

# NATIONAL GREEN TRIBUNAL, NEW DELHI

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## **1. Application No. 3/2011**

Raagam Exports (Dyeing Division) ...

Applicant

### **VERSUS**

1.Tamil Nadu Pollution Control Board

2. The District Environmental Engineer ...

Respondent(s)

## **2. Application No. 04/2011**

Planisamy Dyeing .....

Applicant

### **VERSUS**

1.Tamil Nadu Pollution Control Board

2.The District Environmental Engineer ...

Respondent(s)

## **3. Application No. 5/2011**

Stallion Garments ....

Applicant

### **VERSUS**

1.Tamil Nadu Pollution Control Board

2.The District Environmental Engineer ...

Respondent(s)

## **4. Application No. 6/2011**

Valli Textiles .....

Applicant

### **VERSUS**

1. Tamil Nadu Pollution Control Board

2.The District Environmental Engineer ...

Respondent(s)

## **5. Application No. 7/2011**

Danam Process ....

Applicant

### **VERSUS**

1. Tamil Nadu Pollution Control Board

2.The District Environmental Engineer ...

Respondent(s)

## **6. Application No. 8/2011**

Tube Knit Fashions Ltd. ....

Applicant

### **VERSUS**

1. Tamil Nadu Pollution Control Board

2.The District Environmental Engineer ...

Respondent(s)

**7. Application No. 9/2011**

Magaarani Dyings .....

Applicant

**VERSUS**

1. Tamil Nadu Pollution Control Board
2. The District Environmental Engineer ...

Respondent(s)

**8. Application No. 10/2011**

Sathya Process ....

Applicant

**VERSUS**

1. Tamil Nadu Pollution Control Board
2. The District Environmental Engineer ...

Respondent(s)

**9. Application No. 11/2011**

Velan Dyings .....

Applicant

**VERSUS**

1. Tamil Nadu Pollution Control Board
2. The District Environmental Engineer ...

Respondent(s)

**10. Application No. 17/2011**

Poomer Textiles Process ....

Applicant

**VERSUS**

1. Tamil Nadu Pollution Control Board
2. The District Environmental Engineer ...

Respondent(s)

**11. Application No. 18/2011**

Prem Dyeing Works ....

Applicant

**VERSUS**

1. Tamil Nadu Pollution Control Board
2. The District Environmental Engineer ...

Respondent(s)

**12. Application No. 21/2011**

Sri Jayalakkshmi Process ....

Applicant

**VERSUS**

1. Tamil Nadu Pollution Control Board
2. The District Environmental Engineer ...

Respondent(s)

**13. Application No. 27/2011**

Crystal Knitters Ltd. ...

Applicant

**VERSUS**

1. Tamil Nadu Pollution Control Board
2. The District Environmental Engineer ...

Respondent (s)

**For Applicant(s)**

Shri V. Prakash, Sr. Advocate

Shri P.V. Yogeshwaran, Advocate

**For Respondent No. 1 & 2**

In person

Shri Gautam Narayan,

Shri Ashish Shah, Advocate's

**Justice A.S. Naidu (Judicial Member)**

**Dr. G.K. Pandey (Expert Member)**

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Date: 11<sup>th</sup> October, 2011

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**JUDGMENT**

All the aforesaid (13) thirteen applications involve same facts and point of law. The respondents in each of the case are also one and the same and as such by consent of Learned Counsel appearing for the parties all the cases were heard together and are disposed of by this common judgment.

2. All these Original Applications have been filed by different fabric bleaching and dyeing units situated at TIRUPUR in the State of Tamil Nadu and are hosiery exports. In other words the applicant units are involved in hosiery industry.



3. Alleging that the units engaged in Dyeing and Bleaching works at TIRUPUR area are discharging the industrial effluents into river **NOYYAL** thereby creating water pollution to the extent that the water of the river has become neither fit for irrigation nor potable, and that the pollution has adversely affected the tanks and channels situated nearby the river, a Public Interest Litigation was filed before the Hon'ble High Court of Madras and was registered as Writ Petition No. 29791 of 2003. In the said writ application directions were sought for to the extent that the dyeing units would clean the river water stored at Orathapalyan Dam within a stipulated time with its own expenses and as an interim measure shall not discharge their industrial effluents into the river NOYYAL. The case was contested by the present applicant's as well as the State Government and the Board. After hearing parties, the High Court of Madras passed an interim order on 26<sup>th</sup> December, 2006. Being aggrieved the applicants filed a petition to review the order, The Review Petition was dismissed by the High Court on 27<sup>th</sup> December, 2007. The said order was assailed before the Hon'ble Supreme Court in Civil Appeal No. 6776 and 6777 of 2009.

