



WP.Nos.25531, 27502, 27536, 29008, 29256 & 29545/2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Reserved on 31.01.2024

Delivered on 14 .03.2024

CORAM

THE HONOURABLE MR. JUSTICE S.S. SUNDAR

AND

THE HONOURABLE MR. JUSTICE N.SENTHILKUMAR

WP.Nos.25531, 27502, 27536, 29008, 29256 & 29545/2023

and

**WMP.Nos.24923, 24924, 26946, 26947, 26978, 26979, 28582, 28583,
28864 and 29174/2023**

WP.No.25531/2023:-

Chennai Petroleum Corporation
Limited [CPCL], rep by its
Managing Director, New No.536,
Anna Salai, Teynampet
Chennai – 600 018.

.. Petitioner

Vs.

1.National Green Tribunal
Southern Zone, Chennai.

2.Union of India,
Ministry of Environment, Forest and Climate Change
rep.by its Secretary, Indira Paryavaran Bhavan
Jorbagh Road
New Delhi 100 003.



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3. The Chief Secretary to Govt. of Tamil Nadu
Govt. Secretariat, Fort St George,
Chennai Tamil Nadu-600 009.
4. The Secretary to Govt. of Tamil Nadu
Department of Environment
Govt. Secretariat, Fort St George
Chennai, Tamil Nadu 600 009.
5. The Principal Secretary to Govt. of Tamil Nadu
Industries Department, Govt. Secretariat
Fort St George, Chennai Tamil Nadu 600 009.
6. Additional Chief Secretary to Govt. of Tamil Nadu
Municipal Administration and Water Supply Department
Govt. Secretariat, Fort St George,
Chennai Tamil Nadu 600 009.
7. Principal Secretary to Government
Health and Family Welfare Department
Secretariat, Chennai 600 009.
8. The Chairman
Central Pollution Control Board [CPCB]
Parivesh Bhavan, East Arjun Nagar
Shahdara, Delhi 110 032.
9. The Chairman
Tamil Nadu Pollution Control Board [TNPCB]
No.76, Anna Salai, Guindy,
Chennai, Tamil Nadu 600 032.
10. The Greater Chennai Corporation
rep.by its Commissioner



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Ripon Building, Chennai 600 003.

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11.The District Collector

Chennai District, District Collectorate office
No.62, Rajaji Salai, 4th Floor
Chennai 600 001.

12.North Chennai Thermal Power Station

rep.by its Chairman cum Managing Director
[TANGEDCO], Attapattu Main Road
Thiruvallur District, Athipattu,
Tamil Nadu 600 120.

13.NTPC Tamil Nadu Energy Company Limited [NTECL]

rep.by its General Manager [TS]
Vallur Thermal Power Project
PO Vellivoyal Chavadi, Ponneri Taluk
Tiruvallur District, Chennai 600 103.

14.Tamil Nadu Petro Products Limited [TPL]

rep.by its Chairperson
Manali Express Highway, Manali
Chennai 600 068, India.

15.Manali Petrochemicals Limited [MPL]

rep.by its Chairman, SPIC House
VI Floor, NO.88, Mount Road
Guindy, Chennai 600 032.

16.Madras Fertilizers Limited [MFL]

rep.by its Chairman & Managing Director
SH 104, Harikrishna Puram, Manali
Chennai, Tamil Nadu 600 068.

17.Benisha B.M.

... Respondents



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WP.No.27502/2023:-

Tamil Nadu Petro Products Limited [TPL]
rep.by its Wholetime Director [Operations]
Manali Express Highway, Manali
Chennai 600 068.

..

