

**BEFORE THE NATIONAL GREEN TRIBUNAL
SOUTHERN ZONE BENCH AT CHENNAI
ORIGINAL APPLICATION NO. 159 OF 2021 (SZ)**

IN THE MATTER OF:

KANKANA DAS

... APPLICANT

VERSUS

UNION OF INDIA AND ORS

... RESPONDENTS

**RESPONSE TO THE STATUS REPORT FILED BY THE CENTRAL
POLLUTION CONTROL BOARD IN COMPLIANCE TO THE HON'BLE
TRIBUNAL'S ORDER DATED 15.03.2023**

MOST RESPECTFULLY SHOWETH:

Preliminary Submission

1. The Applicant had filed the Original Application under Section 14 and 20 of the National Green Tribunal Act, 2010 ("**NGT Act**") raising substantial questions relating to the environment arising out of the failure of Central Pollution Control Board to formulate 'State Action Plan' for Air Pollution for all 23 States by 2020 as envisaged in the National Clean Air Programme (NCAP). NCAP is a statutorily mandated nation-wide programme aimed at preventing and controlling air pollution. There is a failure on part of CPCB, SPCB and State Governments in formulating the guidelines for the preparation of SAP. NCAP emphasis on comprehensive mitigation strategies, as well as envisages augmenting and strengthening an effective ambient air quality monitoring network across the country.

Furthermore, the NCAP states the mitigation actions and their stringent implementation for prevention, control and abatement of air pollution. One such action is the collaborative and participatory approach involving State Governments, Local bodies, relevant Central Ministries and other Stakeholder forming the crux of the programme, and accordingly, mandates that CPCB along with MoEFCC is to formulate guidelines for the preparation of State Action Plans ("SAP") by 2019 and thereafter each State Pollution Control Board and State Government is to formulate and implement "SAP" by 2020. That despite these stated objectives, CPCB, MoEFCC, SPCBs as well as every State Governments have failed in formulating and implementing the SAP within the stipulated timeframes, i.e., by 2019 and 2020 respectively.

2. That the Hon'ble Tribunal via order dated 15.03.2023 directed the CPCB to examine action plans submitted by States independently and to file a status report. The Applicant herein perused the Status report and herein filing a response highlighting the lacunas in the in the State Action Plans filed by the Puducherry Pollution Control Committee (Respondent No. 14), State of Kerala (Respondent No. 11) and Tamil Nadu Pollution Control Board (Respondent No. 4) which would result in deteriorating the air quality of the states and thereby making the mandate under the National Clean Air Programme (NCAP) unachievable.

**RESPONSE TO THE STATE ACTION PLAN OF THE
PUDUCHERRY POLLUTION CONTROL COMMITTEE
(RESPONDENT NO. 14) SUBMITTED BY THE CPCB IN THE
STATUS REPORT**

3. That the indicative template of the Central Pollution Control Board (CPCB) broadly covers industrial emission, vehicular emission, construction and demolition waste, road dust, emissions from burning of waste and emission due to burning agro residues and household emissions. It is submitted by the Applicant that the following observation of the report is critical.

State Action Plan gives an account of existing standards/ directions/ policies done and do not propose any action/ policy to mitigate air pollution

4. That the table under the Industrial Emissions (**@Pg 6 of the status report filed by the CPCB**) gives account of all standards, directions or schemes incorporated by the state in the 2021. That these statements only give clarity on what State has done so far and do not propose any action plan or policy that is to be done in the future. The regulation for conversion of brick kilns to clean technology (**Para 1 of Puducherry State Action Plan SI No. 10**), regulation for Emission Trading Scheme (ETS), policy to set up e-waste recycling unit in industrial areas in compliance with e-waste management rules (**Para 1 of Puducherry state action plan (SI No. 11 & 12)**), Policy for scrapping old vehicles and Policy for scrapping old vehicles, Policy / Scheme for Eco-Friendly Mass Rapid

Transport Systems (**Para 2 of Puducherry state action plan (SI No. 2, 3 & 4)**). All these actions are yet to be started as per the submitted status report of the CPCB. That it can be observed that the Industrial emission section under the Puducherry State Action Plan has generalized action points which are neither any industry specific nor intended to any highly polluted industries.

No details provided on financial implication and funds allocated

5. That one of the crucial components under the State Action Plan is the allocation of funds and their detailed funding mechanisms. The Applicant herein submit that the State Action Plan submitted by the Puducherry Pollution Control Committee in the status report filed by the CPCB lacks information in terms of budgeting and fund allocation. For example, policy regarding installation of CAAQMS based on the emission potential or capacity of air polluting industries (**Para 1 of Puducherry state action plan (SI No. 7)**) is stating 'Nil' under the financial implications, funds allocation, funds utilized columns. That such proposition without having any financial planning will invariable lead to failure of installation of CAAQMS, which is an important pre-requisite for identification of polluted cities and/or rural areas. A similar approach was found in case of mechanism to control fugitive emission sources as well (**Para 1 of Puducherry state action plan (SI No. 9)**).

Ambiguity in terms of Timeline for Completion

6. That the indicative template of the CPCB has a column to write down specific timeline for the completion of all action plans, hence against each such activity a 'timeline for completion' is mandated. It is pertinent to note that the State Action Plan for Puducherry filed in the status report of the CPCB has missed out largely on this. The notification and enforcement of PUC norms (**Para 1 of Puducherry State Action Plan (SI no.6)**), the online monitoring PUC implementation (**Para 1 of Puducherry State Action Plan (SI no.7)**) etc are few examples of incomplete timeline targets for the programmes that aims to mitigate the air pollution.
7. That it is pertinent to point that the CPCB has also pointed out the following observations made by the Applicant herein in the Status report filed by CPCB (**@Pg 90, Annexure B1**). The observations made are in line with the contentions raised by the Applicant herein.

