

BEFORE THE NATIONAL GREEN TRIBUNAL
SOUTHERN ZONE, CHENNAI

Review Application No. 05 of 2023 (SZ)

In

Original Application No. 29 of 2022(SZ)

IN THE MATTER OF

C. Danielraj

No. 3/6, Saveriyar Nagar,
Parvahipuram, Vadalur,
Kurinjipadi Circle,
Cuddalore District- 607303.

...Review Applicant(s)

Versus

1. Tamil Nadu Pollution Control Board,

Rep by its District Environmental Engineer,
Plot No: A-3, SIPCOT Industrial Complex,
Kudikadu, Cuddalore District- 607005.

2. Tamil Nadu Pollution Control Board,

Rep by its Chairman,
76, Mount Salai, Guindy,
Chennai- 600032.

3. The Central Pollution Control Board,

Rep by its Chairman,
Parvesh Bhavan, East Arjun Nagar,
Delhi- 110032.

4. The District Collector,

Cuddalore,
1st Floor, New Collectorate Building,
Collectorate, Manjakuppam,
Cuddalore- 607001.

5. Mr. Anwar,

Son of Kudus,
No: 108/6°, Boothangudi Village,
Chidambaram Taluk,
Cuddalore District.

6. M/s Nayara Energy Limited,

Formerly Essar Oil Limited,
Rep by its Managing Director,
(Opp, Karnataka Bank),
SB, New Avadi Road, Thandavaraya,
Kilpauk, Chennai- 600010.

7. The Joint Chief Controller of Explosives,

A&D Wing, Blok 1-8, 2nd Floor Shastri Bhavan,
No. 26 Haddows Road, Nungambakkam,
Chennai- 600004

...Respondent(s)

Date of Order: 24th April, 2023.

CORAM:

HON'BLE SMT. JUSTICE PUSHPA SATHYANARAYANA, JUDICIAL MEMBER

HON'BLE DR. SATYAGOPAL KORLAPATI, EXPERT MEMBER

IN CHAMBER BY CIRCULATION

ORDER

1. The above Review Application is directed against the order passed by this Tribunal on 20.12.2022. The Original Application was regarding the situs of the proposed petrol pump located at the distance of less than 50 meters from the Veeranam Lake which has an ecological importance. The 6th respondent, who is the project proponent, had already obtained necessary permission and approvals from The Petroleum and Explosives Safety Organization (PESO), permission from the Tamil Nadu Fire and Rescue Department, No Objection from the Regional Engineer (Highways) and NOC from Superintending of Police, Cuddalore.
2. Tamil Nadu Pollution Control Board had inspected the proposed site and issued a certificate to the District Revenue Officer that the retail outlet is in conformity with the guidelines issued by the Central Pollution Control Board. The Joint Committee appointed by this Tribunal also found that there are no schools, hospitals or residential areas within a radial distance of 50 meters. As per the Central Pollution Control Board guidelines new retail outlet shall not be located within the radial distance of 50 meters from the fill point/dispensing units/vent pipe whichever is nearest from schools, hospitals and residential areas designated as per the local laws. In case of constraints of providing 50 meters the retail outlet shall implement additional safety measures as prescribed by PESO.

However, in no case the distance between new retail outlet from schools, hospitals and residential areas designated as per the local laws shall be less than 30 meters.

3. The addendum of the CPCB guidelines, which was communicated to the District Collector mandates that a secondary containment by way of double walled tanks or concrete protection walls around the underground storage. Accordingly the 5th respondent was directed to install the necessary safety protection and carry out the monitoring of ground water and soil quality around the retail outlet.

4. The 5th respondent was also directed to install the necessary Vapour Recovery System (VRS) and apply for the consent of the Tamil Nadu Pollution Control Board under the Air (Prevention and Control of Pollution) Act, 1981 and the Water (Prevention and Control of Pollution) Act, 1974. It is now also pertinent to note that subsequent to this order, the Hon'ble Supreme Court in **Indian Oil Corporation (IOC) vs. V.B.R. Menon and ors. in Civil Appeal No. 421 of 2022 dated 14.03.2023** has held that all the retail petroleum outlet located in different cities having population of more than 10 lakhs and having turnover of more than 300 KL/month shall install VRS mechanism during the such timeline as prescribed in the circular dated 04.06.2021 and this shall be obligation of all the State Pollution Control Board to ensure that the direction issued by the National Green Tribunal with regard to the installation of VRS mechanism is complied with within the fresh timeline as prescribed by the CPCB.

5. The 6th respondent which is the Oil Corporation has also filed a key plan indicating the distance between the bank of the Veeranam Lake and the petroleum storage tank. It was undertaken by the 5th respondent to shift the storage tank to the rear side of the plot and an affidavit of undertaking to that effect was also filed undertaking to construct the petroleum pump as per the guidelines of the CPCB dated 07.01.2020 and the addendum guidelines dated 16.08.2021. Based on the above the application was dismissed. Now the review application is filed by different set of Learned Counsels other than the Learned Counsels earlier appeared before us.

6. Under Rule 22 of the National Green Tribunal (Practice and Procedure) Rules, 2011, it is the discretion of the Tribunal to consider the matter in open court if there are materials for detailed hearing and if not the same can be decided on circulation. Since, this Tribunal felt that there is nothing to be argued in detail, the same was decided to be disposed of on circulation as provided under the Rules.

7. The only ground alleged in the review application is that the report of the 1st respondent, Revenue Divisional Officer, is biased. For the first time, it is alleged that the distance between the dispensing unit of the proposed site to the firm bank of Veeranam Lake is only around 25 meters whereas it is already being found in Para-43 that the distance is 50 meters as per the report of the Joint Committee. Therefore the review application without any error apparent on the face of the record cannot be entertained.

8. One more aspect that has to be looked into in this matter is that one Mr. Kamlesh Kannan appeared for the applicant when the

Original Application was argued. However, today one Mr. A. T. Anbu Kumar filed the review on behalf of the Review Applicant. The Hon'ble Supreme Court has time and again deprecated the practice of filing the review applications as an attempt for hearing the matter again on merits that too with a change in Counsel without obtaining the consent of the previous Counsel. The Learned Counsel who has filed vakalat in Review Application is neither counsel on record nor the Learned Counsel argued the applications when it was heard originally and was also not present at the time of arguments. Hence, it is not known on what basis he has now filed the Review Application, as if it is intended for rehearing of the applications. Besides, the new Counsel may not know what transpired in the Court when the applications were argued earlier.

9. In such circumstances, we feel that there is no case made out for the review and hence the Review application is dismissed.

.....J.M.
(Smt. Justice Pushpa Sathyanarayana)

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

Internet – Yes/No
All India NGT Reporter – Yes/No

R.A. No. 05/2023(SZ)in
O.A No. 29/2022(SZ)&
24th April, 2023. (AM)

**Before the National Green
Tribunal
Southern Zone (Chennai)**

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C. Danielraj
Vs.
Tamil Nadu Pollution Control
Board and Ors.



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