

National Green Tribunal Southern Zone vs The Principal Secretary To Government ... on 31 May, 2022

Bench: K Ramakrishnan, K. Satyagopal

Item No.7:

Court No.1

BEFORE THE NATIONAL GREEN TRIBUNAL
SOUTHERN ZONE, CHENNAI

(Through Video Conference)

Original Application No. 123 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 09.07.2020,
"Moovarasampattu Temple Pond
has become rain water harvesting reservoir."

WITH

- 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
Chengalpet District
Collector Office, GST Road,
Chengalpattu - 603 001.

6) Moovarasampattu Village Panchayat
Represented by its Secretary
No.1/4, Moovarasampet Main Road,
Moovarasampet, Chengalpet,
Chennai - 600 091.

...Respondent(s)

Page 1 of 13

Date of Judgment: 31st May 2022.

For Applicant(s): Suo Motu by Court

For Respondent(s): Dr. D. Shanmuganathan for R1 to R3, R5 & R6.
Mr. S. Sai Sathya Jith for R4.

CORAM:

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

HON'BLE Dr. SATYAGOPAL KORLAPATI, EXPERT MEMBER

JUDGMENT

1. The above case has been Sue Motu registered by this Tribunal on the basis of the newspaper report published in „Dinamalar Chennai City Supplementary Edition dated 09.07.2020 under the caption "kioePu; Nrfupg;G ikakhdJ %turd;gl;L Nfhpty;Fsk;" (Moovarasampattu Temple Pond has become rain water harvesting reservoir).

2. It was alleged in the newspaper report that the Gangai Amman Temple Pond in Moovarasampattu Panchayat which was being used as a rain water harvesting source has been impacted due to improper management of the water body. It was having an extent of 2 acres and it has been used as a water recharge system, to raise the ground water level in and around that area. Due to the intervention and interest taken by the local people under the state "ekf;F ehNk".

3. During 2011-2016 the desilting of the tank was done by the Panchayat by spending Rs.34,36,000/-. Since there was some mismanagement found in spending the amount, there was an agitation in the locality and the District Collector had ordered enquiry regarding the same. During 2019, there was severe water shortage in that area and due to the intervention of local people, on the basis of the news item published in the same newspaper, some work was done and it was made as a rainwater harvesting system. However, now the inlet and outlet of the lake, in order to regulate the water from Adambakkam Water Body, has not been maintained.

4. Since this Tribunal was satisfied that there arose a substantial question of environment, as per order dated 23.07.2020, this Tribunal admitted the matter and appointed a Joint Committee consisting of the (i) District Collector, Chengalpet District or an Officer not below the rank of

Assistant Commissioner or Sub Divisional Magistrate who is in charge of that area nominated by the District Collector, (ii) the Superintending Engineer of Public Works Department and water resources organization who is in charge of that area (iii) a Senior Officer designated by the Chairman, Tamil Nadu Pollution Control Board and the Executive Engineer of Moovarasampattu Village Panchayat to inspect the area in question and submit a factual as well as action taken report if there is any violation found. The Committee was directed to consider the question as to whether there was any scheme launched by the Government or the District administration for protection of this water body and if so what is the stage of its implementation and also find out the encroachment or illegal discharge of any sewage/effluent into the water body affecting the water quality and if there any recommendations and suggestions are to be submitted by the committee for rectifying the same, suggest the same as well.

5. The committee was also directed to conduct the water analysis to ascertain the quality of the water in the water body and if there is any contamination found, they are directed to suggest remedial measures for restoring the same apart from taking action against person responsible for contamination of the water body. The committee was also directed to look in to the question as to whether there was any inlet or outlet for draining the water or regulate the water from Adambakkam lake as alleged in the paper report and if there is any blockage of the same, the steps to be taken to restore the same so as to regulate the water flow during the rainy season. The Committee was also directed to issue directions to the local authorities or the persons concerned to take immediate steps if any required for the purpose of making it as a rainwater harvest system during the monsoon which is fast approaching.