RESPONSE TO THE STATE ACTION PLAN OF THE STATE OF KERALA (RESPONDENT No.11) SUBMITTED BY THE CENTRAL POLLUTION CONTROL BOARD IN THE STATUS REPORT

8. That the indicative template of the Central Pollution Control Board (CPCB) broadly covers industrial emission, vehicular emission, construction and demolition waste, road dust, emissions from burning of waste and emission due to burning agro residues and household emissions. It is submitted by the Applicant that the following observation of the report is critical.

STATE ACTION PLAN GIVES AN ACCOUNT OF EXISTING STANDARDS/ DIRECTIONS/ POLICIES DONE AND DO NOT PROPOSE ANY ACTION/ POLICY TO MITIGATE AIR POLLUTION

9. That the table under the Industrial Emissions (**@Pg. 21, Annexure 2 of the status report filed by the CPCB**) under the column 'activities' Sl no. 12 relates to regulation of ETS and the response states that "Ministry of Power, Government of India published draft Carbon credit Trading Scheme (CCTS). This reply is not at all specific to Kerala, therefore, clarity has to be sought from State of Kerala relating the scope of adopting emission trading scheme in the State. That furthermore, it is also pertinent to note that as per the information available in the public domain, State of Kerala has refineries and petrochemical industry, ship building and other heavy industries. Therefore it is likely that, the state will be having emission causing industries and hence it should have a specific regulation related to ETS. However, no information has been provided for the same in the State Action Plan.

No details provided on financial implication and funds allocated

10. That the State Action Plan submitted by the State of Kerala to the CPCB is completely silent on the financial implications, fund allocation and fund utilization except only in few cases. In every other occasion, the column related to financial implication is 'NA' or

is left 'blank' or is mentioned 'No'. It is submitted by the Applicant that the fund related information needs complete disclosure and revisit. The allocation of fund and its utilization is an integral part of the template issued by the CPCB as it gives clarity and likely hood of implementing such action plans.

Ambiguity in terms of Timeline for Completion

11. It is pertinent to note that the State Action Plan for Puducherry filed in the status report of the CPCB has missed out largely on coming up with a timeline. The columns are left blank. For example, It is pertinent to understand under the Vehicular Emission table SI no.4, 5, 6,7,8,9 11, 12 are left blank. Similarly the table under Para 3 'Burning' SI no.1, 2, 3,4,5,6 is left blank. That this ambiguity of not coming up with a timeline will be problematic as lack of clarity as to the stipulated time frame of the policy shows absence of clear cut vision to execute the State Action Plans.
12. Furthermore, it is submitted by the Applicant that few of the columns in the State Action Plan is not legible. For example, in case of industrial emission (**SI No. 3, SI No.7, 9, 10,**) the action plan is not readable, as to what all are required to be submitted as part of the indicative template. Hence it is quite difficult to relate with the submitted part of the template, as to whether the submitted information is in synchronization with the requisite template or not.

**RESPONSE TO THE STATE ACTION PLAN OF THE TAMIL
NADU POLLUTION CONTROL BOARD (RESPONDENT NO. 4)
SUBMITTED BY THE CENTRAL POLLUTION CONTROL
BOARD IN THE STATUS REPORT**

13. That the indicative template of the Central Pollution Control Board (CPCB) broadly covers industrial emission, vehicular emission, construction and demolition waste, road dust, emissions from burning of waste and emission due to burning agro residues and household emissions. It is submitted by the Applicant that the following observation of the report is critical.

**State Action Plan gives an account of existing standards/
directions/ policies done and do not propose any action/
policy to mitigate air pollution**

14. That in Para 4.1.3 of the Tamil Nadu State Action Plan (**SI no. 5**) in Construction & Demolition Waste and Road Dust Management, the State Action Plan has simply copied from the Construction and Demolition Waste Management Rules, 2016 and did not provide any specific action plan related to the construction and demolition of waste and road dust management.
15. That furthermore, the State has not formulated any policy for development of projects/ plants for construction and demolition of waste management. (**Para 4.1.3 of the Tamil Nadu state action plan (SI No. 1)**)


No details provided on financial implication and funds allocated

16. That the State Action Plan of Tamil Nadu has missed out on the financial implications, fund allocation and fund utilization aspects which are crucial under the NCAP. The Applicant herein submit that the State Action Plan submitted by the Tamil Nadu Pollution Control Board in the status report filed by the CPCB lacks information in terms of budgeting and fund allocation. For example in Para 4.1.3 Sl No. 1,2,3,4,5,6,10,11,12, has left the column blank in terms of the above stated parameters. Similar approach is taken in Para 4.1.4, and 4.1.6. Therefore, a full revision of the fund allocation is required.
17. Therefore, in the light of the above facts, circumstances and submissions, it is submitted that both the State Action Plans submitted by the State of Andhra Pradesh and Karnataka are deficient and will not be able to achieve the goals mandated under the National Clean Air Programme (NCAP), therefore must be reconsidered.

THROUGH



RITWICK DUTTA



RAHUL CHOUDHARY



G. STANLY HEBZON

SINGH

ADVOCATE FOR THE APPLICANT