

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

Appeal No.84 of 2014 (SZ)

**The Proprietor
M/s Varuna Bio Products
SF No. 3 /186, Ayyan Kollam Kondan
Rajapalayam Taluk
Virudunagar District-626117**

Appellant

AND

- 1 The Chairman
Tamilnadu Pollution Control Board
76, Mount Road, Madras-600032**
- 2. The District Environmental Engineer
Tamilnadu Pollution Control Board
Virudunagar District**
- 3. The Assistant Engineer (O & M)
TANGEDCO
Thalavaipuram, Rajapalayam Tk.,
Virudhunagar District**

Respondents

**Counsel for Appellant:
Mr.M.Karunanidhi**

**Counsel for Respondents:
Smt.H.Yasmeen Ali for R-1 & R-2
Shri P.Gnanasekaran for R-3**

QUORUM:

**HON'BLE JUSTICE DR.P.JYOTHIMANI, JUDICIAL MEMBER
HON'BLE PROF.DR.R.NAGENDRAN, EXPERT MEMBER**

Judgement dated 15th April 2015

1. We have heard the learned counsel for appellant as well as the respondent, Tamil Nadu Pollution Control Board. This appeal has been directed against the order passed by the Board dated 26.9.2014, by invoking the powers under Section 33(A) of Water (Prevention & Pollution Control) Act, 1974 by which an order of closure of the appellant unit as well as disconnection of power supply has been directed with immediate effect.
2. As it is seen in the impugned order of the Board, one M/s Gomathi Ram Chemicals has obtained consent to establish in the year 1997 for the purpose of carrying on business in seaweed dry processing unit . However, it appears that no consent to operate was obtained by the said M/s Gomathi Ram Chemicals. Now it is an undisputed fact as admitted by the appellant that M/s Gomathi Ram Chemicals and the appellant are one and the same.
3. It is the case of the Tamil Nadu Pollution Control Board that in the name of M/s Gomathi Ram Chemicals, the appellant has been carrying on the industrial activities without obtaining consent to operate at least from the year 2008 to till date. The appellant is intermittently carrying on the business activities based on the consent to establish obtained in the name of M/s Gomathi Ram Chemicals.
4. The reply affidavit filed by the 1st and 2nd respondent Board, even though states that as on date the unit was not in operation and all the doors and windows are found closed, it clearly points out that the proprietor of the unit informed that the sodium alginate production involving wet operations were stopped permanently, instead he is doing dry operation then and there of

pulverizing sodium alginate granules purchased from outside to fine mesh. Similarly sea weeds are stated to be fed into tanks and added with water in the ratio of 2:3 i.e. for 2 tonnes of sea weeds 3 KLD of water is being added and the said mixture is kept for 90 days in the same tank for fermentation. After fermentation the sea weed becomes like a semi solid jelly and this will be packed and despatched. In this process all the water is consumed by the sea weed and there is no effluent generation.

5. From the stand taken by the Board, it is clear that even though the unit of the appellant is a small unit and there is no effluent generated by the activity intermittently done by the appellant, it remains the fact that such activity has been done by the appellant without obtaining consent to operate obtained from the Tamil Nadu Pollution Control Board.
6. It is also informed to this Tribunal that at present the appellant has made a fresh application to the Board on 19.8.2014 for consent to establish and the same is pending. Therefore it is clear that for the unauthorised activity carried on by the appellant between 2008 and 2014 without obtaining consent to operate and causing pollution, the appellant is liable for payment of compensation under the "polluter pays principle". Considering the stand taken by the Board that no effluent was generated by such unlawful activity of the appellant, and that it is a small scale unit and the quantity of production is very meagre, we are of the view that a token amount must be imposed against the appellant under the above said principle. Accordingly, we direct the appellant to pay an amount of Rs.25,000/- under the "polluter pays

principle” which shall be deposited to the Principal Secretary to Government of Tamil Nadu, Department of environment and forest, Chennai which shall be kept in a separate account along with the amounts already ordered in other cases by this Tribunal. The said amount shall be deposited within one week from today.

7. We also record that the appellant who is present in the Tribunal has also agreed to pay this amount within one week from today.
8. After such payment the appellant is entitled to inform the Tamil Nadu State Pollution Control Board which shall thereafter decide on the application made by the appellant in accordance with law expeditiously, in any event within a period of one week. We also direct that the Tamil Nadu Pollution Control Board that in the event of passing such order in favour of appellant the Board shall direct the Electricity Board for restoration of electricity supply. With the above directions, the appeal stand disposed.

Justice Dr.P.Jyothimani
(Judicial Member)

Prof. Dr. R. Nagendran
(Expert Member)