGSS Scheme in the left out area within the Corporation limit and for that survey work has been completed by Tamil Nadu Water Investment Company Ltd. The consultant was appointed by this office and as of now the survey work and preliminary Detailed Project Report for all works completed and land identification of Pumping stations and Sewerage Treatment Plants is in progress. After completion of land identification for all the Detailed project Report with cost will be prepared by Tamil Nadu Water Investment Company Ltd for further approval and after granting approval by this office the entire project will be completed on or before 2025 and the work will be monitored by this office on regular basis for earlier completion of work."

26. The Tamil Nadu Pollution Control Board also filed report signed by the Officer on 30.05.2022 e-filed today which reads as follows:-

27. It is seen from the reports that certain steps have been taken by the Avadi City Municipal Corporation for the purpose of providing underground sewage system, as a long term measure and as a short term measure, they have intended to provide certain small STPs, the Mini Sewage Treatment Plants and that work will be completed by 30.10.2022. As per the long term measure is concerned, they have prepared an estimate for providing underground sewage system including pumping stations at a total cost of Rs.400 Crores and detailed project report is under preparation.

28. The Pollution Control Board in their report also mentioned that they have already informed the Avadi City Municipal Corporation that they are liable to pay compensation for the period from 01.04.2022 to July 2021 for non compliance of the direction issued by the Principal Bench of National Green Tribunal, New Delhi in OA No. 606/2018.

29. It is settled law that nobody is entitled to discharge any sewage or sullage or trade effluent into water body and pollute the water body. Further no one is entitled to encroach into the water body as well. There is a constitutional obligation on the part of the state machineries to protect environment which includes protection of water bodies under Article 48(A) of the Constitution of India and providing clean environment as part of life as enshrined in Article 21 of the Constitution of India.

30. In various orders, the Hon'ble Supreme Court, including the Hon'ble High Courts and Principal Bench, National Green Tribunal, New Delhi and this Bench have reiterated the responsibility of State machineries in protecting water bodies against encroachment and pollution and also implementation of Solid Waste Management Rules. Further, in O.A. No.606/2018 the Principal Bench of National Green Tribunal had summoned the Chief Secretaries, appraised them of their responsibility to protect the environment and implementation of Solid Waste Management Rules and also protect the water bodies against encroachment and pollution and issued various directions to the Chief Secretary to look into the issues and take steps to implement the direction in its letter and spirit.

31. Further, in Paryavaran Suraksha Samiti & Anr. Vs. Union of India & Ors. reported in 2017 (5) SCC 326, the Hon'ble Apex Court had directed the authorities to take steps to avoid pollution being caused to the water bodies and take action against those persons who are not providing necessary pollution control mechanism and avoid discharge of untreated effluence into the water body. The responsibility of the state to protect the water bodies was again reiterated by the Hon'ble Apex Court in State of Orissa Vs. Government of India and Ors. reported in 2009(5) SCC 492.

32. Further, the Special Bench of this Tribunal in O.A. No.273/2017 (Sri Sarvamangala Nagar Residents Association Vs. Secretary to Government, Public Works Department, Chennai) by order dated 20.02.2022 and in M.A. No.38/2017 in O.A. No.155/2016 (Mr. Rajiv Chekuri Vs. Special Officer, Chitlapakkam Panchayat Office Kancheepuram District and others) dated 19.05.2022, directed the regulators to take steps to implement the Solid Waste Management Rules, 2016 Liquid Waste Management and also take steps to protect the water bodies against the encroachment and pollution. The same was reiterated by the Special Bench in O.A.395/2017 (Southern Zone) the Suo Motu proceedings initiated based on the representation received from Justice R. Baskaran Former Judge With State of Kerala & ors. and other connected matters namely O.A. No.396/2013 and O.A. No.242/2016 by final order dated 25.02.2022 directed the authorities to take steps to implement the directions issued by the Principal Bench in O.A. No.593/2017, O.A. No. 673/2018, O.A. No.606/2018 and the directions issued by the Apex Court in Paryavaran Suraksha Samiti & Anr. Vs. Union of India & Ors. and take action against those persons who are responsible for the same including imposition of environmental compensation apart from initiating prosecution.

33. Further, it is also reiterated in those orders that the Tribunal cannot oversee the discharge of statutory functions by the regulators and the local bodies perpetually and it is for the Secretary level officials to monitor the same and take appropriate action against those persons who are not discharging their statutory obligations in an effective manner and also to take steps to implement the environmental laws within their jurisdiction in its letter and spirit.

