

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 15.11.2018

CORAM:
THE HON'BLE MR.JUSTICE S.MANIKUMAR
AND
THE HON'BLE MR.JUSTICE SUBRAMONIUM PRASAD

WP.No.7038 of 2018

Global Warming Environment Protecting
Society (Regd.)

by its President Swami Govinda Ramanuja Dasa,
No.132, Gandhi Road,
Sriperumpudur,
Kanchipuram District,
Tamil Nadu, India.

...Petitioner

vs.

1. The Chief Secretary of Tamil Nadu,
Chief Secretariat,
Saint George Fort,
Chennai - 600 009, Tamil Nadu.

2. The Secretary,
Ministry of Environment Forest,
Climate Change,
Indira Paryavaran Bhawan,
Jor Bagh Road,
New Delhi - 110 003.

3. The Secretary,
Ministry of Urban Development Dept.
'Smart Cities',
Government of India,
Shastri Bhavan, New Delhi.

4. The Secretary
Industries Department,
Govt. of India,
Sasthri Bhavan, New Delhi - 110 003.

5. The Secretary,
Govt. of Tamil Nadu,
Air Pollution of Water Pollution,
Ministry of Environment Forests,
Climate Change,
Chief Secretariat,
Chennai - 9.

6. The Secretary,
Hindu Religious & Charitable Endowments,
Chief Secretariat,
Chennai - 9.

7. The Director of Environment,
No.1, Jeenis Road, Panagal Building,
Ground Floor, Saidapet,
Chennai - 15
Tamil Nadu State.

8. The Chairman,
Tamil Nadu Pollution Control Board,
Panagal Building,
Saidapet.

9. Conservator of Forest,
Department of Forests,
Panagal Maligai,
Saidapet, Chennai - 15.

... Respondents

WRIT Petition filed under Article 226 of the Constitution of India, praying for the issuance of a writ of Mandamus, directing all the respondents to consider the representation dated 23.01.2018 for taking appropriate in a manner of war footing action and to reduce and protect the Air & Water Pollution in the affected all slum areas solid waste and it is disposed off at two dumping yards at Kodungaiyur and Perungudi, Chennai and other 12 Corporations in Tamil Nadu and to save innumerable number of down trodden people by assuring life saving and healthy living circumstances.

For Petitioner : Mr.Swami Govinda Ramanuja Das
Petitioner-in-person

For Respondents: Mr.E.Manoharan (for R1 & R7)
Additional Government Pleader
Mr.P.Ayyaswamy (for R2 to R4)
Mr.M.Santhanaraman (for R5 & R9)
Additional Government Pleader (Forest)
Mr.M.Maharaj, (for R6)
Special Government Pleader (HR&CE)
Mr.Abdul Saleem (for R8)

ORDER

(Order of the Court was made by SUBRAMONIUM PRASAD, J)

The present public interest litigation has been filed by Global Warming Environment Protecting Society (Regd.), represented by its President, Swami Govinda Ramanuja Dasa, for a direction to the respondents to consider his representation dated 23.01.2018; for taking appropriate action to reduce and protect the Air & Water Pollution in all the affected slum areas; dispose of the solid waste at two dumping yards at Kodungaiyur and Perungudi, Chennai and other 12 Corporations in Tamil Nadu; and also to save innumerable number of down trodden people by assuring life saving and healthy living circumstances.

2. The petitioner in this writ petition has highlighted the various problems of pollution (both air and water) and has ultimately made a prayer to consider his representation.

3. A perusal of the petition would show that it only deals with environment pollution. The parliament has enacted the National Green Tribunal Act, 2010. The National Green Tribunal has been constituted to adjudicate merely substantial question relating to environment (including enforcement of any legal right relating to environment), questions arises out of the implementation of the enactments specified in the Schedule -I to the Act. Schedule 1 to the Act includes the Water (Prevention and Control of Pollution) Act, 1974 and the Air (Prevention and Control of Pollution) Act, 1981.

4. The issue raised by the petitioner covers entirely within the ambit of National Green Tribunal Act, 2010. Since there is an effective, efficacious and alternative remedy available to the petitioner, the petitioner should present his petition before the National Green Tribunal.

5. The issue regarding disposal of solid waste is being continuously monitored by National Green Tribunal. In fact, as late as 31.08.2018, the National Green Tribunal, Principal Bench, New Delhi has given directions regarding disposal of solid waste. The relevant paragraphs of the order dated 31.08.2018 made in OA No.606 of 2018 in the matter of "compliance of Municipal Solid Waste Management Rules, 2016", reads as hereunder.