Petitioner

Versus

- 1.Tribunal on its own motion-Suo Motu
based on the News Item in News Desk
Magazine dated 11.11.2020, Air
Pollution & Industries, "These six industries
in North Chennai are pollution the air for
more than half the year, the North Chennai
Thermal Power Station alone Ennore Port."
- 2.Union of India,
Ministry of Environment, Forest and Climate Change
rep.by its Secretary, Indira Paryavaran Bhavan
Jorbagh Road
New Delhi 100 003.
- 3.The Chief Secretary to Govt. of Tamil Nadu
Govt. Secretariat, Fort St George,
Chennai Tamil Nadu-600 009.
- 4.The Secretary to Govt. of Tamil Nadu
Department of Environment
Govt. Secretariat, Fort St George
Chennai, Tamil Nadu 600 009.
- 5.The Principal Secretary to Govt. of Tamil Nadu
Industries Department, Govt. Secretariat
Fort St George, Chennai Tamil Nadu 600 009.
- 6.Additional Chief Secretary to Govt. of Tamil Nadu



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Municipal Administration and Water Supply Department
Govt. Secretariat, Fort St George,
Chennai Tamil Nadu 600 009.

7.Principal Secretary to Government
Health and Family Welfare Department
Secretariat, Chennai 600 009.

8.The Chairman
Central Pollution Control Board [CPCB]
Parivesh Bhavan, East Arjun Nagar
Shahdara, Delhi 110 032.

9.The Chairman
Tamil Nadu Pollution Control Board [TNPCB]
No.76, Anna Salai, Guindy,
Chennai, Tamil Nadu 600 032.

10.The Greater Chennai Corporation
rep.by its Commissioner
Ripon Building, Chennai 600 003.

11.The District Collector
Chennai District, District Collectorate office
No.62, Rajaji Salai, 4th Floor
Chennai 600 001.

12.North Chennai Thermal Power Station
rep.by its Chairman cum Managing Director
[TANGEDCO], Attapattu Main Road
Thiruvallur District, Athipattu,
Tamil Nadu 600 120.

13.NTPC Tamil Nadu Energy Company Limited [NTECL]
rep.by its General Manager [TS]



WP.Nos.25531, 27502, 27536, 29008, 29256 & 29545/2023

Vallur Thermal Power Project
PO Vellivoyal Chavadi, Ponneri Taluk
Tiruvallur District, Chennai 600 103.

14.Chennai Petroleum Corporation Limited 9CPCL]
rep by its Managing Director, New No.536,
Anna Salai, Teynampet
Chennai – 600 018.

15.Manali Petrochemicals Limited [MPL]
rep.by its Chairman, SPIC House
VI Floor, NO.88, Mount Road
Guindy, Chennai 600 032.

16.Madras Fertilizers Limited [MFL]
rep.by its Chairman & Managing Director
SH 104, Harikrishna Puram, Manali
Chennai, Tamil Nadu 600 068.

.. Respondents

WP.No.27536/2023:-

Manali Petrochemicals Limited [MPL]
rep.by its Wholetime Director and Chief
Financial Officer, SPIC House
VI Floor, NO.88, Mount Road
Guindy, Chennai 600 032.

.. Petitioner

Versus

1.Tribunal on its own motion-Suo Motu
based on the News Item in News Desk
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more than half the year, the North Chennai Thermal Power Station alone Ennore Port."

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rep.by its Secretary, Indira Paryavaran Bhavan
Jorbagh Road
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Chennai Tamil Nadu-600 009.
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- 5.The Principal Secretary to Govt. of Tamil Nadu
Industries Department, Govt. Secretariat
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- 6.Additional Chief Secretary to Govt. of Tamil Nadu
Municipal Administration and Water Supply Department
Govt. Secretariat, Fort St George,
Chennai Tamil Nadu 600 009.
- 7.Principal Secretary to Government
Health and Family Welfare Department, Secretariat, Chennai 600 009.
- 8.The Chairman
Central Pollution Control Board [CPCB]
Parivesh Bhavan, East Arjun Nagar
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9. The Chairman

Tamil Nadu Pollution Control Board [TNPCB]
No.76, Anna Salai, Guindy,
Chennai, Tamil Nadu 600 032.

10. The Greater Chennai Corporation

rep.by its Commissioner
Ripon Building, Chennai 600 003.

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Tamil Nadu 600 120.

