

National Green Tribunal Southern Zone vs The Principal Secretary To Government ... on 30 August, 2022

Bench: K. Ramakrishnan, Satyagopal Korlapati

Item No: 01

Court No.1:

BEFORE THE NATIONAL GREEN TRIBUNAL
SOUTHERN ZONE, CHENNAI

Original Application No. 98 of 2020 (SZ)
(Through Video Conference)

IN THE MATTER OF:

Tribunal on its own motion SUO MOTU
Based on the News Item in the Dinamalar Chennai
Edition dated 02.07.2020, "If the encroachments are
Removed totally, Narayanapuram Lake will become
Source of drinking water".

And

The Principal Secretary to Government,
Public Works Department,
Secretariat, Fort St. George
Chennai 600 009.

...Respondent(s)

Date of Judgment: 30.08.2022

CORAM:

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

For Applicant(s):

By Court

For Respondent(s):

Dr. D. Shanmuganathan for R1to R3 & R5.
Mr. S. Sai Sathya Jith for R4
Mr. A.C. Mani Bharathi for R6
Mr. Gautam S. Raman for R7

ORDER

Judgment pronounced through Video Conference. The original application is disposed of with directions vide separate Judgment. Pending interlocutory application, if any, shall stands disposed of.

Justice K. Ramakrishnan, J.

Dr. Satyagopal Korlapati, E.M.

O.A. No. 98/2020(SZ)
30.08.2022. Sr.

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And

1. The Principal Secretary to Government, Public Works Department, Secretariat, Fort St. George Chennai 600 009.
2. The Secretary to Govt. of Tamil Nadu, Department of Environment, Govt. Secretariat, Fort St. George Chennai, Tamil Nadu - 600 009.
3. Additional Chief Secretary to Govt. of Tamil Nadu, Municipal Administration and Water Supply Department, Govt. Secretariat, Fort St. George Chennai, Tamil Nadu - 600 009.
4. The Chairman, Tamil Nadu Pollution Control Board No. 76, Anna Salai, Guindy, Chennai, Tamil Nadu - 600 032.
5. The District Collector, Chennai District, 62, Rajaji Salai, Fourth Floor, Chennai, Tamil Nadu 600 001.
6. Greater Chennai Corporation, Rep. by its Commissioner, Ripon Building, Chennai - 600 003.

7. Chennai Metropolitan Water Supply & Sewerage Board, Rep. by its Managing Director, No. 75, Santhome High Road, M.R.C. Nagar, R.A. Puram, Chennai - 600 028.

8. St. Thomas Mount Panchayat Union, Rep. by its Block Development Officer, No. 20, Chitlapakkam Main Road, Kamaraj Colony, Nehru Nagar, Chitlapakkam, Chennai - 600 064.

(R7 & R8 Suo - Motu impleaded as per order of
Tribunal dt: 01.10.2021)

...Respondent(s)

For Applicant(s):

By Court

For Respondent(s):

Dr. D. Shanmuganathan for R1toR3 & R5.
Mrs. P.T. Rama Devi through
Mr. A.C. Mani Bharathi for R6
Mr. Gautam S. Raman for R7

Judgment Reserved on: 16th August, 2022.

Judgment Pronounced on: 30th August 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.

Whether the Judgment is to be published in the All India NGT Reporter - Yes.

JUDGMENT Delivered by Justice K. Ramakrishnan, Judicial Member JUDGMENT

1. The above was Suo Motu registered by this Tribunal on the basis of the newspaper report published in „Dinamalar Chennai City Supplement Edition dated, 02.07.2020 under the caption "Mf;fpukpg;Gfis mbNahL mfw;wpdhy; ehuhazGuk; Vup FbePu; Mjhukhf khWk;" (If the encroachments are removed totally, Narayanapuram Lake will become source of drinking water).

2. It was alleged in the newspaper report that originally the lake was having an extent of 120 acres situated in Pallikaranai, Perungudi Zone. Due to large scale encroachment, the extent of lake was reduced to 45.05 acres. This lake was earlier used for the purpose of providing drinking water apart from acting as a rain water harvesting system and also to facilitate the inflow of water through water canal and drains.

3. Due to lack of maintenance and also negligent use of the area by the State Government authorities and the Highways Department the extent of the lake has been reduced by constructing Pallavaram - Thuraipaallam radial road. In spite of calamity occurred due to flood, the State Government was not bestowing their attention in protecting the lakes.

4. According to the report, this has become a small pond and if it not properly maintained, it is likely to vanish in future. So, there was a necessity to protect this lake against pollution and encroachment and necessary maintenance work will have to be done for the purpose of restoring rain water canals which existed earlier to collect the rain water and discharge the same into this lake to avoid flood during monsoon.