4. By order dated 18<sup>th</sup> May, 2007, the Hon'ble Supre Court stayed the order passed by the Madras High Court to the extent that the directions to close down the industries would not be given effect from 31<sup>st</sup> July, 2007. The said interim order was extended time and again. The Supreme court also directed the Board to inspect the NOYYAL River and find out whether any

pollution is caused by the factories (units) in question. After perusing the report and considering all other materials the Supreme Court observed as follows in para-26 of their judgment reported in **AIR 2010 Supreme Court 3645 (TIRUPUR Dyeing Factory Owners Assocn. V/s/ Noyyal River Ayacutdars Protection Assocn.)**

*“In view of the above fact that this matter is pending before this Court for more than two and a half years and the members of the appellant Association had been permitted to continue their business, it is desirable that the members of the appellant Association should ensure the compliance of all the directions including the payment of dues etc. issued by the Court within a period of three months from today. They shall ensure that no pollution is caused to the river or dam and if cleaning operation has not yet been completed, it shall be completed within the said stipulated period”.*

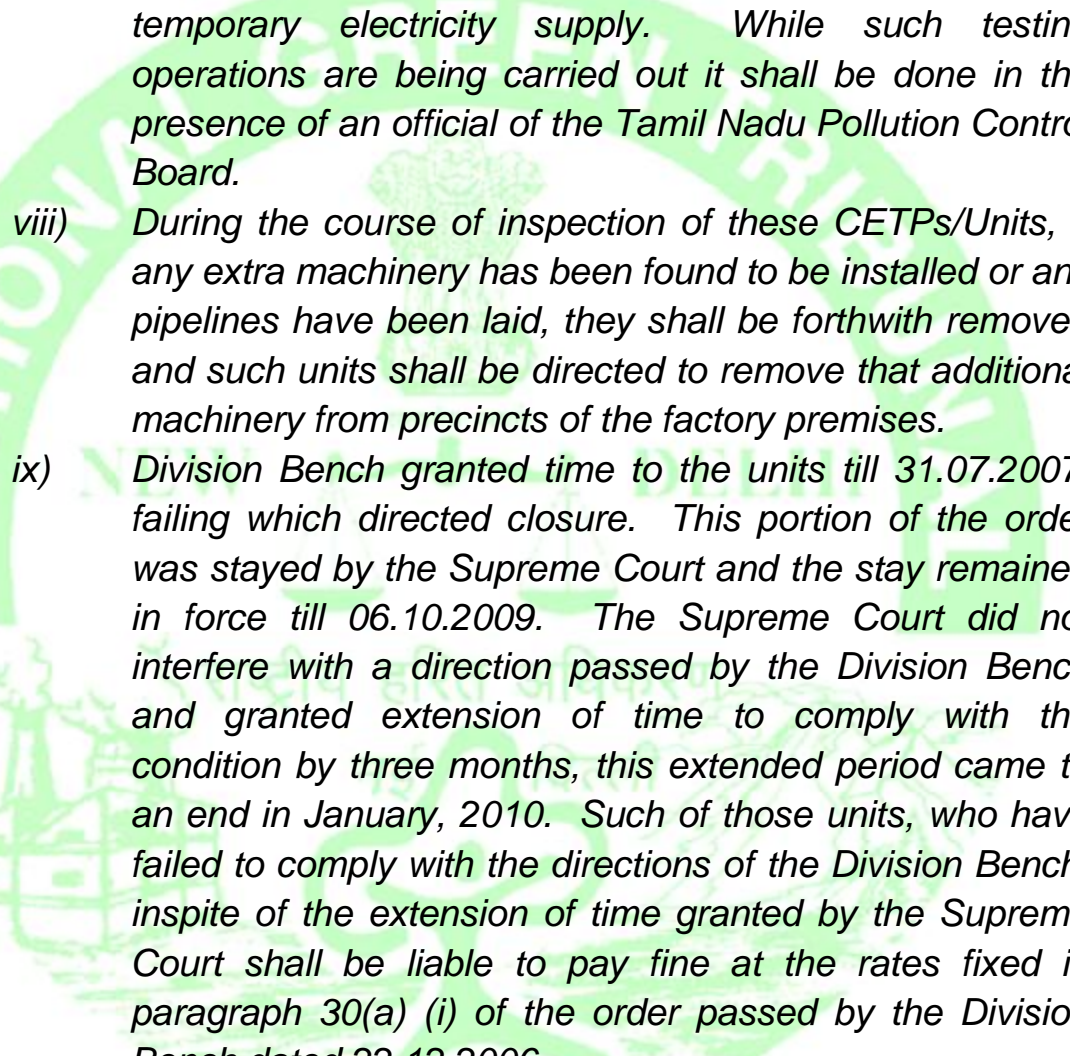
5. While matter stood thus two contempt petitions were filed by NOYYAL River Ayacutdars in Madras High Court which were registered as contempt Petition No.1013 of 2010 and 1068 of 2010 alleging non-compliance of the directions issued by the Division Bench of the said Hon'ble High Court. The contention of present applicant's before the Madras High Court was that they, have in the meanwhile fulfilled the orders and directions issued by the Division Bench by installing ultra modern equipments and the Pollution Control Board having been satisfied with the