The Committee was also directed to suggest an action plan with short term and long term measures with shorter time lines to restore the water body including establishment of bio diversity park/tree planting around the water body and other protective measures to be taken to protect the water body against future encroachment as well. The Superintending Engineer, Public Works Department, was designated as the Nodal Agency for coordination and providing necessary logistics for this purpose.

6. The Tamil Nadu Pollution Control Board was given the liberty to conduct independent inspection to ascertain as to whether there was any violation of implementation of Solid Waste Management Rules, 2016 including dumping of waste and discharging untreated sewage into the water body and collecting water samples so as to ascertain the present quality of the water and sources of contamination apart from assisting the committee in this regard. They were directed to submit their respective reports to this Tribunal on or before 05.10.2020.

7. Thereafter, the matter was taken up on 03.03.2021 and on that day this Tribunal considered the Joint Committee Report dated nil received on 19.02.2021 extracted in para 3 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. 123 OF 2020 (SZ) SUOMOTU ON THE BASIS OF THE NEWS PAPER
REPORT PUBLISHED IN DINAMALAR CHENNAI CITY SUPPLEMENT EDITION

DATED, 09.07.2020, UNDER THE CAPTION "MOOVARASAMPATTU TEMPLE POND HAS BECOME RAIN WATER HARVESTING RESERVOIR."

2. COMPLIANCE OF THE DIRECTION In due compliance of the orders of the Hon'ble National Green Tribunal, water samples were collected by the officials of Tamil Nadu Pollution Control Board from the Gangaiyammam Temple's pond in Movarasampattu Village Panchayat on 30/09/2020. Statement showing the value of the Physico chemical parameters analysed Sl.No Parameters Units Point of Collection TNPCB Standards (Inland Gangaiyammam Surface Water) Temple's pond in Movarasampattu Village Panchayat 1 pH @ 25oC No. 7.53 5.5-9 105oC 3 Total Dissolved Solids @ mg/L 435 2100 1800C 9 Lead as Pb mg/L <0.07 0.1 12 Hexavalent Chromium Cr+6 mg/L <0.01 0.1 13 D.O mg/L 7.5 5mg/l and above Statement showing the value of the Bacteriological parameters analysed Sl.No Parameters Units Point of Primary Water Collection Quality Criteria for Bathing Gangaiyamma Waters prescribed m Temple's by Central pond in Pollution Control Movarasampa Board ttu Village Panchayat 1 Total Coliform MPN/ 100 2200 500 or less ml 2 Faecal Caliform MPN/ 100 940 500 (desirable) ml 2500 (Maximum Permissible) The Report of analysis of the water samples 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 Gangaiyammam Temple's pond in Movarasampattu Village Panchayat analysed for Bacteriological parameter Total Coli form and the (Faecal Coliform) exceeds the Primary Water Quality Criteria for Bathing Waters Standards prescribed by Central Pollution Control Board.

3. REPORT OF THE PUBLIC WORKS DEPARTMENT/WATER RESOURCES DEPARTMENT:

It is respectfully submitted that the Public Works Department/ Water Resources Department, who is one of the member of the Joint Committee and also nodal agency, has submitted that the said Gangaiyammam Temple's pond in Movarasampattu Village Panchayat is being controlled and monitored by the Block Development Office of St. Thomas Mount.