13. NTPC Tamil Nadu Energy Company Limited [NTECL]

rep.by its General Manager [TS]
Vallur Thermal Power Project
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Anna Salai, Teynampet
Chennai – 600 018.

15. Tamil Nadu Petro Products Limited [TPL]

rep.by its Wholetime Director [Operations]



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Manali Express Highway, Manali
Chennai 600 068, India.

16.Madras Fertilizers Limited [MFL]
rep.by its Chairman & Managing Director
SH 104, Harikrishna Puram, Manali
Chennai, Tamil Nadu 600 068.

.. Respondents

WP.No.29008/2023:-

NTPC Tamil Nadu Energy Company Limited [NTECL]
rep.by its General Manager [TS]
Vallur Thermal Power Project
PO Vellivoyal Chavadi, Ponneri Taluk
Tiruvallur District, Chennai 600 103.

.. Petitioner

Versus

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Ministry of Environment, Forest and Climate Change
rep.by its Secretary, Indira Paryavaran Bhavan
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3.The Secretary to Govt. of Tamil Nadu
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Govt. Secretariat, Fort St George
Chennai, Tamil Nadu 600 009.

4.The Principal Secretary to Govt. of Tamil Nadu



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Industries Department, Govt. Secretariat
Fort St George, Chennai Tamil Nadu 600 009.

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Municipal Administration and Water Supply Department
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rep.by its Chairman, SPIC House
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15.Madras Fertilizers Limited [MFL]
rep.by its Chairman & Managing Director
SH 104, Harikrishna Puram, Manali
Chennai, Tamil Nadu 600 068.

.. Respondents

WP.No.29256/2023:-

North Chennai Thermal Power Station
rep.by its Chief Engineer
Attapattu Main Road
Thiruvallur District, Athipattu,
Chennai 600 120.

.. Petitioner

Vs.

1.Union of India,
Ministry of Environment, Forest and Climate Change
rep.by its Secretary, Indira Paryavaran Bhavan



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WP.Nos.25531, 27502, 27536, 29008, 29256 & 29545/2023

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WP.No.29545/2023:-

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SH 104, Harikrishna Puram, Manali
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.. Petitioner

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5. The Principal Secretary to Govt. of Tamil Nadu
Industries Department, Govt. Secretariat
Fort St George, Chennai Tamil Nadu 600 009.
6. Additional Chief Secretary to Govt. of Tamil Nadu
Municipal Administration and Water Supply Department
Govt. Secretariat, Fort St George,
Chennai Tamil Nadu 600 009.
7. Principal Secretary to Government
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rep.by its Chairperson
Manali Express Highway, Manali
Chennai 600 068, India.

16.Manali Petrochemicals Limited [MPL]
rep.by its Chairman, SPIC House
VI Floor, NO.88, Mount Road
Guindy, Chennai 600 032.

17.Benisha B.M.

... Respondents

COMMON PRAYER:- Writ petitions filed under Section 226 of the
Constitution of India calling for the records in respect of the judgment dated



WP.Nos.25531, 27502, 27536, 29008, 29256 & 29545/2023

20.07.2023 passed in Original Application No.256/2020 [SZ] by the National Green Tribunal, Southern Zone, Chennai and quash the direction No.18 of paragraph No.53 of the said judgment.

WP.No.25531/2023:-

For Petitioner	: Mr.V.Vijaya Mehanath
For R2	: Mr.Venkataswamy Babu, SPC
For RR3 to 6 & 11	:Mrs.S.Anitha, Spl.GP
For R8	: Mrs.M.Swarnalatha
For R9	; Mr.V.Gunasekar, SC
For R10	: Mr.E.C.Ramesh, SC
For R12	: Mr.S.T.Raja, SC
For R13	:Mr.M.Vijayan for M/s.King & Patridge
For R16	: Mr.Jayesh B Dolia

WP.No.27502/2023:-

For Petitioner	: Mr.A.G.Abhishek
For R2	: Mr.Venkataswamy Babu, SPC
For RR 3 to 7 & 11	: Mrs.S.Anitha, Spl.GP
For R8	: Mrs.M.Swarnalatha
For R9	: Mr.V.Gunasekar
For R10	: Mr.D.B.R.Prabhu,SC
For R12	: Mr.S.T.Raja, SC
For R16	: Mr.Jayesh B.Dolia

