

Item No.08(i) & (ii):-

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

Friday, the 20th day of December 2024.

(Through Video Conference)

**Appeal No.46 of 2022 (SZ) &
I.A. No.151 of 2022 (SZ)**

WITH

**Appeal No.47 of 2022 (SZ) &
I.A. No.153 of 2022 (SZ)**

IN THE MATTER OF:

1) Tamil Nadu Pollution Control Board

Rep. by its Chairman,
No. 76, Mount Salai, Guindy,
Chennai - 600 032.

2) District Environmental Engineer

Tamil Nadu Pollution Control Board
Tirunelveli.

...Appellant(s)

Versus

Sri Raamji Sand & Blue Metals

S.F. No. 709/1A3B,
Thanakkar Kulam Village,
Radhapuram Taluk,
Tirunelveli - 627 111.

...Respondent(s)

In both cases:

For Appellant (s): Mr. S. Sai Sathya Jith.

For Respondent(s): Mr. R. Saravana Kumar.

CORAM:

HON'BLE Smt. JUSTICE PUSHPA SATHYANARAYANA, JUDICIAL MEMBER

HON'BLE Dr. VIJAY KULKARNI, EXPERT MEMBER

JUDGEMENT

1. Both the appeals are challenging the common order dated 08.02.2022 of the Appellate Authority Tamil Nadu Pollution Control Board in Appeal Nos.55 and 56 of 2021, whereby the appeals have been allowed and the rejection order issued against the sole respondent herein viz., M/s. Sri Raamji Sand & Blue Metals by the Tamil Nadu Pollution Control Board (TNPCB), is set aside with a direction to the TNPCB to grant necessary order of Consent to Operate – Direct for the manufacture of M-Sand and P-Sand at S.F. No.709/1A3B, Thanakkaar Kulam Village, Tirunelveli District.

2. The appellants highlight a complaint dated 12.02.2020, received from one L. James Paul, Advocate on 14.02.2020, regarding the establishment of M/s. Raamji Sand & Blue Metals near M/s. Annai Blue Metal on Uralvoimozhi - Nakkaneri Road, Radhapuram Taluk. The complaint states that the new establishment is within 640 meters of M/s. Annai Blue Metals, violating the siting criteria of a minimum 1 km distance from crushers, and requests appropriate action.

3. On 20.02.2020, the Assistant Environmental Engineer inspected the unit of M/s. Raamji Sand & Blue Metals and found that the stone crusher unit was being established without obtaining the necessary Consent to Establish from the TNPCB. The site was also within 1 km of M/s. Annai Blue Metal, violating the siting criteria outlined in B.P. Ms. No.4 dated 02.07.2004. Hence, a show cause notice was issued on 27.02.2020 under the Water (Prevention and Control of Pollution) Act, 1974, and the Air (Prevention and Control of Pollution) Act, 1981, but the unit did not respond.

4. The appellants state that the respondent unit applied for Consent to Operate (CTO) - Direct under the Water (Prevention and Control of Pollution) Act, 1974, and the Air (Prevention and Control of Pollution) Act, 1981 through online on 22.08.2020 and resubmitted on 16.09.2020 to produce blue metal jelly (300 T/day), Dust (50 T/day), M-Sand (900 T/day), and P-Sand (200 T/day). An inspection was conducted on

21.09.2020, leading to a show cause notice issued on 30.09.2020 under both the Water (Prevention and Control of Pollution) Act, 1974, and the Air (Prevention and Control of Pollution) Act, 1981, for the following reasons:

"i. The unit has started establishing the unit without obtaining "Consent to Establish" of the Board.

ii. The unit has applied for consent to operate instead of CTE even though installation of machineries was not completed.

iii. There is an another consented crusher unit namely M/s. Annai Blue Metal, Unit-II, S.F. No. 965, Irukkanthurai Part II Village, Radhapuram Taluk located at 0.66 km from the site of this unit which is against the siting criteria and not satisfies the minimum distance of 1 km between crusher to crusher specified vide B.P. Ms. No.4 dated 02.07.2004. The unit has not replied to the show cause notice."

5. It is further alleged by the appellants that the respondent's stone crusher unit does not meet the siting criteria established in B.P. No.4 dated 02.07.2004, which mandates a minimum distance of 1 km between new or proposed stone crushers to mitigate dust pollution. Consequently, the District Level Consent Clearance Committee rejected the application for Consent to Operate on 19.12.2020. The reason for rejection was that another consented unit viz., M/s. Annai Blue Metal, is located 0.62 Km from the proposed site and the distance is only 0.84 km between the two crusher boundaries and thereby not meeting the norms specified in B.P. No.4 dated 02.07.2004.

6. The appellants further state that following a rejection order, the unit was inspected on 11.01.2021 by the Assistant Environmental Engineer of TNPCB, Tirunelveli, and found operational. Based on the DEE's recommendation, closure directions and power supply stoppage orders were issued on 22.02.2021. Accordingly, the TNEB disconnected the power supply on 26.02.2021. Aggrieved by the rejection order of the DEE, TNPCB, dated 23.12.2020, M/s. Sri Raamji Sand and Blue Metals have preferred an appeal (Appeal Nos. 55 & 56 of 2021) under the Water (Prevention and Control of Pollution) Act, 1974, and the Air (Prevention and Control of Pollution) Act, 1981.

