

Item No.10:

**BEFORE THE NATIONAL GREEN TRIBUNAL
SOUTHERN ZONE, CHENNAI**

**Original Application No. 119 of 2021 (SZ) &
I.A. Nos. 22 of 2022 and 23 of 2022**

(Through Video Conference)

IN THE MATTER OF

Tribunal on its own motion-SUO MOTU Based on The
News item in the Dinamalar Tamil Newspaper Chennai Edition
Dated: 14.04.2021, under the caption “All over the village
Is dust land, it deforms the villages along with lives.”

With

The Principal Secretary to State of Tamil Nadu,
Health and Welfare Department, Chennai & Ors.

...Respondent(s)

Date of hearing: 02.02.2022

CORAM:

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

HON’BLE DR. SATYAGOPAL KORLAPATI, EXPERT MEMBER

For Applicant(s): Suo Motu by Court

For Respondent(s): Dr. D. Shanmughanathan for R1 to R3, R6 and
R7
Mr. Sai Sathya Jith for R4
Ms. Me. Sarashwathy for R5
Mr. P. Wilson Senior Advocate along with Mr.
Adithyaraj for R13
Mr. T. Mohan for Additional Respondents 14 to 16
Mr. S. Mohamed Ansar for Additional respondent
17

ORDER

1. I.A. No. 22 of 2022 is an application filed by 3rd party to get themselves impleaded in the suo motu pleadings as the writ petition filed by the 1st applicant herein was disposed of by the Hon'ble High Court of Madras directing them to get impleaded themselves before the National Green Tribunal and seek their grievances redressed and that is how they filed this application before this Tribunal.

2. It is alleged in the application that they are the resident of Thadagam Valley and conducted independent studies of regional importance and also obtained some reports, the nature of impact and pollution caused on account of the brick kiln in that area. So they wanted to come on record as respondents to assist this Tribunal in this regard.

3. It is seen from the order passed by the Hon'ble High Court in W.P No. 2847/2019 filed by the 1st applicant in the Interlocutory Application seeking certain remedies in the nature of mandamus to close down the illegal brick kiln being operated in that area, was disposed of by the Hon'ble High Court as infructuous so far as closure of illegal brick kiln was concerned and in so far as constitution of Committee for assessment of damage due to illegal operation of brick kiln is concerned, if the petitioner has any grievance, he can avail the remedy before the National Green Tribunal. With the above observations the above Writ Petition has

been disposed of along with the miscellaneous applications filed in that writ petition. So under such circumstances, we feel that it is necessary to implead the applicants in I.A. No. 22 of 2022 as additional respondents 14 to 16 respectively. I.A. No. 22 of 2022 is allowed and the applicants in Interlocutory Applications are impleaded as additional respondents 14 to 16 and the same is disposed of accordingly.

4. I.A. No. 23 of 2022 was filed by another 3rd party which is said to be an organisation representing the Irular Community in that area alleging that they are affected on account of the pollution caused by the operation of brick kilns in that area.
5. Learned Counsel appearing for the State Department submitted that they have not received the copy of the application. We direct the Learned Counsel appearing for the applicant in this Interlocutory Application to send copy of the application by e-mail immediately. However, this being an application filed for impleadment by an interested party, we feel that it is necessary to allow the application as well, as they are the person who are said to be affected on account of the alleged illegal act of brick kiln in that area. So the application is allowed and the applicant in I.A. No. 23 of 2022 is impleaded as additional 17th respondent in the original application and I.A. No. 23 of 2022 is disposed of accordingly.