WP.No.27536/2023:-

For Petitioner	: Mr.A.G.Abhishek
For R2	: Mr.Venkataswamy Babu, SPC



WP.Nos.25531, 27502, 27536, 29008, 29256 & 29545/2023

For RR 3 to 7 & 11	: Mrs.S.Anitha, Spl.GP
For R8	: Mrs.M.Swarnalatha
For R9	: Mr.V.Gunasekar, SC
For R12	: Mr.S.T.Raja, SC
For R13	: Mr.M. Vijayan
For R16	: Mr.Jayesh B.Dolia

WP.No.29008/2023:-

For Petitioner	: Mr.M. Vijayan
For R1	: Mr.Venkataswamy Babu, SPC
For RR 2 to 6 & 10	: Mrs.S.Anitha, Spl.GP
For R7	: Mrs.M.Swarnalatha
For R8	: Mr.V.Gunasekar, SC
For R9	: Mr.D.B.R.Prabhu, SC
For R11	: Mr.S.T.Raja, SC
For R15	: Mr.Jayesh B.Dolia
For RR12 to 14	: No appearance

WP.No.29256/2023:-

For Petitioner	: Mr.P.Wilson, Senior counsel for Mr.S.T.Raja
For R1	: Mr.Venkataswamy Babu, SPC
For RR 2 to 6 & 10	: Mrs.S.Anitha, Spl.GP
For R7	: Mrs.M.Swarnalatha
For R8	: Mr.V.Gunasekar, SC
For R9	: Mr.D.B.R.Prabhu, SC
For R11	: Mr.M. Vijayan for M/s.King & Patridge

WP.No.29545/2023:-

For Petitioner	: Mr.Jayesh B.Dolia, Senior counsel for M/s.Aiyar & Dolia
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WP.Nos.25531, 27502, 27536, 29008, 29256 & 29545/2023

For R2	: Mr.Venkataswamy Babu, SPC
For RR 3 to 7 & 11	: Mrs.S.Anitha, Spl.GP
For R8	: Mrs.M.Swarnalatha
For R9	: Mr.V.Gunasekar, SC
For R10	: Mr.D.B.R.Prabhu, SC
For R13	: Mr.M.Vijayan for M/s.King & Patridge

COMMON ORDER

S.S.SUNDAR, J.,

(1)All the above writ petitions are filed by the Industrial Establishments who have established their industries in North Chennai and have filed writ petitions for issuance of a writ of certiorari to quash the direction No.18 in paragraph No.53 of the judgment of the National Green Tribunal, Southern Zone, Chennai, dated 20.07.2023 in Original Application No.256/2020.

(2)The petitioner in WP.No.25531/2023 is a Public Sector Undertaking and is one of the leading group companies of Indian Oil, to produce fuels and lube base stocks. The petitioner Corporation is primarily engaged in the production of fuel products, lubricants and petrochemical feed stocks and meeting the demand of petroleum products in South India along with



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other refineries.

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(3) The petitioner in WP.No.27502/2023 is a joint venture company between the Tamil Nadu Industrial Development Corporation Limited [TIDCO], wholly owned by the Government of Tamil Nadu and Southern Petrochemical Industrial Corporation Limited [SPIC]. The petitioner is having three manufacturing facilities for Linear Alkyl Benzene Plant [LAB], Heavy Chemicals Division [HCD] and ECH-Propylene Oxide Plant [ECH-PO] in Manali. LAB is engaged in the manufacture of Linear Alkyl Benzene using kerosene and benzene as the primary raw material. HCD Plant manufactures caustic soda, chlorine, hydrogen, hydrochloric acid and sodium hypochlorite. The ECH-PO Plant manufactures propylene oxide and produces chlorinated organics as by products. All the 3 units obtained consent to operate under Water and Air Act from TNPCB and subsequently renewed upto 31.03.2024.