compliance, have issued consent to operate. The process it was submitted being a technical process involving chemical action, immediate and instantaneous results cannot be achieved and the system has to be settled down, for which reasonable time has to be granted.

6. The Madras High Court in their order dated 4<sup>th</sup> January, 2011 issued following directions:

- i) *All the CETPs/IETPs Bleaching & Dyeing units in TIRUPUR area shall be closed down forthwith by the Pollution Control Board and the Electricity supply shall be disconnected.*
- ii) *Such CETPs/IETPs/Units shall not be permitted to operate unless and until they achieve zero liquid discharge as per the directions issued paragraph no. 30(a)(ii) of the order of the Division Bench dated 22.12.2006.*
- iii) *All CETPs/IETPs/units shall be individually inspected by a team of officers nominated by the Tamil Nadu Pollution control Board along with the members of the Monitoring committee and a detailed report shall be prepared individually for each CETPs/IETPs/Units.*
- iv) *The report shall be the sole basis to assess as to whether the CETPs/IETPs/Units should be granted permission to commence operations;*
- v) *If the CETPs/IETPs/Units are deficient or have not achieved the required parameters, they shall not operate and be directed to rectify the deficiencies and report to the Pollution control Board for fresh inspection by the team of officers of the Board and the Monitoring Committee;*



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- vi) *In respect of the CETPs/IETPs/Units, who have fulfilled all the conditions, it would be open to the Tamil Nadu Pollution control Board to issue orders of consent to operate and such units shall be continuously and closely monitored in order to ensure strict compliance of the orders;*
- vii) *For the purpose of trial run for testing the efficiency of the equipments, the Pollution Control Board is entitled to issue temporary authorization to the Electricity Board for temporary electricity supply. While such testing operations are being carried out it shall be done in the presence of an official of the Tamil Nadu Pollution Control Board.*
- viii) *During the course of inspection of these CETPs/Units, if any extra machinery has been found to be installed or any pipelines have been laid, they shall be forthwith removed and such units shall be directed to remove that additional machinery from precincts of the factory premises.*
- ix) *Division Bench granted time to the units till 31.07.2007, failing which directed closure. This portion of the order was stayed by the Supreme Court and the stay remained in force till 06.10.2009. The Supreme Court did not interfere with a direction passed by the Division Bench and granted extension of time to comply with the condition by three months, this extended period came to an end in January, 2010. Such of those units, who have failed to comply with the directions of the Division Bench, inspite of the extension of time granted by the Supreme Court shall be liable to pay fine at the rates fixed in paragraph 30(a) (i) of the order passed by the Division Bench dated 22.12.2006.*
- x) *As against, the CETPs/IETPs/Units which have flouted the order and direction issued by this Court and conditions stipulated by the Tamil Nadu Pollution control Board and continued to cause pollution and failed to*

*rectify the defects despite the show cause notice issued by the Board, shall initiate the criminal prosecution against such CETPs/IETPs/Units.*