4. REPORT OF BLOCK DEVELOPMENT OFFICER,ST. THOMAS MOUNT PANCHAYAT UNION (MOVARASAMPATTU VILLAGE PANCHAYAT) It is respectfully submitted that the Block Development Officer, St. Thomas Mount Panchayat Union, has submitted the present status along with the remedial measures:

1. Location of the Site:Survey No.32/1 of Moovarasampattu Village (12.969548-0.185610)
2. Extent of Gangaiyammam Temple's pond : 2.445 Acres
3. Total Area of the Moovarasampattu Village Panchayat : 61.56 Acre
4. Total Population of the Panchayat : 10368
8. Total Household of the Panchayat : 3064

6. No of Wards: 12

7. Solid waste generation: 8 T/day

8. Sewage generation: 0.6 MLD PRESENT CONDITION OF THE WATER BODY:

Under MLA CD"s Scheme (Year 2019-2020), Gangaiyammam Temple's pond was improved, the Improvement works comprises of providing retaining wall and walking pathway all around the water body with an estimate of Rs.40.89 Lakhs. Presently retaining wall and walking pathway with handrail all around the water body was completed, lighting arrangements all around the pathways were also completed and the sullage water entering into the water body through the storm water drain was completely stopped. Remedial measures for the protection of the Water Body:

1. Sanitary staff will be posted in the said site throughout the day to carry out monitoring of the said water body to prevent any dumping of waste within a month time.
2. Village Panchayat of Moovarasampattu will be issuing notices to the Road side Public and to the Households in the vicinity of the water body creating awareness, not to dump any waste into the water body within a month time.
3. Persons dumping solid waste in the said water body and in the village panchayat area will be identified and fine will be imposed. Due to this, the instances of dumping of wastes in public places other than the designated areas will be reduced to a great extent.
4. Warning boards will be placed in the vicinity of the water body to prevent the dumping of solid waste/sullage water within a month time.

SEWAGE GENERATION AND DISPOSAL ARRANGEMENTS:

Sewage generation from the Village Panchayat area: 0.6 MLD The households and commercial establishments in the village panchayat area have their own individual septic tank and soak pit arrangements for the treatment and disposal of the sewage. However certain households/ commercial establishments dispose the sewage/sullage through storm water drains.

Action plan to prevent the disposal of sewage/sullage through storm water drain

1. The Village panchayat has proposed to identify the households/commercial establishment letting out sullage/sewage into the storm water drain and action will be taken to plug the same, and fine will be imposed under the provisions of the Local Body Act within a month time.

2. The Village panchayat has proposed to identify vulnerable locations and community soak pit arrangements will be provided within a month time.

SOLID WASTE MANAGEMENT Solid waste generation from the Village Panchayat area: 8 T/ day (Biodegradable waste

- 3 MT/day and Non Biodegradable waste - 5 MT/day) Present status of collection and disposal of solid waste:

Presently the Village Panchayat carries out door-to-door collection of solid waste of 8T/day deploying 4nos. of E-Cart Tricycles, 6nos. of push carts, 2nos. of Tractors, lorry-1no. and with 40 sanitary Workers. The village panchayat is not having solid waste processing facility and it is being transported and disposed in the designated dump site. Action plan for the treatment and disposal of solid waste:

1. Door to Door Collection will be made 100% for the collection of segregated solid waste at source within three months.
2. Awareness will be created among the public with the help of associations in the village panchayat area for proper segregation of solid waste within three months.
3. The Village panchayat has proposed to issue notice to the public and to the households not to dump the waste on the road sides and to issue pamphlets regarding the source segregation of the solid waste within a month time.
4. Micro composting centre will be created in the village panchayat area within three months to compost the segregated Biodegradable wastes of 3 T/day. Non degradable waste of 5 T/day including plastic waste will be collected and will be sent to recycling facility within three months.
5. The Village Panchayat has proposed to levy fine on the violators dumping solid waste under Local body Acts

5.JOINT INSPECTION OF THE COMMITTEE The joint committee as constituted by the Hon'ble National Green Tribunal (SZ) inspected the area in question on 30.09.2020 and 06.02.2021

6.OBSERVATIONS BY THE COMMITTEE During the time of inspection, the committee observed the following

1. The Village panchayat has carried out improvement works in the Gangaiyamman Temple's Pond at a cost of Rs.40.89 Lakhs using MLA CD"s Scheme (Year 2019- 2020) by providing retaining wall all around the pond with handrails, walking pathway with lighting arrangements.

