

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

Application No. 321 of 2013 (SZ)

IN THE MATTER OF:

Mr. Yesuraja
S/o.Selvaraj
Muhilankarai
Manalickarai Post
Kanyakumari District



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Applicant(s)

AND

1.The District Collector
Nagercoil
Kanyakumari District

2.The Pollution Control Officer
Tamil Nadu Pollution Control Board
Nagercoil
Kanyakumari District

3.The Executive Officer
Verkilambi Panchayat
Kallankuzhi Post
Kanyakumari District

4. Mr. S. George
S/o. Sundaramony
Chitrangcode
Manlickarai Post
Kanyakumari District

5. Mrs. Mariya George
Proprietrix
M/s. Jenix Cashew Company
R.S.No.672/5, Melicode Village
Chittarancode, Manalickarai Post
Kanyakumari District

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Respondent(s)

NGT

Counsel appearing for the Applicant:

Mr. G. Alexander

Counsel appearing for the Respondents:

M/s. M.K. Subramanian and

M.R. Gokul Krishnan for R-1

Mrs. H. Yaseem Ali for R-2

M/s. Abdul Saleem

S. Saravanan and

Vidyalakshmi for R-3

M/s.S. Nagarajan and

David George for R-4

Mr. C.K.M. Appaji for R-5

ORDER

PRESENT:

HON'BLE SHRI JUSTICE M. CHOCKALINGAM, JUDICIAL MEMBER

HON'BLE SHRI P.S. RAO, EXPERT MEMBER

Dated 6th May, 2015

Heard the counsel for the parties. The applicant herein, an Advocate by profession, has sought for a direction to the respondents 1 to 3 to consider his representations dated 30.7.2012, 6.11.2012 and 14.8.2012 and take appropriate action against the 4th respondent since there is emission of smoke which is polluting the air, discharge of lot of water and other effluents thereby polluting the nearby Kezha Chittrangode tank from the factory of the 4th respondent wherein he has

been carrying on cashew nut processing Unit which has caused a lot of health hazards apart from causing environmental degradation. The grievance ventilated by the applicant is that the non-consideration of the representation in that regard. All the respondents entered appearance and filed their respective reply.

It is submitted by the counsel for the 4th respondent that the 4th respondent is not the owner of the Unit and it belongs to his wife. Hence an application was made by the wife of the 4th respondent for impleadment in M.A.No.118 of 2015 and the same was allowed and she was ordered to be impleaded as 5th respondent by an order dated 24.4.2015. The newly impleaded 5th respondent also filed reply. Admittedly, the 5th respondent's cashew nut Unit in question came into existence a decade before without obtaining necessary Consent to Establish and for operation also. While the matter stood so, the 5th respondent purchased the Unit on 17.2.2011 and applied for Consent to Operate by making an application on 18.10.2012 and the same was returned on 8.2.2013 stating that the deficiency is found therein apart from calling for the land classification certificate from the concerned authorities. It is well admitted by the counsel for the 5th respondent that a communication was received from the 2nd respondent, Pollution Control Board stating the above deficiency along with the direction to represent the same. But it has not been done till this day. Thus, it is quite evident that the cashew nut Unit of the 5th respondent has been carried on in the past without Consent to Operate. When it was brought to the notice of the Tribunal, a direction was issued to the 2nd respondent, Pollution Control Officer of the Board to initiate necessary action and report. This day, an affidavit is filed by the District Environmental Engineer of Kanyakumari District that pursuant to the order of the Tribunal an order of closure was served on the Unit on

7.4.2015 which was followed by termination of Electric Service on 23.4.2015 and thus the Unit of the 5th respondent is not carrying on its operation at present.

In the considered opinion of the Tribunal that in view of the action taken by the 2nd respondent Board serving an order of closure and since disconnection of Electric Service was also done, the activities of the 4th respondent have now been terminated and rightly too. It is admitted by both the parties that the application made by the 5th respondent, seeking Consent to Operate, was returned and it is yet to be resubmitted fulfilling the conditions mentioned therein. Therefore, it would suffice permitting the 5th respondent to resubmit the application after complying with all the conditions to satisfy the procedural formalities as accepted in law and issue a direction to the 2nd respondent Board to consider the application and pass suitable orders as required in law within a period of four weeks from the date of resubmission of the application. With the above direction, the application is disposed of.

No cost.

Justice M. Chockalingam
(Judicial Member)

NGT

P.S. Rao
(Expert Member)