5. As per order dated 07.07.2020, this Tribunal after considering the necessity of the State Government in protecting the water bodies as mandated Article 48(A) of the Constitution of India and since this Tribunal was satisfied that there arose a substantial question of environment which required the interference of this Tribunal, admitted the matter and appointed a joint committee comprising of (1) District Collector, Chennai District or an Officer nominated by him not below the rank of the Revenue Divisional Officer or Assistant Collector, (2) the Superintending Engineer of Public Works Department and Water Resources Organisation, (3) the Commissioner or a Senior responsible Officer who is in charge of protecting lake within the Greater Chennai Corporation nominated by the Commissioner, Greater Chennai Corporation and (4) a Senior Officer from Tamil Nadu Pollution Control Board as nominated by its Chairman to inspect the lake in question and submit a factual as well as action taken report, if there was any violation found.

6. The committee was directed to go into the question (a) regarding the verification of original extent as per the revenue records and nature of unauthorised encroachments and if so, what was the action taken and also whether any pollution being caused to the lake by discharging untreated effluents or sewage into the lake from that area. (b) To conduct water analysis tests to assess the quality of the water and if there was any contamination find out the sources of contamination and suggest steps to be taken to restore the same to its original position. (c) To mention as to whether there was any scheme launched by the Government or the local authorities for maintaining this water body and if so its stage of implementation. (d) To assess the environmental compensation, if any damage has been caused to the lake on account of unauthorised encroachment or by causing pollution to the water to the lake. (e) To ascertain the existence of inflow and out flow canals and drains which act as a storm water drain to carry excess rain water into the lake and if there was any encroachment or any closure of the same, which affects the in inflow and outflow, then what are all the steps to be taken to restore the same to its original position and its feasibility. (f) To suggest long term as well as short term plan to protect the lake from further encroachment and pollution by establishing bio-diversity parks/tree plantation and bio-fencing around the lake and construction of any compound wall or other protecting method to avoid future encroachment and the responsibility of the person who had to carry out the same as well.

7. The Public Works Department and Water Resources Organisation was designated as the nodal agency for co-ordination and also for providing all necessary logistics for this purpose.

8. The matter was adjourned for enabling the Joint Committee as well as the respective departments to file their independent statements and reports respectively.

9. The matter was taken up on 04.06.2021, this Tribunal had considered the report submitted by the Joint Committee dated Nil, e-filed on 17.03.2021 and extracted in Para (2) of the order which reads

as follows:-

Inspection report of the joint Committee constituted by the Hon'ble National Green Tribunal (Southern Zone) in respect of O.A. No. 98 of 2020(SZ) Suo Motu on the basis of the newspaper report published in The Dinamalar Chennai City Supplement Edition dated 02.07.2020 under the Caption "If the encroachments are removed totally, Narayanapuram Lake will become source of Drinking water Source"

1. Compliance of the Direction It is respectfully submitted that in due compliance of the said Hon'ble National Green Tribunal direction, surface water sample from Narayanapuram Lake was collected on 28/07/2020 so as to ascertain the present water quality in the said water body Statement showing value of the physic chemical parameters analyzed.

S.No	Parameters	Units	Point of Collection Narayanapuram Lake	TNPCB Standards (Inland Surface Water)
1.	pH@25oC	No.	8.30	5.5-9
3.	Solids @ 105 oC Total Dissolved Solids @ 180 oC	L Mg/ L L L L	719	2100
9.	Lead as Pb	L Mg/ L L	<0.07	0.1
12.	Hexavaient Chromuium Cr+6	L Mg/ L	<0.05	0.1
13.	D.O	Mg/ L	6.30	5mg/l and above

Statement showing the value of the Bacteriological parameters analyzed S.No.
Parameters Units Point of Collection Primary water Narayanapuram Lake Quality
criteria for Bathing Waters prescribed by Central Pollution Control Board

1. Total MPN/100 110 500 or less Coliform ml

2. Faecal MPN/100ml <1.8 500 (desirable) Coliform 2500 (maximum permissible)
The Report of analysis of the water sample collected from the said water body reveals that the Physico chemical parameters analysed satisfy the Inland surface water standards prescribed by the Board. Furthermore the water sample collected from the Narayanapuram Lake analysed for Bacteriological parameter Total Coliform and Faecal Coliform meets the Primary Water Quality Criteria for Bathing Waters prescribed by Central Pollution Control Board.

2. Report of the Public Works Department:

It is respectfully submitted that PWD as one of the member of the committee submits that Narayanapuram Eri is a tank maintained by the Public Works Department. Narayanapuram Eri is located at Survey No.118 in Pallikaranai Village of Sholinganallur Taluk in Chennai District. It has a water spread area in an extent of 21.37 Ha with a combined catchment of 1,42 sq.m and with the storage capacity of 5.18 Mcft. The tank was once irrigating an extent of 57.08 Ha and there are 216 encroachments in an extent of 3.17 Ha as identified by the survey department officials in the year 2009. The tank has lost its irrigation potential long back due to the expansion of the city in course of time and now it is only a natural aquifer.