2. The Village panchayat has taken action to plug the sullage water and there is no discharge of any sullage/sewage into the water body.
3. There is no dumping of garbage in the water body and fringe of the water body is found neat and clean, public use the pathway provided all around the water body for walking exercise.
4. The Village panchayat has already developed greenbelt with grownup trees all around the water body.
5. The Village panchayat has not having any solid waste processing facility and the solid waste generated from the local body area is properly collected and disposed in the designated solid waste dumping facility.
6. The households and commercial establishments in the village panchayat area have their own individual septic tank and soak pit arrangements for the treatment and disposal of the sewage. However certain households/ commercial establishments dispose the sewage/sullage through storm water drains which reaches Kovilambakkam surplus channel.
7. The temple pond is found full of water which is being used by the public for bathing and also act as a rain water harvesting structure.
8. Due to urbanization the inlet channel from the Moovarasampattu lake and the outlet channel to the Adambakkam lake as alleged in the paper report were not traceable.

7. RECOMMENDATIONS:

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

1. The Village Panchayat shall implement the remedial measures for protecting the water body within the time frame as assured.
2. The Village Panchayat shall implement the action plan to prevent the disposal of sewage/sullage through storm water drain within the time frame as assured.
3. The Village Panchayat shall implement the action plan for the treatment and disposal of solid waste strictly complying with the provisions of the Solid Waste Management Rules 2016 within the time frame as assured.
4. The Village Panchayat shall maintain the water body and the walking pathway provided for the public with lock and key arrangement and deploying dedicated security guards at all times.

5. The Village Panchayat shall take steps to trace and rehabilitate the inlet channel from the upstream water body and the outlet channel to the downstream water body to regulate the water during rainy season."

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

"4. It is seen from the report that certain recommendations have been made and there are certain action plan to be implemented by the village panchayat in respect of treatment and disposal of solid waste with certain timeline. It is also mentioned in the report that village panchayat is not having solid waste processing facility and the solid waste generated from the local body and area are properly collected and disposed of in the designated solid waste dumping facility. Though certain thing will have to be done like microcomposting centres and door to door collection within a particular time limit, no such further action taken report is forthcoming though it is seen from the report that first inspection was conducted on 19.09.2020 and subsequent inspection was conducted on 06.02.2021. There are also certain directions given to other official respondents as part of recommendations to be carried out but there also they have not mentioned anything regarding the time within which the same will have to be carried out.

5. The Pollution Control Board also did not file any independent report regarding the implementation of the Solid Waste Management Rules, 2016 and the compliance of the directions issued by Principal Bench in O.A. No. 606 of 2018 in this village panchayat and if there is any violation, what is the independent action which they are expected to take as directed by the Principal Bench in the above case.

6. When this was pointed out, the Learned Counsel appearing for the State Departments as well as the Pollution Control Board submitted that they will come with further status report regarding the implementation and recommendations made by the Joint Committee report to resolve the issue permanently.

7. Considering the circumstances, we feel that some time can be granted to them for this purpose and they are directed to submit the further status report on or before 31.03.2021 by e-filing in the form of searchable PDF/OCR supportable PDF and not in the form of image PDF along with necessary hardcopies to be produced as per Rules.

8. The Committee is also directed to submit a further report as to whether recommendations have been implemented in the village panchayat as directed by them and what is the present status.

9. The registry is directed to communicate this order to the members of the Committee, official respondents and also to the Chief Secretary, State of Tamil Nadu by e-mail for information and compliance of the directions."