"7. Following issues were circulated to the States and UTs to facilitate interaction:

i) Whether State-wise Action Plan with timelines and budgetary support/provision for management of MSW has been prepared?

ii) Whether each city/town/urban local body is

covered under the said Plan and individual Action Plan has timelines with budgetary provisions?

iii) What time has been fixed to completely comply with the provisions of the Rules, 2016?

iv) What are the main constraints of non-compliance of Rules, 2016?

8. Meetings were held with all the States and Union Territories on 02.08.2018, 07.08.2018, 08.08.2018, 13.08.2018 and 20.08.2018 on the aforesaid matter. At the conclusion of the interaction with the States and Union Territories, it was decided and declared that certain binding directions need to be issued by the Tribunal by forming Apex Level, Regional Level and State Level Committees to oversee the steps taken for implementation of the Rules, 2016 and the directions issued by the Tribunal and give a report to this Tribunal at the end of the quarter. The Committees may have interaction individually with the Statutory Authorities and the Urban Local Bodies. Accordingly, we are recording this order. The Registry may register these proceedings as a fresh Original Application.

17. We accordingly, propose to direct constitution of an Apex Monitoring Committee, Regional Monitoring Committees and State Level Committees to oversee the steps to be taken to give effect to the directions of this Tribunal so that if necessary, further action can be taken in the matter.

18. The role of the Apex Monitoring Committee will be to interact with the concerned Ministries and the Regional Monitoring Committees. The Apex Monitoring Committee may formulate guidelines/directions which may be useful to the Regional Monitoring Committees and the States/Union Territories. The Apex Monitoring Committee may meet preferably every month to take stock of the situation. Outstation members/invitees may participate by video conferencing unless their presence is considered necessary. The Apex Monitoring Committee may have meeting with all the Regional Monitoring Committees at least once in a month for two days to take stock of the progress and fix new targets. The report may be given to the Tribunal by e-mail once in a quarter. The Apex Monitoring Committee may have its website for dissemination of such information as may be necessary and also to enable public participation. The Committee may function for a period of one year subject to any further order.

The constitution of the Apex Monitoring Committee will be as follows:

1.	Hon'ble Mr. Justice D.K. Jain, Former Judge, Supreme Court of India, Former President, NCDRC, Former Chairman, Law Commission of India.	Chairman
2.	Chairman, Central Pollution Control Board	Member
3.	Jt. Secretary of Ministry of Environment, Forest & CC	Member
4.	Jt. Secretary & Mission Director, Swachh Bharat Mission, Ministry of Housing & Urban Affairs, Govt. of India	Member Secretary

The Apex Monitoring Committee will have the following Special Invitees:

1.	Principal Secretary, Urban Development, Govt. of Goa
2.	Ms. Ritu Sain, IAS Addl. Resident Commissioner, Govt. of Chattisgarh, Chattisgarh
3.	Dr. Asad Wari, Team Leader, SBM, Indore Municipal Corporation, Indore, M.P
4.	Shri C. Srinivasan, Vellore, TN, Project Director-SLRM

The MoHUA will provide all logistic and secretarial support along with functional Secretariat to the Apex Monitoring Committee. The Committee may operate from Delhi. The Apex Monitoring Committee can also use the conference facilities available with the National Green Tribunal (Principal Bench). The Chairman and the special invitees who are either retired or private professionals of the Committee may

be provided remuneration in consultation with them.