O.A. No. 119 of 2021

6. Additional respondents 14 to 16 were impleaded as per order in I.A. No. 22 of 2022 and additional 17th respondent was impleaded as per order in I.A. No. 23 of 2022. Registry is directed to carry out the amendment in the cause title.
7. Learned Senior Counsel, Mr. P. Wilson appearing for the additional 13th respondent submitted that on the basis of some Writ Petitions filed before the Hon'ble High Court, the authorities have, without giving notice to the brick kiln owners, closure order were issued to some of the brick kiln owners and in fact the brick kiln are not coming within the purview of the Pollution Control Board as per the O.M. issued by the MoEF&CC during 2013 and there was some amendment made in the Tamil Nadu Minor Mineral Concessions Rules during 2021 regarding this aspect.
8. The Learned Senior Counsel also submitted that when applications were filed for permissions before the District Collector, the same were dismissed by the District Collector against which appeals have been preferred before Appellate Authorities and they are pending. The Learned Senior Counsel also submitted that they are prepared to comply with all the necessary precautions as directed by the Central Pollution Control Board and State Pollution Control Board in order to curb pollution and because of the pendency of suo motu proceedings,

officials are not taking steps to consider their applications.

9. Mr. T. Mohan, Learned Counsel, who is representing the newly added additional respondents 14 to 16 submitted that there was no pleading before the Tribunal as to whether they have filed any application before any authority and on account of the pendency of this application, the applications were not being considered by them and further any of the applications filed before the authorities not coming under the purview of the National Green Tribunal Act, 2010 as per the statute enumerated in the Schedule, this Tribunal cannot give any direction as sought for.

10. It may be mentioned here that, if any, applications were filed in proper form complying all the legal procedure for any particular purpose as required under any statute, it is for the authorities to pass appropriate orders in those applications in accordance with law within a reasonable time and pendency of the suo motu proceedings on the question of pollution caused on account of the alleged illegal operation of the brick kilns without adopting the pollution control mechanism will not be a bar for consideration of such applications in exercising their statutory powers if it is otherwise permissible in law strictly in accordance with that statute. So we do not want to give any clarification as the statutory authorities are expected to exercise their powers under respective statutes in accordance with law as there was no

injunction granted against any of the authorities in passing appropriate orders in respect of any applications filed before them.

11. The batch of writ petitions were filed by some of the brick kiln owners before the Hon'ble High Court of Madras as W.P.Nos.9606, 9726, 9738, 9741, 9745, 9748, 9766, 9768, 9774, 9776, 9780, 9781, 9785, 9786, 9790, 9791, 9794, 9800, 9805, 9829, 9837, 9841, 9847, 9851, 9857, 9862, 9867, 9875, 9880, 9960, 9963, 9965, 9973 to 9976, 9978, 9980, 9994, 10003, 10084, 10133, 10139, 10141, 10144, 10148, 10256, 10320, 10327, 10330, 10332, 10383, 10571, 10599, 10698, 10702, 10716, 10723, 10743, 10764, 10766, 10788, 10796, 10799, 10851, 10927, 10940, 10942, 10964, 10969, 10981, 11018, 11023, 11058, 11089, 11090, 11158, 11232, 11245, 11247, 11249, 11253, 11255, 11262, 11266, 11286, 11311, 11323, 11332, 11334, 11341, 11346, 11352, 11355, 11357, 11359, 11365, 11368, 11373, 11375, 11381, 11383, 11391, 11395, 11405, 11406, 11408, 11411, 11412, 11417, 11424, 11426 and 11443 of 2021 and W.M.P.Nos.11653 and 11786 of 2021 and connected WMP Numbers and the Hon'ble High Court by common order dated 30.04.2021 disposed of those writ petitions with following observations:

“21. As already stated supra, the authorities, who issued the

impugned notices, have not been vested with the power to issue such notices and as per the 1957 Act and the TNMMC Rules, the competent authority is the District Collector to pass any order in the issue involved. The District Collector may seek a report from the authorities, pursuant to his proceedings dated 17.03.2021 and pass order based on the report in accordance with law. Though a feeble attempt is made to show that the Assistant Director of Geology and Mining of each District is delegated with such power vide G.O.Ms.No.169, Industries (MMC.1) Department, dated 04.08.2020, for the instant action, only the District Collector is competent to pass any order in accordance with law.