- xi) The Board shall also furnish the list of names of the officers of the Pollution Control Board who were in charge of the affairs of the Board during the relevant time when those CETPs/IETPs/Units failed to comply with the orders of this Court and the directions issued by the Pollution Control Board so that appropriate actions may also be taken against them.*

7. It appears that the contempt petitions are still pending before the High Court of Madras. According to the applicant's, they have installed ultra modern machineries and have also undertaken expensive renovations/augmentation of their unit w.r.t. pollution control measures so as to achieve 'zero liquid discharge'. They have approached the Tamil Nadu Pollution Control Board (TNPCB) seeking permission to permit them to commence operation of their plants, but then the TNPCB is maintaining stony silence and is not granting any permission consequently they are subjected to un-surmountable hardship and loss. A prayer is made before this Tribunal, to direct the respondents to permit different Applicants to commence operation of their units as they have achieved zero liquid discharge level, and complied with other directions set forth by the Hon'ble Supreme Court and High Court.

8. After receiving notice the respondents entered appearance and submitted their affidavits which are self



explanatory. In course of hearing Mr. Gautam Narayan and Anish Shah, Learned Counsel appeared on behalf of some of the villagers and made their submissions.

9. We heard the Counsel appearing for different parties diligently. We also perused the pleadings and different documents/judgment filed by the parties meticulously. Fact remains there are about 754 dyeing and bleaching industries situated in and around TIRUPUR Town. The trade effluent discharged by different units was admittedly treated through its conventional treatment system but the said system does not satisfy the total dissolve solids (TDS) limit of 2100 mg. per litre. (mg/l) prescribed by Tamil Nadu Pollution control Board. The sudden and rapid growth in textile sector in the Town TIRUPUR started deteriorating the environment in as much as the trade effluent either treated or partially treated and sometimes untreated find its course into NOYYAL River either directly or indirectly. Thus polluting the water of the river, ground water and the land lying in the vicinity, leading to filing of Public Interest Litigation in the High Court of Madras seeking directions for prevention of pollution of NAYYAL River. The issue, had a chequered carrier and has travelled upto the Supreme Court and almost attained finality, in the meanwhile, in view of different directions issued by Hon'ble Courts.

10. The only grievance of the applicant before this Tribunal is with regard to the *dilli dally* tactics adopted by the Tamil Nadu Pollution Control Board in not permitting the Applicants to re-

commence operation of their units for the concentrated capacity of 5000 kld as the applicant's have claimed to have achieved 'zero liquid discharge' by installing modern pollution control devices.

11. In course of hearing, however, it is found that the applicants have only approached the District Environment Engineer, Tamil Nadu Pollution Control Board and requested the said Authority to inspect their unit and permit the applicant to resume operation. It is well settled that the District Environment Engineer is not the Competent Authority to grant any permit to recommence operation of any unit. For the said purpose the Applicant's have to approach the Competent Authority individually under the Water (Prevention Control & Pollution) Act, 1974 and other Acts which are applicable to the subject matter. The Applicant's having not approached the Competent Authority till today, nor brought to its notice with regard to the facts that by installing ultramodern pollution control equipments, they are able to achieve zero discharge level, it is not possible for us to issue any direction, to Respondent No.1.

12. In view of the discussions made above, we dispose of all the above applications with an observation that if the Applicant's file suitable applications, individually seeking permission to commence their units, before the Competent Authorities, under the provisions of appropriate Law in vogue, the said Authority shall consider the said applications separately conduct such inspections as deemed just proper and necessary and if satisfied

that the Applicant's or any of them have complied with the directions issued by the Hon'ble Supreme Court as well as Hon'ble High Court of Madras and also satisfy all the requirements of law, pass such order/orders/direction as deemed just proper and in accordance with the law as well the counter/affidavit filed before this Tribunal. It is needless to say that the units are lying closed for quite sometime and for the sake of ends of justice and equity, warrants that the competent Authority shall take the decision on the applications to be filed by the Applicants, individually as expeditiously as possible.

13. With the aforesaid observations/directions all the original applications are disposed of.

**(DR. G.K. PANDEY)**  
**Expert Member**

**(JUSTICE A.S. NAIDU)**  
**Judicial Member**

**Durga Malhotra**  
**11<sup>th</sup> October, 2011**