Greater Chennai Corporation has laid the road foreshore of the Narayanapuram Eri with the approval of the Government which may prevent further encroachment in the bund and in the water spread of the Eri. CMWSSB (Chennai Metropolitan Water Supply and Sewerage Board) is drawing water for domestic purposes from this Eri presently Narayanapuram tank is one of the tanks in Kovalam Basin, there are proposal for rehabilitation and restoration of all tanks in overall Kovalam basin (comes under Chengalpattu and Chennai District) under Comprehensive Flood Mitigation Project with an amount of Rs. 2000 crore which also involves creating biodiversity parks/tree-planting around the banks of the water body protecting the lake against the future encroachment. Detailed Project Report has been sent to Government and after approval from the World Bank, the said project scheme will be executed.

3. REPORT OF GREATER CHENNAI CORPORATION - ZONE 14 - NARAYANAPURAM LAKE.

Narayanapuram Eri is located at survey no.118 of Pallikaranai Revenue Village situated adjacent to Pallikaranai Marsh Land coming under Greater Chennai Corporation, Zone-14, Unit - 42, Division-188 and it is having a water spread area to an extent of 21.37 Ha Garbage Generation and Disposal Details in Division 188 :

S.No	Division	Total Population of	Total No. Of	Approx Garbage wet waste plastic	Approx
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		Households	Bins	collected from household s/day in kg	collected/day in Kg
1. 188	73408	18352	130	6500	600

The segregated wet waste is composted on a daily basis at the Micro Composting Centre (MCC) located at the Pallikaranai old dumping ground on daily basis located in div 188, at Tambaram - Velachery main road.

Sewage Management Details:

S.No	Name of Street	Total No. UGD Of Households	sewerage connection given CMWSSB	Septi tank
	street			
	street			
	street		NIL	
	street			
	street			
	street			
	street			
	street			
	street			
	street			
	street			

There is no underground sewerage system for the area in Div 188 of Zone-14. The households and commercial establishment were provided with individual septic tank arrangements.

4. Joint Inspection of the Committee.

The members of the Joint Committee have carried out the inspection in the area in question on 28.07.2020

5. Observations by the Committee During the time of inspection, the committee observed the following:

1. Narayanapuram tank is a PWD tank. It has lost its irrigation potential long back due to agglomeration of Chennai City and its suburb over the period of time. Now, the tank serves mostly as a natural aquifer.

2. Narayanauram tank is located at survey no. 118 of Pallikaranai village, Sholinganallur Taluk in Chennai District.

3. It has a water spread area in an extent of 21.37 Ha and divided by the Pallavaram Thoraipakkam Radial Road into two parts namely Southern and Northern part.

4. It is bounded by Residences of Greater Chennai Corporation Zone 14 in the Southern side, western side and in the Eastern side. A part of Kovilambakkam Panchayat area is in the North-west side of the said tank.

5. The overflow of the Pallikaranai Anai Eri and Sunnamu Kolathur tank reaches Narayanapuram tank.

6. The surplus water of the Narayanapuram tank is disposed through cut and cover arrangements newly provided and also through Keeikatalai surplus course, finally confluence the Pallikarnai Marsh land.

7. Encroachments were noticed on the western side of the water spread area of the Narayanapuram tank.

8. There is no underground sewerage system in the Corporation area (Div 188 zone-14) in the upstream side of the Narayanapuram tank. Households and commercial establishments in the said area were provided with the septic tank arrangements. However sullage generated from the said area reaches the said water body. Similarly there is no underground sewerage system in the Kovilambakkam village Panchayat located in the north-western side of the water body. Sullage generated from the said area also reaches the above said water body.

9. There is no dumping of garbage /solid waste in the said water body.

10. PWD has completed the construction of retaining walls all along the surplus course of the water body and cut and cover channel from Narayanapuram eri to Pallikaranai Marsh land. Further completed the construction of flood control regulator on both side of the water body i.e. southern and northern side of the water

body is avoid flooding of the foreshore area of the said tank during the monsoon period.

6. Recommendations:

Based on the above observations, the Joint Committee submits the following recommendations before the Hon'ble National Green Tribunal (southern Zone)

01. 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 Narayanapuram Eri within six months.

02. The Block development officer, st. Thomas Mount Panchayat Union shall prepare action plan to take steps to intercept, transport, treat and dispose the sewage/sullage generated from its local body area of Kovilambakkam village panchayat reaching the water body and shall implement the same within six months.

03. The Greater Chennai Corporation & Block Development Officer. St. Thomas Mount Panchayat Union (Kovilambakkam villag Panchayat) shall arrange for the regular monitoring of the water body to avoid dumping of solid waste if any into the lake.