19. The Regional Monitoring Committees shall ensure effective implementation of the Rules, 2016. The Regional Monitoring Committees shall also ensure that mixing of bio-medical waste with municipal solid waste does not take place and bio- medical waste and processed in accordance with The Bio-Medical Waste Management Rules, 2016. The Regional Monitoring Committees may meet preferably once in every week or longer intervals as per requirements. Out station members may participate by video conferencing unless physical presence is required. They may interact with Apex Monitoring Committee at suitable intervals. The Regional Monitoring Committees may also have inter se interaction as and when necessary. The Regional Monitoring Committees may have interactions with the concerned States at regular intervals. The Regional Monitoring Committees may also consider having their website for the same purpose with the same objective as the Apex Monitoring Committee. The Regional Monitoring Committees if feel appropriate can solicit the service of the Special Invitees of the Apex Monitoring Committee and others whom they think can contribute to the cause of monitoring of the Rules, 2016. The Regional Monitoring Committees may specially consider compliance of the mandate of the Rules, 2016 at or around railway platform, railway tracks, bus stands or other places frequented by public. The Ministry of Railway may appoint Nodal Officers at Central, Zonal or other levels having specific responsibility of compliance of the Rules, 2016. The Regional Monitoring Committees may interact with such officers at appropriate intervals. The report may be given to the Apex Monitoring Committee twice in a quarter. Initially, a report may also be sent to the Tribunal by the Regional Monitoring Committees after three months of their working. The Regional Monitoring Committees will be paid remuneration and such logistic support as required by Department of Urban Development, Government of Punjab, Madhya Pradesh, Maharashtra, Tamil Nadu and West Bengal for Northern Zone, Central Zone, Western Zone, South Zone and Eastern Zone respectively. The States will be entitled to recover proportionate expenses from the member States and Union Territories in the respective zones All the States are advised to maintain the parity with regard to the remuneration of Chairperson of the Regional Monitoring Committees. The Committees may function for a period of one year subject to any further order.

20. The constitution of the Regional Monitoring Committees will be as follows:

North Zone - Chandigarh - Delhi		
1.	Mrs. Rajwant Sandhu, IAS, Former Secretary, GoI & Former Member, CAT	Chairperson
2.	Principal Secretary of Urban Development, Government of Punjab, Punjab	Member Secretary
3.	Principal Secretaries of Urban Development of Government of Jammu & Kashmir, Himachal Pradesh, Haryana, Uttarakhand, NCT Delhi, Uttar Pradesh, Union Territory, Chandigarh	Members
4.	Member Secretaries of State PCBs/PCCs of Jammu & Kashmir, Himachal Pradesh, Haryana, Punjab, Uttarakhand, NCT Delhi, Uttar Pradesh, Union Territory, Chandigarh	Members
5.	Representative of Central Pollution Control Board (CPCB).	Member

Eastern Zone-Kolkata		
1.	Hon'ble Mr. Justice Jayanta Kumar Biswas Former Judge, Calcutta High Court	Chairman
2.	Principal Secretary, Urban Development, Government of West Bengal, Kolkata, West Bengal.	Member Secretary
3.	Principal Secretaries of Urban Development of State of Bihar, Jharkhand, Odisha, Arunachal Pradesh, Assam, Tripura, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim	Members
4.	Member Secretaries of PCBs/PCCs of Bihar, Jharkhand, Odisha, Arunachal Pradesh, Assam, Tripura, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim	Members
5.	Representative of CPCB	Member

Western Zone - Mumbai-Pune		
1.	Hon'ble Mr. Justice J.P Devadhar Former Judge, Bombay High Court	Chairman
2.	Principal Secretary, Urban Development, Government of Maharashtra	Member Secretary
3.	Principal Secretaries of Urban Development of Govt. of Gujarat, Goa, Daman & Diu, Dadra and Nagar Haveli	Members
4.	Member Secretaries of State PCBs/PCCs of Maharashtra, Gujarat, Goa, Daman & Diu, Dadra and Nagar Haveli	Members
5.	Representative of Central Pollution Control Board	Member

Central Zone - Bhopal		
1.	Hon'ble Mr. Justice K.K.Trivedi Former Judge, Madhya Pradesh High Court	Chairman
2.	Principal Secretaries of Urban Development Government of Madhya Pradesh, Bhopal. Madhya Pradesh.	Member Secretary
3.	Principal Secretary of Urban Development, Government of Chattisgarh and Rajasthan	Member
4.	Member Secretaries of Madhya Pradesh, Rajasthan and Chattisgarh State Pollution Control Boards	Members
5.	Representative of Central Pollution Control Board.	Member

Southern Zone-Chennai		
1.	Hon'ble Mr. Justice P.Jyothimani Former Judge Madras High Court Former Judicial Member, NGT, Southern Bench, Chennai	Chairman
2.	Principal Secretary, Urban Development, Government of Tamil Nadu	Member Secretary
3.	Principal Secretaries of Urban Development of Government of Karnataka, Kerala, Andhra Pradesh, Telangana Puducherry, Andaman & Nicobar Islands, Lakshadweep Islands.	Members
4.	Member Secretaries of PCBs/PCCs of Tamil Nadu, Karnataka, Kerala, Andhra Pradesh, Telangana and Puducherry, Andaman & Nicobar Islands, Lakshadweep Islands.	Members
5.	Representative of CPCB	Member