6. The case was again taken up on 28.09.2021 and this Tribunal had considered the report submitted by the State Pollution Control Board dated 16.09.2021 e-filed on 18.09.2021 and extracted in Para 2 of the order which reads as follows:-

"Report filed on behalf of the 4th Respondent Tamil Nadu Pollution Control Board

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

"3. It is seen from the Joint Committee report that due to urbanization the inlet channel from the Moovarasampattu lake and the outlet channel to the Adambakkam lake as alleged in the newspaper report are not traceable. But they have not mentioned anything about the possibility of creating any inlet and outlet so as to provide sufficient inflow of water to the lake to restore the same to its original position to make it a good rain water harvesting system as it was working earlier.

4. District Collector, Chengalpet is directed to take action to explore the possibility of tracing out the inlet and outlet and restore the inlet Moovarasampattu lake and the outlet channel to the Adambakkam lake and submit an action taken report in this regard to this Tribunal on or before 29.10.2021 by e-filing in the form of searchable PDF/OCR supportable PDF and not in the form of image PDF along with necessary hardcopies to be produced as per Rules.

5. The Registry is directed to communicate this order to the members of the Committee, official respondents and District Collector, Chengalpet by email for information and compliance of the directions."

8. The matter was taken up on 09.03.2022 and this Tribunal had expressed its displeasure for failure of the officials in filing the report as directed and posted the case to 06.04.2022 for filing of report. Again, the matter has been adjourned from time to time by successive notifications.

9. The matter was taken up again on 18.05.2022 and on that day, this Tribunal considered the Joint Committee Report dated Nil, e-filed on 05.04.2022 and extracted in Para 2 of the order which reads as follows:-

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

"3. It is seen from the report that some work has already been done Under MLA CD's scheme (2019 - 2020). But they have made certain suggestions, that the Block Development Officer (BDO), St. Thomas Mount Panchayat Union should implement the action plan of providing necessary structures for the disposal of the excess water from the said Gangai Yamman Temple pond to the downstream water body - Madipakkam lake within a period of three (3) months. Unless this remedial measure is provided, the possibility of the over flow of the tank and wastage of the water cannot be ruled out.

4. The committee also observed that there is a proposal to provide closed pipeline connecting the outlet of the pond to the nearby existing channel to a length of about 30 meters by crossing the Highways road at an estimate of Rs. 3.00 Lakhs. Furthermore the existing channel of 650m length will be de-silted at an estimate of Rs. 1.5 Lakhs for easy flow of water from the pond to the downstream water body - Madipakkam Lake. This is a proposal to be implemented by the Block Development Officer, St. Thomas Mount Panchayat Union. We do not know what is the stage of the proposal, whether any part of the proposal has been carried out or not. When this was pointed out, the learned counsel appearing for the State Department wanted some more time to file the report.

5. Considering the circumstances, we feel that some time can be granted to the Block Development Officer, St. Thomas Mount Panchayat Union to file the action taken report on the basis of the suggestions of the Joint Committee.

6. The Principal Secretary to Government, Rural Development Department is directed to look into the issue and if any financial support is required, then they are directed to provide the same immediately, so that the water body can be protected against further encroachment and deterioration.

7. The Director of Rural Development & Panchayat Raj Department is also directed to look into the issue and if any proposal is pending for approval or financial assistance, then they are directed to take immediate steps to provide the same, so that the recommendations of the Joint Committee can be effectively implemented and they are directed to file the respective reports to this Tribunal on or before 25.05.2022 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."

11. On 25.05.2022, the Officer from the St. Thomas Mount Panchayat was present and he submitted that financial allotment has been provided and most of the work has been completed and if short time is granted, they may be able to file a report, so the matter has been posted today for that purpose.