04. The Greater Chennai Corporaion & Block Development Officer. St. Thomas Mount Panchayat Union (Kovilambakkam villag Panchayat) shall levy fine on the violators dumping solid waste and the CMWSSB shall take action against the disposing swage/sullage into the Narayanapuram Lake under Local bodies Acts.

05. The Greater Chennai Corporaion & Block Development Officer. St. Thomas Mount Panchayat Union (Kovilambakkam villag Panchayat) shall create awareness among public with the help of associations in the local body area for proper segregation of solid waste.

06. PWD with the help of Revenue Authorities shall make survey to identify encroachments in the Naryanapuram Lake within six months and take necessary steps to evict them.

07. PWD shall strengthen of the bunds 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 encroachments within six months by obtaining necessary funds from the Government.

08. The Committee should review the above recommendations at very 3 months.

10. After considering the report, this Tribunal directed the Chennai Metropolitan Water Supply and Sewerage Board, Block Development Officer, St. Thomas Mount Panchayat Union, Greater Chennai Corporation, Water Resources Department and the District Collector, Chennai District to file their compliance report regarding carrying out the recommendations made by the Joint Committee to protect Narayanapuram Lake free from encroachment and pollution. The matter was adjourned to future date for that purpose.

11. Thereafter, the matter was adjourned from time to time either at the request of the parties or by notification.

12. The matter was taken up on 01.10.2021 and on that day, this Tribunal had considered the report submitted by the Greater Chennai Corporation dated Nil, e-filed on 25.08.2021 and extracted in Para (2) of the order which reads as follows:-

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 inspections also give source segregation awareness to all those garbage non-segregated hoses.

13. Since this Tribunal was not satisfied with the report submitted by the Greater Chennai Corporation and other departments have not filed respective reports and they were directed to file their respective reports. Further, as per order of the day This Tribunal Suo-Motu impleaded Block Development, St. Thomas Mount Panchayat Union within whose jurisdiction of Kovilambakkam Village Panchayat comes was impleaded as additional 8th respondent and the Tribunal had directed the Registry to forward the necessary paper to the newly impleaded respondent within a view to file their independent response regarding the allegations made in the newspaper report and the compliance of the recommendations made by the Joint Committee. The matter was adjourned to a future date for filing further report.

14. The matter was taken up on 22.03.2022 and on that day, this Tribunal had considered the report submitted by the Executive Engineer, Chennai Metropolitan Water Supply and Sewerage Board along with Superintending Engineer, Project - II, Chennai Metropolitan Water Supply and Sewerage Board dated 08.02.2022, e-filed on 17.02.2022 and extracted in Para (3) of the order which reads as follows:-

"REPORT FILED ON BEHALF OF 7TH RESPONDENT . I humbly submit the details of "Comprehensive Under Ground Sewerage Scheme to Pallikaranai "carried out by Chennai Metropolitan Water Supply and Sewerage Board.

i. The Govt has accorded administrative approval for "Providing Comprehensive Sewerage Scheme to Pallikaranai" vide GO (D) No.544, MA&WS (TP2)Dept., dated 24.12.2009 for Rs.5861.00 lakhs.

ii. The Original work was awarded on 07.12.2010 and commenced on 11.02.2011 with 24 months Contract Period. Due to slow progress of work, the Contract has been terminated on 21.11.2019.

iii. The Estimate for balance works were prepared as four packages and the revised administrative approval was obtained vide GO (D) No.305, MAEWS (MCI)Dept., dated 10.09.2020 for Rs.9215.00 lakhs. The Work Orders have been issued and the works are under progress iv. Certain streets in Division 188 were also included in the Original Scheme for "Providing Under Ground Sewerage Scheme to Pallikarariai". The 13 Streets mentioned in the Report of Greater Chennai Corporation of Division 188 of Zone 14 vide order dated 04.06.2021 were also partly included in the ongoing Underground Sewerage Scheme of Pallikaranai. The Status of the Sewer pipelines laid in the 13 Streets mentioned in the report of Greater Chennai Corporation is as follows.

15. Since this Tribunal was not satisfied with the report submitted by the Chennai Metropolitan Water Supply and Sewerage Board regarding the present stage of its implementation and time line within which will be completed, so as to avoid discharge of sewage into the water body and they were directed to file a further report. This Tribunal also directed the Greater Chennai Corporation, District Collector Chennai District to file further reports apart from directing the Block Development Officer, St. Thomas Mount Panchayat Union to file the report regarding the implementation of the recommendations made by the Joint Committee and also steps taken by them to protect the water body against encroachment and causing pollution.