(4) The petitioner in WP.No.27536/2023 is a petrochemical manufacturing company and is an Associate Sector Enterprise of Tamil Nadu Industrial Development Corporation Limited [TIDCO], wholly owned by the State Government and produces Propylene Glycol, Polyols, similar



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petrochemicals and also propylene Oxide, the feedstock for the said products.

(5)The petitioner in WP.No.29008/2023 is a Joint Venture Company of NTPC Ltd., [Central Public Sector Undertaking] and the Tamil Nadu Generation and Distribution Corporation Limited [Tamil Nadu State Government Undertaking]. The petitioner Company has established the power project at Vallur, Vellivoyal Chavadi for generating 1500 MW of electricity generated by thermal power. The Tamil Nadu State is the major beneficiary of the project receiving 71.24% of power generated by the petitioner.

(6)The petitioner in WP.No.29256/2023 is a company wholly owned by the Government of Tamil Nadu. It is a service oriented organization providing electricity to the entire population of Tamil Nadu and it is a public utility company. The consumer base of the petitioner company includes Agriculture and Hut services, Domestic category and the Commercial and HT consumers.

(7)The petitioner in WP.No.29545/2023 is a Public Sector Undertaking. It is engaged in the manufacturing of fertilizers, both urea and complex to be



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sold under subsidized cost to the farmers.

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(8) It is the specific case pleaded by the petitioners that the petitioners have obtained Environmental Clearances and CREZ Clearance apart from Consent to operate from the Tamil Nadu Pollution Control Board [TNPCB]. The petitioners have claimed that they have provided/installed equipments and devices and infrastructures, to control pollution, to meet the statutory requirements and in adherence to the directions of TNPCB. The petitioners have also given particulars of the devices to control/prevent pollution and satisfy the norms both under the Water and Air Acts by spending substantial percentage of their project cost.

(9) While so, based on the newspaper report published in the News Desk Magazine dated 11.11.2020 alleging uncontrolled pollution based on a Report of the Chennai Climate Action Group, the National Green Tribunal [Southern Zone], suo motu registered a case in OA.No.256/2020. It is admitted that the Tribunal by its order dated 15.12.2020, constituted a Joint Committee comprising of [1] Ministry of Environment, Forest and Climate Change [MoEF & CC], Regional Office, Chennai ; [2] Central Pollution Board [CPCB], Regional Office, Chennai ; [3] The Tamil Nadu



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Pollution Control Board [TNPCB], Chennai ; [4] Anna University of Environmental Engineer, Chennai, to inspect the area in question and submit a factual as well as action taken report, if there is any violation found. The petitioners herein were also impleaded as respondents 11 to 16 in OA.No.256/2020 before the National Green Tribunal.

(10) It is admitted that the Joint Committee appointed by the Tribunal, filed its report based on the field inspection conducted in all the Units located in and around Manali area. The report of the Joint Committee specifically observed that the stock monitoring / ambient air quality survey conducted by the Board in the premises of all six petitioners revealed that the petitioners Units were complying with emission norms in each point source and satisfy the National Ambient Air Quality standards prescribed by the Central Pollution Board Notification dated 18.11.2009, even though there were lapses in updating the software system due to hardware router problem and other technical reasons as stated by the petitioners in each of these cases.

(11) The National Green Tribunal, after reserving the matter for judgment on 30.01.2023, pronounced the judgment on 20.07.2023 with several



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directions in paragraph No.53.