12. Today, the Block Development Officer was present and he had submitted a report indicating that an estimate was prepared by Assistant Engineer (RD), Punithathomaiyarmalai Panchayat Union, Chitlapakkam, for the purpose of construction of RCC culvert to Moovarasampattu main road at Moovarasampattu Panchayat at Punithathomaiyarmalai Panchayat Union and estimated cost of Rs.8,80,000/-. They also provided the present usage of the pond as i. Rainwater harvesting structure ii. Temple usage during festival season iii. Walking platform, iv. Kids play area

13. They have provided an estimate for the restoration of inlets and outlets as follows:-

"The outlet of the pond connected to Narayanapuram Eri through existing channel for this piped channel for a length of 30 meters is proposed for an amount of Rs.3

lakhs. The existing channel length of 650 meter will be desilted for an amount of Rs.1.50 lakhs for easy flow of water from outlet of this pond to Narayanapuram Eri. The CCTV will be fixed at four ends of the pond for better surveillance, warning signal will be fixed to control waste dumped."

14. The Block Development Officer has filed a report wherein he had stated as follows:-

(i) The said Gangaianman Temple Pond spreads over an area of extent of 2.45 acres.

(ii) Rain water and surface run off from the surrounding areas is the main source for this pond and the pond is mainly used as rainwater harvesting structure;

- (iii) Under MLA CD's Scheme, (2019-20) improvement work was carried out comprised of
- a. Providing retaining wall
 - b. Walking pathway with hand rail all around the water body; and
 - c. Lighting arrangements all around pathway with an estimate of Rs.
 - d. Arrangements have been provided with two numbers of inlet Cement

inflow of rainwater and surface run off from the surrounding areas.

e. Arrangements have also been provided with one number of outlet pipe in the eastern side of the tank for the outflow of excess water from the pond which flows through the streets as there is no outlet channel.

f. There is no dumping of solid waste in the pond provided with compound wall on all the four sides. Arrangements have been made in such a way that no sewages or sullage reaching the pond.

(iv) The work has been approved and sanctioned under St. Thomas Mount Panchayat Union general fund. The work will be commenced soon and will be completed before 30.06.2022 and final report will be submitted to this Tribunal."

15. In view of the fact that some steps have been taken by the St. Thomas Mount Panchayat Union, we feel that the matter can be disposed of with the following directions:-

a. The Block Development Officer - St. Thomas Mount Panchayat Union is directed to complete the work as scheduled by them viz., before 30.06.2022 to protect the Moovarasampattu Gangaianman Temple pond against encroachment and pollution.

b. The State Pollution Control Board is also directed to monitor the implementation of the Solid Waste Management Rules/Liquid Waste Management in that area so as to ensure that no garbage is dumped or sewage is let into the water body.

c. The District Collector - Chengalpattu District is also directed to monitor the implementation of the recommendations made and the scheme proposed by the St.

Thomas Mount Panchayat Union in an effective manner and also monitor the implementation of the Solid Waste Management Rules/Liquid Waste Management in that area. d. The Block Development Officer - St. Thomas Mount is directed to file the Final Completion report within three months before this Tribunal.

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

(i) The Block Development Officer - St. Thomas Mount Panchayat Union is directed to complete the work as scheduled by them viz., before 30.06.2022 to protect the Moovarasampattu Gangaianman Temple pond against encroachment and pollution.

(ii) The State Pollution Control Board is also directed to monitor the implementation of the Solid Waste Management Rules/Liquid Waste Management in that area so as to ensure that no garbage is dumped or sewage is let into the water body.

(iii) The District Collector - Chengalpattu District is also directed to monitor the implementation of the recommendations made and the scheme proposed by the St. Thomas Mount Panchayat Union in an effective manner and also monitor the implementation of the Solid Waste Management Rules/Liquid Waste Management in that area.

(iv) The Block Development Officer - St. Thomas Mount is directed to file the Final Completion report within three months before this Tribunal.

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

(vi) The Registry is directed to communicate this order to the Chairman, Tamil Nadu Pollution Control Board, District Collector - Chengalpattu District, Block Development Officer - St. Thomas Mount Panchayat Union by e-mail for their information and compliance of directions.

17. With the above directions and observation, this Original Application is disposed of.

Sd/-

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

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