16. The matter was taken up on 19.07.2022 and on that day, this Tribunal had received the report submitted by the Chennai Metropolitan Water Supply and Sewerage Board, wherein, they have given certain locations where such things are happening and the works involved in several packages. It was also mentioned in the report that expected date of completion for entire Pallikaranai Underground Sewage Scheme will be completed by 31.12.2023. It was also mentioned in the report that they were also taking effective mechanism to regulate the tanker Lorries which are collecting the sewage and taking into the Sewage Treatment Plants.

17. This Tribunal expressed its displeasure regarding the difficulty expressed by them to trace out the tanker lorries who were responsible for decanting the sewage collected in the storm water drain which ultimately reaches the lakes and other water bodies.

18. It was also not mentioned in the report regarding the nature of action taken by them to properly supervise the activities of the tanker lorries, what is the nature of action taken against the erring tanker lorry owners etc., This Tribunal in several matters had directed the authorities to take coercive action against such persons involved in illegal activities of decanting sewage into the water bodies including cancellation of licence and seizure of vehicles etc., but it was not clear from the report as to whether they were any such steps have been taken by them.

19. This Tribunal had directed the District Collector, Chennai District, Commissioner - Greater Chennai Corporation, Block Development Officer, St. Thomas Mount Panchayat Union, Chennai Metropolitan Water Supply and Sewerage Board (CMWSSB) and the Tamil Nadu Pollution Control Board are directed to file their further action taken report regarding the temporary measures to be

taken for the purpose of collecting sewage water to treatment plants and also removal of encroachments etc., and adjourned the case to a future date for filing such reports.

20. The matter was taken up on 04.08.2022 and on that day, this Tribunal expressed its displeasure in the District Collector, Chennai District and the Water Resources Department in not filling the report regarding the nature of steps taken for identifying the encroachment and removal of the same. This Tribunal also considered the report submitted by the Chennai Metropolitan Water Supply and Sewerage Board that the proposal sent by the Chennai Metropolitan Water Supply and Sewerage Board to regulate the monitoring of sewage collection by the tanker lorries has been approved by the Government and necessary orders have been issued and they are in the process of preparing rules and guidelines on the basis of the amendment and that will be submitted by the Government shortly. They have not produced the notification issued by the Government in this regard, so as ascertain as to whether it is in tune with the directions issued by the Tribunal in several matters regarding this aspect and they have mentioned about regulation for monitoring the sewage collection by the tanker lorries to the Government and the same has been approved and necessary orders have been issued and they were in the process of preparing rules and guidelines on the basis of the amendment and that will be submitted by the Government shortly. Since they have not produced the notification issued by the Government in this regard, so as ascertain as to whether it is in tune with the directions issued by the Tribunal in several matters regarding this aspect, the counsel appearing for Chennai Metropolitan Water Supply and Sewerage Board and the State Departments wanted some time to produce the same. This Tribunal also expressed its displeasure regarding District Collector, Chennai District and Superintending Engineer, Water Resources Department are not filing the report in spite of the fact that even the Hon ble High Court of Madras had passed some stringent direction against such authorities in not making steps and raising to the expectation of the Court to show pro-activeness in their action to protect the water bodies.

21. However at the request of the counsel appearing for the State Departments adjournment was granted on condition that if the report has not filed before the next hearing date, then they will have to pay a cost of Rs. 25,000/- (Rupees Twenty Five Thousand Only) each from their own funds and not from Government ex-chequer.

22. The case was adjourned to 16.08.2022 for compliance of directions. When the matter was taken up on 16.08.2022, the District Collector, Chennai District filed a report dated 10.08.2022, e-filed on 16.08.2022 which reads as follows:-

23. The Superintending Engineer, Public Works Department also filed a report dated 13.08.2022, e-filed on 16.08.2022 which reads as follows:-

1...XXXX

24. The Chennai Metropolitan Water Supply and Sewerage Board also filed a report and also produced proposed amendment to Chennai Metropolitan Water Supply and Sewerage Board Act 1998 which was approved by the Government awaiting final notifications issued in this regard.

25. Heard the counsel appearing for respondents.

26. The counsel appearing for State Department submitted that necessary steps are being taken for protection of water bodies and survey is ordered, once the encroachments are identified steps will be taken to remove the encroachment and necessary measures will be taken for protect the water bodies.

27. The counsel appearing for Tamil Nadu Pollution Control Board submitted that they are strictly monitoring the implementation of Waste Management Rules, including the liquid waste and also taken action against those Institutions/local bodies and persons if there is any violation found and they will strictly abide by the directions issued by this Tribunal.

28. The counsel appearing for Chennai Metropolitan Water Supply and Sewerage Board submitted that they are taking steps to cover the Underground Sewerage Scheme in those areas which are not covered earlier and they will be able to complete the same by December 2023. They are plugging unauthorised sewer lines which let into the storm water drains and fine is being imposed. On the basis of the proposals made by them, an amendment was proposed to Chennai Metropolitan Water Supply and Sewerage Board Act and it was approved by the Assembly and it was awaiting the approval of his Excellency Governor. Once approval is obtained, they will take necessary steps to implement the same in relation to the regulation of tanker lorries which were permitted to take sewage from the regulation areas.