7. Subsequently, M/s. Sri Raamji Sand and Blue Metals filed an additional affidavit before the Appellate Authority TNPCB stating that their establishment is exclusively for manufacturing M-Sand and P-Sand, not blue metal jelly. They detailed their process, which involves using blue metal up to 24 inches in size, crushed in a primary unit, then a secondary cone unit, sieved to 40 mm, and further processed in a Vertical Sand Impactor (VSI). The material is then washed to produce M-Sand and P-Sand. Additionally, the unit has reported that, apart from the primary crusher and water wash unit, all other facilities are covered.

8. It is further stated by the appellants that an inspection conducted on 08.11.2021 revealed the presence of a Primary crusher (Jaw crusher), Secondary crusher (Cone crusher), Vertical Shaft Impactor (VSI), two vibrator screens, an M-Sand washer unit, and belt conveyors at the unit. There is no habitation within 300 Meters and no National Highway /State Highway within 100 Meters of the unit.

9. The further contention of the appellant is that as per B.P. No.26 dated 30.07.2018 for categorization, siting of M-Sand units and on process of consent application in respect of M-Sand units, certain recommendations were given therein. As per which, the standalone M-Sand units must operate solely with Vertical Shaft Impactor (VSI) crushers, prohibiting the use of primary (jaw) or secondary (cone) crushers. Units located within stone crushers must comply with B.P. Ms. No.4 dated 02.07.2004 and B.P. Ms. No.55 dated 06.10.2005. The affidavit filed by the unit before the Appellate Authority TNPCB indicates it incorporates primary and secondary crushing, thus disqualifying it as a standalone M-Sand unit and requiring compliance with the aforementioned criteria.

10. The unit also submitted a separate CTO - Direct application dated 28.03.2021 in the name of M/s. Sri Raamji Sand & Blue Metals to produce 500 MT/day of M-Sand from 510 MT/day of blue metal chips. The said application was returned on 10.04.2021 with certain reasons, which are as follows:-

"1. The unit shall install only machineries to produce M-Sand from Blue metal jelly. Hence the unit shall remove all other machineries installed to produce blue metal jelly and a

revised site lay out plan shall be furnished. The unit shall list out the machineries to be installed for M. sand and apply for CTE instead of CTO direct.

2. The unit shall include conveyors in Air Emission column.

3. The unit has furnished land status as own and hence shall furnish the copy of the land document."

11. The unit resubmitted the application on 16.04.2021 and the same was returned stating the following:-

"Earlier, Unit's application for CTO/Direct filed by the unit of M/s. Sri Raamji Sand & Blue Metals (Stone Crushers), S.F. No.709/1A3B, Thanakkar Kulam Village, Radhapuram Taluk, Tirunelveli District was rejected vide Board's Proc Dt. 23/12/2020 as another existing consented crusher unit is located within 1 KM. Subsequently, power supply to the unit was also disconnected on 26/02/2021 based on Board's direction dated 22.02.2021. The unit has now again applied for M Sand production in the same survey number on 28.03.2021 and resubmitted on 09.06.2021. In this connection it is informed that the unit of M/s. Sri Raamji Sand and Blue Metals, S.F. No.709/1A3B, Thanakkarkulam Village, Radhapuram Taluk, Tirunelveli District has filed Appeal No.55 & 56 of 2021 against the Board's rejection letter dated 23/12/2020 before the Hon'ble Appellate Authority, Chennai, Tamil Nadu Pollution Control Board. The Appeal is still pending before the Hon'ble Appellate Authority, Chennai, Tamil Nadu Pollution Control Board. Hence, the unit's CTO - Direct application can be considered only after receiving the final order from the Hon'ble Appellate Authority, Chennai, Tamil Nadu Pollution Control Board."

12. So, the impugned common order dated 08.02.2022 is assailed by the appellants on the following grounds:-

- a. The impugned order violates B.P. Ms. No. 4 dated 02.07.2004 and is therefore illegal and contrary to law, necessitating intervention from this Tribunal.
- b. The impugned order ultra vires B.P. No. 26 dated 30.07.2018, which specifies that consented stand-alone M-Sand units must use only Vertical Shaft Impactor (VSI) crushers, prohibiting primary crusher like jaw crusher, secondary crusher and cone crusher.
- c. The Appellate Authority TNPCB failed to consider documents indicating the respondent's intention to manufacture blue metal chips, including a CTO-Direct application and

inspection report that showed the presence of machinery for blue metal production.