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(12) Paragraph No.53 of the judgment of NGT dated 20.07.2023 reads thus:-

"53.In view of the above detailed discussions and considering the same, the following directions are issued:-

- (1) The Tamil Nadu Pollution Control Board should constitute a dedicated team to monitor the OCEMS data. The industries should also create an internet mechanism to closely monitor the functioning of OCEMS as well as critically analyse the data for immediate corrections and shall submit a monthly analysis report to the Tamil Nadu Pollution Control Board, Senior Officers of TNPCB shall conduct a monthly review with designated officers of major industries in different industrial parks.*
- (2) The CPCB should constitute a committee which may also include experts in the field of air pollution as well as water pollution to examine the existing CPCB protocols for OCEMS and submit revised protocols to the Tribunal within a period of 3 [Three] months.*



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- (3) *The committee may also suggest periodicity at which the said sensor/ equipment need to be calibrated. Once the periodicity is fixed, a mechanism may be put in place to check whether the calibration of sensors/equipment is being undertaken by the industries as per the timeline fixed, failing which, necessary action may be taken including the imposition of environmental compensation.*
- (4) *The CPCB may constitute a new committee or revive the earlier committee constituted based on directions issued in **Original Application No.195 of 2016 [SZ] [Tandur Citizens Welfare Society Vs. Government of Telengana and Others]** dated 24.08.2021 to once again examine the issue of interlocking/alerting/alarm systems, considering the advancements in Machine learning Artificial Intelligence, that will ensure foolproof operations of the OCEMS system.*
- (5) *The TNPCB is directed to verify the list of industries which are yet to install the OCEMS*



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system. In case, some of the units have not yet been mandated to install the OCEMS system, the TNPCB is directed to issue instructions to all the units to install the OCEMS system within the shortest possible time, failing which, appropriate action should be taken. The TNPCB is directed to report the reasons for not directing or exempting certain industries from establishing the OCEMS. Failure by TNPCB also would attract fine plus compensation.

- (6) Industries should switchover completely to cleaner fuels including conversion of usage of liquid fuel into gaseous fuels within a stipulated period of time. During the interregnum, the industries may be directed to use low sulphur fuels till the conversion to gaseous fuels is completed.*
- (7) Industries shall install Flue Gas Desulfurization [FGD] system wherever it is applicable without fail before the time fixed by MoEF&CC without seeking extension of time. All the units having ETPs should upgrade to the latest generation of ETPs available today within*



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a reasonable time period of time for the upgradation to be suggested by CPCB.

- (8) Industries shall install latest pollution control measures for reduction of NOx emissions, such as Selective Catalyst Reduction system / Selective Non Catalytic Reduction system / low NOx emission standards.*
- (9) All the industries discharging effluents may be directed by TNPCB to switch over to the ZLD system by granting a reasonable time frame. Only if ZLD systems are not technically feasible, ETPs/CETPs can continue.*
- (10) A committee of experts in CPCB may meet periodically [preferably once in a quarter] to evaluate the advancements in pollution control equipment, especially, those relating to the capture of Particulate Matter [PM], SO₂, NO₂ and other toxic air pollutants. In respect of existing industries, reasonable time may be granted to the industries, taking into account the cost involved and also the compliance status of the industries.*
- (11) The committee should also examine the*



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technological advancements which are in place in other countries like installing air purifiers centrally in industrial areas as well as in urban pockets with heavy vehicular populations to reduce the pollution load.

(12) The Expert Committee of CPCB to come out with stricter pollution norms for the industries to be established in areas earmarked for industries as against the general norms for the establishment of industries in areas without or with only one or two industries in an area about the size of industrial parks. In respect of new parks, to be established the CPCB may also prescribe a buffer zone around the Industrial Area/Park. The CPCB and the SPCBs should work out special norms in industrial areas factoring in vehicular pollution, fugitive emissions, flare gas emissions and also a need for having higher stack height even for non thermal power plants.

(13) The CPCB should re-examine the norms for the stack height for all point sources of



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emissions whether significant or not to ensure that they are designed according to the Good International Industry Practice [GIIP]. The stack height should be established with due consideration to emissions from all other project sources both point and fugitive. Projects which have potentially significant fugitive sources of emissions can be directed to have special measures to reduce the same.

(14) We also notice from the reports of the Joint Committee and Tamil Nadu Pollution Control Board that there are certain gaps in the pollution control measures adopted by the six industries and certain directions were issued by the Tamil Nadu Pollution Control Board to the respective industries along with certain suggestions for improvement. We do not wish to repeat those directions and suggestions, except to state that the Tamil Nadu Pollution Control Board should fix a specific deadline for compliance with the directions and adoption of the suggestions. The Tamil Nadu Pollution Control Board should file a periodical



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compliance report once in 6 [six] months before this Tribunal.