29. Considered the pleadings, various reports and submissions made by the counsel appearing for various departments.

30. The grievance in the newspaper report was that on account of negligence in maintaining the Narayanapuram Lake, it has become a sewage pond. Further it was having an extent of 120 Acres Pallikaranai, Perungudi Zone. Due to large scale encroachment, the extent of lake was reduced to 45.05 acres. This lake was acting as a drinking water source apart from serving as a rain water harvesting system and also to facilitate the inflow of water through water canal and drains. It was also apprehended in the newspaper report that proper maintenance and steps were taken there is a possibility of lake being vanished thereby affecting the ecological system in that area.

31. The Joint Committee report on the basis of the various obtaining from various departments it has been observed that Narayanapuram Tank is a Public Works Department Tank. It has lost its irrigation potential long back due to agglomeration of Chennai City and its suburb over the period of time and now, the tank serves mostly as a natural aquifer. It was having water spread area of an extent of 21.37 Ha and divided by the Pallavaram Thoraipakkam Radial Road into two parts namely, Southern Part and northern Part. Some portions fall within the Kovilambakkam Panchayat. It is also motioned that the overflow of Pallikaranai Anai Eri and Sunnamu Kolathur tank reaches Narayanapuram tank. The surplus water of the Narayanapuram tank is disposed through cut and cover arrangements newly provided and also through Keelkatalai surplus course, finally confluence the Pallikaranai Marsh Land and certain recommendations were made to be carried out by the respective departments since the entire report was extracted earlier, we are not re-extracting the

recommendations again to avoid repetition. Various departments have filed their reports and the report submitted by the Greater Chennai Corporation showed that they are strictly implementing the Solid Waste Management Rules, 2016 within their area and in co-ordination with Chennai Metropolitan Water Supply and Sewerage Board, storm water drain and Underground Sewerage System are provided to mitigate the issue of discharge of untreated sewage into the water channels and also as flood mitigation scheme. Strict action is being taken against the persons who are violating the waste management rules.

32. The Chennai Metropolitan Water Supply and Sewerage Board has filed the report wherein they have mentioned about the steps taken by them for implementing the Underground Sewerage System in this area and they will be able to complete the same by 31.12.2023. It was also seen from the report submitted by the Chennai Metropolitan Water Supply and Sewerage Board that on the basis of the proposals given by them to control and regulate the tanker lorries which are engaged for collecting and disposal of sewage in respect of the Bill has been introduced as Bill No. 33 of 2022 known as Tamil Nadu Municipal Laws and the Chennai Metropolitan Water Supply and Sewerage (Amendment) Act, 2022 and that has been passed by the Tamil Nadu Assembly and they are awaiting and approved by his Excellency Governor and once it is approved, then necessary rules will be framed and it will be implemented in its letter and spirit.

33. Unfortunately, Block Development Officer, St. Thomas Mount Panchayat Union under whose jurisdiction Kovilambakkam Panchayat falls has not filed any report regarding the compliance of the recommendations issued by the implementation of Solid Waste Management Rules, 2016, Liquid Waste Management rules within their jurisdiction to avoid discharge of untreated sewage into the water body.

34. It is clear from the various reports that there are encroachments in the water body, inlets and outlets are to be traced out and in spite of the fact that the case is pending from 2020 no effective steps have been taken by the Revenue Department to identify the encroachments and remove the same. The Water Resources Department under whose maintenance of the present lake is also did not take any steps for protecting the water bodies.

35. It is seen from the report of the Joint Committee that this Narayanapuram lake serves as a receiver of surplus water from Pallikaranai Anai Eri and Sunnabu Kolathur tank. The surplus water of the Narayanapuram tank is disposed through cut and cover arrangements newly provided and also through Keelkatalai surplus course, finally reaches the Pallikaranai Marsh Land. So it finally acts as a carrier for providing surplus water to Pallikaranai Marsh land which is now declared as Ramsar lake. So protection of this water body in view of the above circumstances has become more important and any negligence on the part of the authorities in protecting the water body will have impact on other water bodies including the Pallikaranai Marsh land which is now declared as Ramsar lake.