34. So, under such circumstances, we feel that the application can be disposed of with the following directions:-

- a. The District Collector in coordination with the Water Resource Department and Avadi Municipal Corporation are directed to take all steps to remove the illegal encroachments and restore the Arafath Eri to its original position and take steps to

provide preventive measures by providing bio fencing/tree cover around the water body so as to protect the water body against encroachment and pollution in future.

b. The Avadi City Municipal Corporation is directed to carry out the action plan both short-term and long-term as expeditiously as possible and take all measures to prevent discharge of untreated sewage into the water body so as to prevent the water body from pollution.

c. The Avadi Municipal Corporation is directed to implement the Solid Waste Management Rules, 2016 and Liquid Waste

Management and also implement the directions issued by the Principal Bench in O.A. No. 606/2018 in its letter and spirit. d. The Tamil Nadu Pollution Control Board is directed to take appropriate action against the Avadi Municipal Corporation for non-implementation of the Solid Waste Management Rules and Liquid Waste Management and non-implementation of the directions issued by the Principal Bench in O.A. No.606/2018 in accordance with law.

e. The Tamil Nadu Pollution Control Board is also directed to monitor the implementation of the schemes by Avadi Municipal Corporation and ascertain whether the water quality has been improved after the short-term measures are carried out by the Avadi City Municipal Corporation and if it is not achieved the result, then they are directed to suggest further remedial measures to be taken by Avadi City Municipal Corporation to avoid discharge of untreated sewage into the water body and protect the water body against pollution till the permanent measures are completed.

f. The Additional Chief Secretary for Municipal Administration and Water Supply, Additional Chief Secretary for Water Resources Department and Principal Secretary for Revenue are directed to look into the proposals submitted by the Avadi City Municipal Corporation in this regard and take immediate steps to obtain necessary administrative and financial sanction for implementing the same and provide necessary financial allotment for the work to be completed within time frame.

g. The Chief Secretary to Government, State of Tamil Nadu is directed to review the implementation of the directions regarding the implementation of Solid Waste Management Rules, Liquid Waste Management and protection of water bodies in that area by convening meeting with the respective stakeholders periodically and if there is any gap found, provide necessary assistance to the authorities for implementing the same in its letter and spirit without delay.

h. The District Collector - Thiruvallur, Commissioner - Avadi City Municipal Corporation, Superintending Engineer - Water Resources Department and State Pollution Control Board are directed to file their periodical reports regarding the implementation of the schemes including removal of encroachment and protection of

water body once in four months till the entire exercise is completed and the water body is protected against encroachment and pollution.

35. In the result, this Original Application is disposed of with the following directions:-

(i) The District Collector in coordination with the Water Resource Department and Avadi Municipal Corporation are directed to take all steps to remove the illegal encroachments and restore the Arafath Eri to its original position and take steps to provide preventive measures by providing bio fencing/tree cover around the water body so as to protect the water body against encroachment and pollution in future.

(ii) The Avadi City Municipal Corporation is directed to carry out the action plan both short-term and long-term as expeditiously as possible and take all measures to prevent discharge of untreated sewage into the water body so as to prevent the water body from pollution.

(iii) The Avadi Municipal Corporation is directed to implement the Solid Waste Management Rules, 2016 and Liquid Waste Management and also implement the directions issued by the Principal Bench in O.A. No. 606/2018 in its letter and spirit.

(iv) The Tamil Nadu Pollution Control Board is directed to take appropriate action against the Avadi Municipal Corporation for non-implementation of the Solid Waste Management Rules and Liquid Waste Management and non-implementation of the directions issued by the Principal Bench in O.A. No.606/2018 in accordance with law.

(v) The Tamil Nadu Pollution Control Board is also directed to monitor the implementation of the schemes by Avadi Municipal Corporation and ascertain whether the water quality has been improved after the short-term measures are carried out by the Avadi City Municipal Corporation and if it is not achieved the result, then they are directed to suggest further remedial measures to be taken by Avadi City Municipal Corporation to avoid discharge of untreated sewage into the water body and protect the water body against pollution till the permanent measures are completed.

(vi) The Additional Chief Secretary for Municipal Administration and Water Supply, Additional Chief Secretary for Water Resources Department and Principal Secretary for Revenue are directed to look into the proposals submitted by the Avadi City Municipal Corporation in this regard and take immediate steps to obtain necessary administrative and financial sanction for implementing the same and provide necessary financial allotment for the work to be completed within time frame.

(vii) The Chief Secretary to Government, State of Tamil Nadu is directed to review the implementation of the directions regarding the implementation of Solid Waste

Management Rules, Liquid Waste Management and protection of water bodies in that area by convening meeting with the respective stakeholders periodically and if there is any gap found, provide necessary assistance to the authorities for implementing the same in its letter and spirit without delay.

(viii) The District Collector - Thiruvallur, Commissioner - Avadi City Municipal Corporation, Superintending Engineer -

Water Resources Department and State Pollution Control Board are directed to file their periodical reports regarding the implementation of the schemes including removal of encroachment and protection of water body once in four months till the entire exercise is completed and the water body is protected against encroachment and pollution.

(ix) As and when the reports are filed, the Registry is directed to place the same before the Bench for consideration and issuing further directions, if any, required in this regard.

(x) The Registry is directed to communicate this order to the Chief Secretary, State of Tamil Nadu, Additional Chief Secretary for Environment, Climate Change and Forest, Additional Chief Secretary for Municipal Administration and Water Supply, the Additional Chief Secretary for Water Resources Department, Principal Secretary for Revenue, District Collector - Thiruvallur District, Chairman - Tamil Nadu Pollution Control Board, Superintending Engineer - Water Resources Department of the concerned area and the Commissioner - Avadi City Municipal Corporation by e-mail for their information and compliance of directions.

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

Sd/-

Justice K. Ramakrishnan, J.M. Sd/-

Dr. Satyagopal Korlapati, E.M. 31st May, 2022. SE.