- d. B.P. No. 26 allows M-sand units to either be extensions of existing stone crushers or newly established integrated facilities, which was overlooked by the Appellate Authority TNPCB.
- e. The installed machinery in the respondent's unit is designed for blue metal production, disqualifying it as a standalone M-Sand unit. Therefore, the application attracts the siting criteria under B.P. Ms. No.4 dated 02.07.2004 and B.P. Ms. No.55 dated 06.10.2005.
- f. The Appellate Authority TNPCB failed to consider that the previous CTO-Direct application was returned due to the necessity of removing machinery for blue metal jelly production before applying for a CTO.
- g. The Appellate Authority TNPCB also failed to consider that only if the respondent unit removes the primary crushing unit and secondary cone crushing unit, the application for CTO can be considered. The Appellant Authority TNPCB cannot subvert B.P. No.26 dated 30.07.2018 and grant CTO without fulfilling the qualifications of B.P. No. 28 dated 30.07.2018 by the respondent.

13. Upon notice, the sole respondent has entered appearance through their counsel and filed a **reply dated 07.12.2022**, wherein it is stated that the unit is solely for manufacturing M-Sand and P-Sand, not for manufacturing Blue Metal Jelly. The respondent owns a Track Mounted Crusher purchased from M/s. Shri Ambica Engineering Company, Vadodara, Gujarat on 14.11.2019. This crusher, measuring 14 feet in height, along with the primary crusher (jaw) and secondary crusher (cone) and vertical shaft impactor, operates within a covered shed to reduce pollution. The manufacturing process involves crushing boulders, sieving, and washing to produce the final products. The water is sprinkled in the primary

and secondary crusher which mitigates/ensures that there is no pollution. Unlike typical crushers, which are large in size and to be kept in open land, the respondent's setup is housed in a covered shed for cleaner operations, with all processes except washing conducted within the shed.

14. The reply further states that the unit adheres to the TNPCB's air emission standards and is willing to abide by any additional conditions that may be prescribed by the Board. The production of Blue Metal is not commercially viable due to its lower market price compared to M-Sand and P-Sand. To encourage M-Sand production, the Board has established regulations for the location of such units viz., the unit shall be located 300 Meters away from the approved habitations and shall be located 100 Meters from the National or State Highways subject to the condition that they can use the Vertical Shaft Impact Crusher (VSI) and vibration screen with adequate dust suction and collection with closed storage for the stone and dust collection. The respondent's unit operation meets these standards. Accordingly, the respondent seeks dismissal of both the appeals.

15. Heard the learned counsel appearing for the appellant as well as the sole respondent.

16. The first order of rejection by the TNPCB dated 23.12.2020 has stated that, upon inspection on 15.12.2020, the unit was found to have established the crusher and put into operation without the consent of the Board under the Water (Prevention and Control of Pollution) Act, 1974, and the Air (Prevention and Control of Pollution) Act, 1981. Besides, there is another existing consented crusher unit at a distance of 0.62 Km from the site boundary of this unit. The distance between the crusher boundary of the two crushers is 0.84 Km, thereby not meeting the norms of the location of the stone crushing unit specified in B.P. Ms. No.4 dated 02.07.2004.

17. Aggrieved by the same, appeals were preferred before the Appellate Authority TNPCB. The Appellate Authority - TNPCB has found that the respondent has stated that the unit

was proposed only for manufacturing M-Sand and P-Sand and not blue metal jelly and therefore, the same cannot be compared with the crusher manufacturing activity and the unit can be permitted to be operated subject to compliance of any conditions that may be imposed by the TNPCB. When it was alleged by the TNPCB that the machinery installed was for the crushing unit, the Appellate Authority had found that it was only for the purpose of manufacturing M-Sand and P-Sand. If that is so, the siting criteria as per the B.P. Ms. No.4 dated 02.07.2004 will not apply. Recording the statement made orally and by affidavit that the unit would produce only M-Sand and P-Sand, the TNPCB was directed to issue CTO – Direct to the respondent herein.

18. The appeals now preferred by the TNPCB alleged that the presence of a primary crusher, jaw crusher, secondary crusher and cone crusher installed by the respondent are the machinery used for manufacturing blue metal jelly and it cannot be considered as a standalone M-Sand unit and that the siting criteria under B.P. Ms. No.4 dated 02.07.2004 is applicable.

19. To be noted is that in view of the Judgment dated 08.08.2024 passed by this Tribunal in **Original Application No.12 of 2024 (SZ) [E.V. Sampath Vs. Tamil Nadu Pollution Control Board]**, the siting criteria are not made applicable to the present case, as it is only the M-Sand and P-Sand manufacturing unit.

20. Even otherwise, the learned counsel appearing for the sole respondent states that they have already shifted the unit in compliance with the distance criteria as stipulated in B.P. Ms. No.4 dated 02.07.2004. In such circumstances, the objections raised by the appellants/ TNPCB in the appeal cannot stand.

21. In the result, **the appeals [Appeal Nos.46 and 47 of 2022 (SZ)] are disposed of**, confirming the impugned common order dated 08.02.2022 of the Appellate Authority Tamil Nadu Pollution Control Board in Appeal Nos.55 and 56 of 2021.

22. In view of the above, the interlocutory applications [I.A. Nos.151 & 153 of 2022 (SZ)] are closed accordingly.

Sd/-
Smt. Justice Pushpa Sathyanarayana, JM

Sd/-
Dr. Vijay Kulkarni, EM

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