- (15) The environmental compensation imposed following due process should be collected and utilized by the Tamil Nadu Pollution Control Board for the conversion of the existing roads in the Manali Industrial areas into concrete roads to minimize the dust emissions from the vehicular population.*
- (16) We are of the view that in areas where multiple industries are established, the CPCB may consider increasing the requirements of green belt area increasing the density of tree population. In case of constraint of land, the industries may be permitted to create green belt in the areas adjacent to the industries including in private lands. However, it should be made mandatory that the periphery of the industries have a thick green cover with the tallest growing native trees.*
- (17) We also direct that TNPCB/CPCB should also mandate that industrial parks/areas shall have only concrete roads with three or four rows of*



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trees plantations to act as a buffer for trapping air pollutants.

(18) It is recommended to create a corpus fund which shall consist of deposit of minimum 01% of the annual turnover from all the companies located in the Manali complex for the restoration of any affected area after the orders passed by the Tribunal. The said corpus fund shall be operated jointly by the Chief Secretary, Government of Tamil Nadu and the Additional Chief Secretary, Department of Environment, Forest and Climate Change and shall utilise for restoration of the environment and for constructing RCC roads in the entire affected areas as per the decision taken by the said Committee. The said fund may be called as "Manali Environmental Relief Fund".

(13) From the above directions, in particular, direction No.18 of paragraph No.53, it is seen that NGT has recommended to create a corpus fund consisting of deposit of minimum 1% of Annual Turnover from all the companies located in the Manali Complex for restoration of environment



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and for constitution of RCC roads in affected areas.

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- (14) The petitioners have no difficulty in complying with directions No.1 to 17 of paragraph No.53 of the judgment of NGT and they have problem only with direction No.18.
- (15) All the petitioners uniformly contend that direction No.18 in paragraph No.53 is without any scientific studies or basis and it is in violation of principles of natural justice as none of the petitioners were given an opportunity before making them shoulder such huge liability.
- (16) It is the common ground raised by the petitioners in all these cases that directing the petitioners to contribute 1% of the Annual Turnover, is not only arbitrary but without taking note of the huge money spent by the petitioners towards achieving Zero pollution and other budgetary allocation towards various programmes to promote environment sustainability. When the petitioners were not put on notice as to the possible pollution and the damage caused by the petitioners, it is contended by the petitioners that payment of 1% of Annual Turnover is in violation of Article 19[1][g] of the Constitution of India. Some of the petitioners have also pointed out that the average percentage of profit after



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deducting tax for past 5 years is very low and that the recommendation to direct the petitioners to contribute 1% of Annual Turnover is unjust, *per se* illegal and unreasonable affecting the petitioners' right guaranteed under Article 19[1][g] of the Constitution of India.

(17) Even though several other grounds were raised by the petitioners, this Court is of the view that the judgment of the National Green Tribunal directing the petitioners to contribute 1% of Annual Turnover to create a corpus fund is in violation of principles of natural justice, more so, when this is the final and binding order. When the petitioners industries are operating in different fields manufacturing different products, any amount by way of penalty or tax, can be on the basis of an assessment of environmental damage caused by each individual industry if it is authorised by law and there cannot be uniform levy based on turnover and such a mode of assessment or collection of damages is violative of Article 14, especially when the assessment was not on any common factor having connection with the capital expenditure or turnover of the individual industry. In fact, the Tribunal has issued several directions which are required in public interest. However, the direction to contribute 1% of



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Annual Turnover is *per se* in violation of principles of natural justice in the sense that the individual industry was not given a fair opportunity while fixing their liability, especially in the absence of any material as against the individuals for the damage caused by them or about the possible expenditure, the law enforcing agencies have to spend to remedy the damage caused to the atmosphere. The order does not refer to any statutory provision under which such direction is permissible.