36. In one of the matters, Hon ble Apex Court observed that merely because water bodies have become disused on account of negligence of not providing maintenance by the authorities it will not lose its character as a water body and steps must be taken to restore and rejuvenate the same to its

original position on that ground the same cannot be used for any other purposes. Providing Pattas of lands which were recorded as water bodies in the Revenue records by the authorities was also deprecated by the Hon ble High Court of Madras in various decisions including in and directed the authorities to take steps to remove the encroachments by invoking the provisions of Tamil Nadu Protection of Tanks and Eviction of Encroachment Act, 2007 and rules framed there under. In spite of all these directions, action on ground for removal of encroachment and protecting the water bodies is moving at a slow pace and they must taken steps to protect the water bodies by providing necessary protective measures and separate budget allocation must be made for these matters keeping them as priority sectors as protection of environment is a primary responsibility of the State Government as Contemplated under Article 48 (A) of the Constitution of India. Further providing clean water is also part of „Right to Life“ as guaranteed under Article 21 of the Constitution of India. Failure to comply with this constitutional mandate will amount to failure in maintaining environmental rule of law in the State by the Government instrumentalities.

37. It is time and again reiterated by the Hon ble Apex Court and also various High Courts including Hon ble High Court of Madras including Principal Bench of National Green Tribunal and also this Tribunal, regarding the responsibility of the State to protect the water bodies against encroachment and pollution as part of protection of environment as mandated under Article 48(A) of the constitution of India. Further State department has got a responsibility to provide clean environment which includes providing clean water and air as part of „Right to Life“ as guaranteed under Article 21 of the Constitution of India and this obligation has to be primarily discharged by the State machineries including the local bodies and the regulators. It is well accepted principle of environment that water bodies are not only acting as source for water for drinking and irrigation purposes, but also act as a water storing reservoir, natural rain water harvesting system and help the natural recharge of ground water level in those areas apart from acting as flood mitigation mechanism to collect more water that is generated during rainy season to avoid flood in the neighbouring areas.

38. The Hon ble High Court of Madras had passed strictures against the authorities heavily for not taking steps to remove the encroachments and protect the water bodies, so as to discharge their constitutional obligation of protecting environment. Even in some cases, the Hon ble High Court of Madras had taken contempt proceedings and issued directions to pay a cost of Rs. 25,000/- (Rupees Twenty Five Thousand Only) if they did not file the reports containing the details. In spite of all these stringent measures taken by the Courts, the departments are not taking actions in the right direction as expected by the Courts and the Tribunal. Once the State machineries fail to discharge their obligation of protecting environment as contemplated under Article 48(A) of the Constitution of India, then they are failing to discharge their duty to maintain environmental rule of law which is highly essential for the purpose of protecting the safe life of the people. Any environmental degradation will result in health hazard to the people and it is the primary responsibility of the State to avoid health hazards being caused or experienced by the people on account of the lack of implementation of environmental laws by the regulating authorities.

39. The Principal Bench of National Green Tribunal while disposing in O.A. No. 606 of 2018 by separate Judgment in respect of each State had interacted with Chief Secretary to Government of all

the States including State of Tamil Nadu and recording the undertaking given by the Chief Secretary to Government that they would strictly abide by the directions of the Tribunal and implement the waste management rules disposed of the matter in respect of Tamil Nadu is concerned on 21.07.2022 by directing the Chief Secretary to Government to allocate the Secretary level officer at the rank of Additional Chief Secretary to Government and also to conduct review meetings and strictly implement the rules and the directions issued by this Tribunal.

40. Further in several matters this Bench as well as Principal Bench of National Green Tribunal sitting in the Special Bench had reiterated that it is not possible for the Tribunal to monitor the implementation of the rules and discharging of the functions of the regulators perpetually and it is for them to take proactive steps to implement and enforce the environmental laws and failure to discharge the same will amount to failure of maintenance of environmental rule of law in the State.

41. So under such circumstances, we feel that instead of retaining the case for longer period and monitoring the activities of the regulators disposed of the matter by giving following directions:--

i. The District Collector, Chennai District in coordination with the Commissioner, Greater Chennai Corporation and Water Resources Department under whose jurisdiction the Narayanapuram lake falls is directed to take steps to conduct the survey to ascertain the extent of the Narayanapuram Tank on the basis of the original revenue records and identify the unauthorised encroachments including its inlets and outlets and if there is encroachment, the same will have to be removed and the water body/channels to be restored to the original position including cancellation of unauthorisedly issued Pattas against the directions issued by the Hon ble High Court of Madras in and other related matters. The Water Resources Department is directed to take steps to provide protective mechanism by providing bio-fencing/planting green cover or other scientific methods and they must also take necessary action to strengthen the bunds and repair the weirs and sluices provided to regulate the inflow and outflow of the water to the lake and this direction will be subject to the directions already issued and to be issued by the Hon ble High Court of Madras in respect of removal of encroachments and protection of water bodies in the Writ Petitions, if any, pending in respect of this particular lake as well. ii. The Commissioner, Greater Chennai Corporation is directed to strictly implement the Solid Waste Management Rules, 2016, Liquid Waste Management and other Waste Management Rules within their jurisdiction and they should take steps to avoid dumping of waste in the water spread area of the lake that causes pollution to the water body. If there is any waste already dumped, then they are directed to remove the same from the water spread area and shift to the designated dump yard after obtaining necessary permission, if any required under the respective Waste Management Rules in this regard.