22. For the foregoing reasons, without delving much upon the merits and demerits of the other submissions of the learned counsel on either side, excepting incorporating the same hereinabove, this Court is of the opinion that the impugned orders need interference by this Court. Accordingly, the impugned orders are set aside and the District Collector, Coimbatore, who is the competent authority under the statute, shall pass appropriate orders with respect to all these petitioners after affording an opportunity of hearing within a period of four weeks from the date of receipt of a copy of this order. The impugned orders would be treated as notices to the petitioners for appearing before the District Collector. No Page 22/25 <https://www.mhc.tn.gov.in/judis/> W.P.Nos.9606/2021, etc. batch separate notice in this regard will be issued to the petitioners. The petitioners are at liberty to submit all relevant documents in support of their claim. It is made clear that no further extension of time would be granted to the District Collector to complete the above exercise of passing the appropriate orders qua these petitioners. The District Collector, Coimbatore, shall proceed with the further process based on the web copy of this order, without waiting for the certified copy.

23. It is open to the respondents to take any action against the brick kilns, including the petitioners, if it is found that the same has been operated without any license/clearance in the manner known to law. This order would not preclude the authorities in exercising their powers in accordance with law. It is also made clear that the owners of the brick kilns can run the show, if they possess a valid licence and other documents to do so.

24. These writ petitions are ordered to the extent indicated above. However, there shall be no order as to costs. Consequently, WMP Nos.11653 and 11786 of 2021 are dismissed and the other connected writ miscellaneous petitions are closed.”

12. So, all the issues relating to the pollution and other aspects

which has been referred to by us in Terms of Reference to be considered by the Joint Committee appointed by this Tribunal ought to be considered by this Tribunal itself as there is no writ petition pending before the Hon'ble High Court in respect of the operation of brick kilns and the directions issued by the authorities in this regard that will have to be considered by this Tribunal on the basis of the report to be filed by the Joint Committee.

13. We have also received a reply affidavit filed by the 5th respondent and also by the 7th respondent and they also mentioned that as per the direction issued by the 1st Bench of the Hon'ble High Court of Madras in W.P No. 27356 of 2019 and W.P No. 28475 of 2019 and other connected matters, 186 brick kilns were closed and the action taken by the District Administration for closure of brick kilns were submitted by the Chief Secretary to the Government which were submitted before the Hon'ble High Court of Madras. It is also mentioned that aggrieved by the closure order passed by the team of officials, the individual brick kiln owners have filed individual Writ Petition challenging the said closure order and that was also disposed of by the Hon'ble High Court giving certain directions to the District Collector, Coimbatore to take appropriate decision in the applications filed by the brick kiln owners.

14. The District Collector also mentioned in their report that as per the order of the Hon'ble High Court dated 30.04.2021 a total number of 177 brick kiln located in Veerapandi, Chinnathadagam, Somayampalayam, Nanjundapuram and Pannimadai Villages, Coimbatore, North Taluk, Coimbatore have been closed by the District Collector, Coimbatore.

15. It is also mentioned in the report of the District Collector that on the basis of the directions given by this Tribunal a Joint Committee was appointed, nominations were made and they want some time to file the report. They wanted three months time for that purpose.

16. Newly impleaded parties and the association representing the brick kiln owners are directed to file their independent reply and the respondents who have been impleaded on their application claiming that they have been affected by the pollution, if they want to seek any independent claim of compensation, then while they are filing their counter affidavit, they will have to quantify the amount for personal compensation and they will have to pay the necessary court fee as required under the provisions of National Green Tribunal Act, 2010. If no personal claim for compensation is made and if it is general environmental compensation to be assessed for damage caused to the environment, then this Tribunal will be considering those aspects

independently and no separate Court fee need to be paid by them and they can give necessary inputs regarding the nature of damage caused to environment on account of the operation of the brick kilns.

17. Parties are directed to file their independent response and also the Committee is directed to submit the report on or before 08.04.2022 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.

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

19. For completion of pleadings and consideration of reports, post on 08.04.2022.

.....J.M.
(Justice K. Ramakrishnan)

.....E.M.
(Dr. Satyagopal Korlapati)

O.A. No.264/2020
2nd February, 2022. (AM)