(18) Even though an appeal remedy is provided under Section 22 of the National Green Tribunal Act, 2020, this Court, following the judgments of the Hon'ble Supreme Court in a few cases, has held that a writ petition filed under Article 226 of the Constitution, is maintainable if there is a violation of principles of natural justice. Since this Court has already found that the impugned order, namely, direction NO.18 of paragraph No.53 of the order of NGT, is in violation of principles of natural justice, this Court has no hesitation to quash the said direction No.18.

(19) Accordingly, the writ petitions stand **allowed and** the direction No.18 of paragraph No.53 of the judgment dated 20.07.2023 passed by the National Green Tribunal, Southern Zone, Chennai in Original Application



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No.256/2020 [SZ] is **quashed**. However, this order does not stand in the way of Tribunal or the law enforcement agencies to fix the liability on petitioners for causing environment damages if it is permissible in law in appropriate proceeding either suo motu initiated or otherwise at the instance of persons affected after following procedure and giving the petitioners, an opportunity of hearing. No costs. Consequently, connected miscellaneous petitions are closed.

[S.S.S.R., J.] [N.S., J.]
14.03.2024

AP

Internet : Yes

Neutral Citation: Yes

To

1.The Secretary
Union of India,
Ministry of Environment, Forest and Climate Change
Indira Paryavaran Bhavan
Jorbagh Road
New Delhi 100 003.

2.The Chief Secretary to Govt. of Tamil Nadu
Govt. Secretariat, Fort St George,
Chennai Tamil Nadu-600 009.



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3. The Secretary to Govt. of Tamil Nadu
Department of Environment
Govt. Secretariat, Fort St George
Chennai, Tamil Nadu 600 009.
4. The Principal Secretary to Govt. of Tamil Nadu
Industries Department, Govt. Secretariat
Fort St George, Chennai Tamil Nadu 600 009.
5. Additional Chief Secretary to Govt. of Tamil Nadu
Municipal Administration and Water Supply Department
Govt. Secretariat, Fort St George,
Chennai Tamil Nadu 600 009.
6. Principal Secretary to Government
Health and Family Welfare Department
Secretariat, Chennai 600 009.
7. The Chairman
Central Pollution Control Board [CPCB]
Parivesh Bhavan, East Arjun Nagar
Shahdara, Delhi 110 032.
8. The Chairman
Tamil Nadu Pollution Control Board [TNPCB]
No.76, Anna Salai, Guindy,
Chennai, Tamil Nadu 600 032.
9. The Commissioner
Greater Chennai Corporation
Ripon Building, Chennai 600 003.
10. The District Collector
Chennai District, District Collectorate office
No.62, Rajaji Salai, 4th Floor, Chennai 600 001.



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11. The Chairman cum Managing Director
[TANGEDCO], North Chennai Thermal Power Station
Attapattu Main Road
Thiruvallur District, Athipattu,
Tamil Nadu 600 120.
12. The General Manager [TS]
NTPC Tamil Nadu Energy Company Limited [NTECL]
Vallur Thermal Power Project
PO Vellivoyal Chavadi, Ponneri Taluk
Tiruvallur District, Chennai 600 103.
13. The Chairperson
Tamil Nadu Petro Products Limited [TPL]
Manali Express Highway, Manali
Chennai 600 068, India.
14. The Wholetime Director [Operations]
Tamil Nadu Petro Products Limited [TPL]
Manali Express Highway, Manali, Chennai 600 068, India.
15. The Chairman
Manali Petrochemicals Limited [MPL]
SPIC House, VI Floor, NO.88, Mount Road
Guindy, Chennai 600 032.
16. Chairman & Managing Director
Madras Fertilizers Limited [MFL]
SH 104, Harikrishna Puram, Manali
Chennai, Tamil Nadu 600 068.
17. Managing Director,
Chennai Petroleum Corporation
Limited [CPCL], New No.536,
Anna Salai, Teynampet, Chennai – 600 018.



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S.S. SUNDAR, J.,
and
N.SENTHILKUMAR, J.,

AP

common order in
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14.03.2024