iii. The Chennai Metropolitan Water Supply and Sewerage Board is directed to expedite the process of completion of the Underground Sewage Scheme in the places where it is not covered, at the earliest at any rate before 31.12.2023 without fail so as to prevent discharge of untreated sewage into the water body.

iv. The Chennai Metropolitan Water Supply and Sewerage Board is also directed to implement temporary measures to collect the sewage generated in those areas in which Underground Sewerage System is not provided to divert the same or collect the same and take it to Sewage Treatment Plant for treatment before it is discharged into the water body after achieving the standard provided for that purpose. The temporary measures can be undertaken by them in consultation with the Tamil Nadu Pollution Control Board and if any suggestions have been given by the Tamil Nadu Pollution Control Board, then they are directed to implement the same till the Underground Sewerage System is completed and house hold sewer connections are provided completely.

v. The Chennai Metropolitan Water Supply and Sewerage Board is also directed to register the tanker lorries engaged for collection of sewage and direct them to provide GPS to the vehicles, so as to enable them to track the movement of the tankers from the place of collection till the place of discharge, so as to avoid decanting of sewage into the water bodies or public drains which ultimately reaches the lake and take action against the vehicles involved in such activities as directed by this Tribunal in the matter of like nature.

vi. The Block Development Officer, St. Thomas Mount Panchayat Union under whose jurisdiction the Kovilambakkam Village Panchayat falls is directed to strictly implement the recommendations made by the Joint Committee and implement the Solid Waste Management Rules and other Waste Management Rules and stop dumping of waste and discharge of untreated sewage into the Narayanapram Lake and take appropriate action against persons responsible for the same and they must also provide Underground Sewerage System, if any liquid waste generated from their area is being discharged into the Narayanapauram Lake to prevent discharge of untreated sewage into Narayanapuram Lake.

vii. The Water Resources Department is directed to de-silt the inlets and outlets or water ways which carry the rain water to the lake and if there is any encroachment, then take steps to remove the encroachment and restore the same after removal of encroachments, take steps to maintain the inlet and outlet channels and waterways, so as to ensure free flow of water during rainy season through these waterways to avoid flood in the nearby areas as part of disaster management plan.

viii. The Tamil Nadu Pollution Control Board is directed to monitor the implementation of all Waste Management Rules and also the directions issued by the Principal Bench of National Green Tribunal in O.A. No. 606 of 2018 and other related matters and if there is any violation or non- compliance found, then they are directed to take appropriate action against those violators by initiating proceedings including prosecution and imposition of environmental compensation apart from resorting to other coercive measures provided under the respective statutes in accordance with law.

ix. The Additional Chief Secretary to Government for Municipal Administration and Water Supply Department is directed to monitor the implementation of directions and if there is any proposal of the stakeholder departments is pending, then he is directed to take steps to expedite such proposal by providing necessary administrative as well as financial sanction, so that the work should not be stalled due to paucity of funds.

x. The Chief Secretary to Government, State of Tamil Nadu is directed to constitute a committee comprising of Additional Chief Secretary to Government for Municipal Administration and Water Supply Department as Chairman, Additional Chief Secretary to Government for Finance or his nominee, Additional Chief Secretary to Government for Water Resources Department, Principal Secretary to Government for Revenue and Disaster Management to monitor the implementation of the directions issued by this Tribunal in respect of implementation of Underground Sewage Scheme and implementation of Solid Waste/Liquid Waste/other Waste Management Rules and directions issued by the Principal Bench of National Green Tribunal in O.A. No. 606 of 2018 and various directions issued by this Bench, and other matters relating to protection of water bodies and if there is any gap found, then they are directed to issue necessary directions to the respective stakeholder departments so that they could rectify and resolve the same in an effective manner, so that the directions issued by the Tribunal for protecting water body can be effectively implemented by the respective stakeholders in its letter and spirit. xi. The Chief Secretary to Government, State of Tamil Nadu is also directed to conduct review meetings with the stakeholder departments regarding this aspect and if there is any gap found, then give necessary directions to the concerned departments to expedite the same and if any financial and technical support is required, then he is directed to provide the same at the earliest without delay. xii. The Registry is directed to communicate this order to the official respondents including the District Collector-Chennai District, Chairman-Tamil Nadu Pollution Control Board, the Commissioner- Greater Chennai Corporation, Managing Director- Chennai Metropolitan Water Supply and Sewerage Board, the Additional Chief Secretary to Government for Water Resources Department, Principal Secretary to Government for Revenue and Disaster Management and also to the Chief Secretary to Government, State of Tamil Nadu for their information and compliance of directions.

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

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

.....E.M. (Dr. Satyagopal Korlapati) O.A. 98/2020 (SZ) 30.08.2022, Sr.