6. As directed under para 20, the South Zone-Chennai consists of following members.

Southern Zone-Chennai		
1.	Hon'ble Mr. Justice P.Jyothimani Former Judge Madras High Court Former Judicial Member, NGT, Southern Bench, Chennai	Chairman
2.	Principal Secretary, Urban Development, Government of Tamil Nadu	Member Secretary

3.	Principal Secretaries of Urban Development of Government of Karnataka, Kerala, Andhra Pradesh, Telangana Puducherry, Andaman & Nicobar Islands, Lakshadweep Islands.	Members
4.	Member Secretaries of PCBs/PCCs of Tamil Nadu, Karnataka, Kerala, Andhra Pradesh, Telangana and Puducherry, Andaman & Nicobar Islands, Lakshadweep Islands.	Members
5.	Representative of CPCB	Member

7. Perusal of the above said order would show that the National Green Tribunal, is monitoring the issue of solid waste management and for which purpose, the South Zone-Chennai, committee has already been constituted.

8. It is well settled that when an alternative and efficacious remedy is available, High Courts must not interfere under Article 226 of the Constitution of India. Petitioner, if so advised, can approach the National Green Tribunal and agitate his claims. Writ petition is disposed of accordingly. No Costs.

ars/pkn

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To
1. The Chief Secretary of Tamil Nadu,
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Saint George Fort,
Chennai - 600 009, Tamil Nadu.

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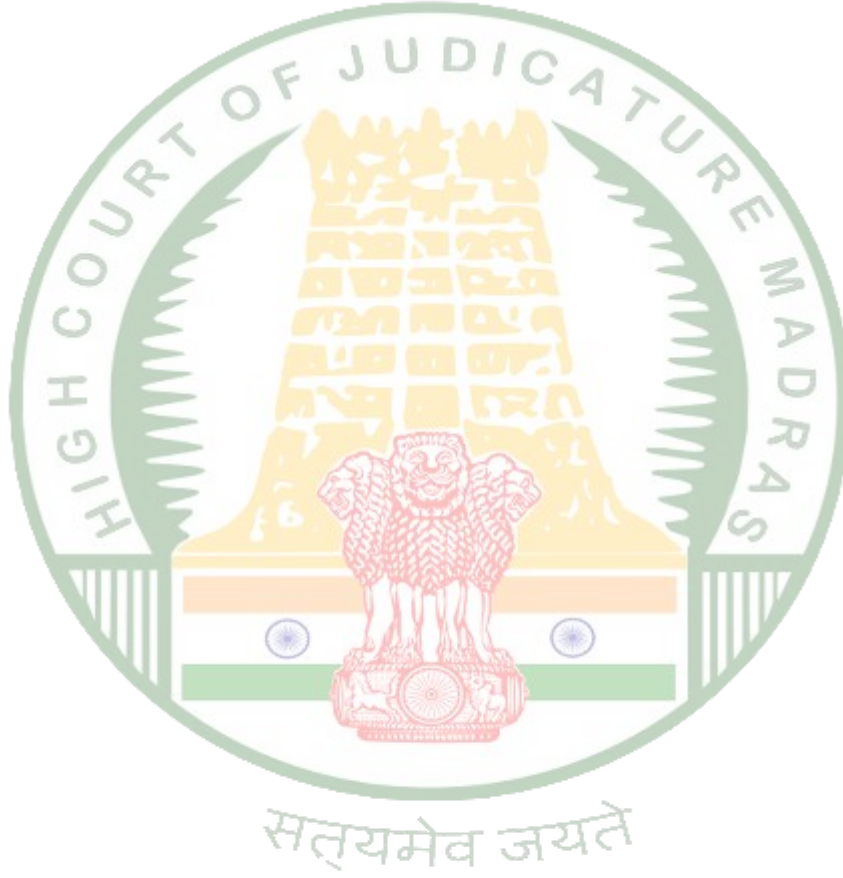
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9. Conservator of Forest,
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Panagal Maligai,
Saidapet, Chennai - 15.

+1cc to Mr.Abdul Saleem, Advocate, S.R.No.77901
+1cc to Mr.P.Ayyaswamy, S.R.No.77874
+1cc to the Government Pleader, S.R.No.78218

WP.No.7038 of 2018

RV(co)
kak(28/12/2018)



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