

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

**Application No. 228 of 2014 (SZ)**

**IN THE MATTER OF:**

R Janakiraman  
Secretary, Human Rights Protection centre  
Dharmapuri District Branch  
Thiruvalluvar Nagar  
Pennagaram Taluk  
Dharmapuri District

..... Applicant

**AND**

1. The Principal Secretary to Government  
Department of Environment and Forest  
Chennai

2. The Chairman  
Tamil Nadu Pollution Control Board  
76, Mount Salai,  
Chennai-32

3. Union of India  
Ministry of Environment and Forests  
Rep by Secretary  
Delhi

4. The District Collector  
Dharmapuri  
Dharmapuri District

..... Respondents

**Counsel appearing for applicant:** Mr. S. Jim Raj Milton

**Counsel appearing for the respondents:** M/s M. K. Subramanian and M.R. Gokul Krishnan for Respondent No 1 and 4, Mrs. H. Yasmeen Ali for Respondent No 2; Mr. M.R. Gokul Krishnan for Respondent No.3.

**O R D E R**

**Coram:** Hon'ble Shri Justice Dr. P. Jyothimani, Judicial Member

Hon'ble Shri P.S. Rao, Expert Member

---

**Delivered by Shri. P. S. Rao, Expert Member, Dated 5<sup>th</sup> August, 2016**

---

Whether the judgment is allowed to be published on the internet

Yes/No

Whether the judgment is to be published in the All India NGT Reporter Yes/No

1. This application is filed by the applicant seeking a direction against the respondents to ban immersion of idols containing Plaster of Paris (PoP) and other chemicals in the Hoganekkal falls and river bank of Cauvery in Dharmapuri district, Tamil Nadu.

2. It is the case of the applicant that in earlier days the idols were made of naturally occurring mud and clay which were bio-degradable that dissolve within hours of immersion but presently the idols are made with PoP which is chemically Calcium Sulphate Hemi-hydrate ( $\text{CaSO}_4, \frac{1}{2} \text{H}_2\text{O}$ ) derived from gypsum a Calcium Sulphate dehydrate ( $\text{CaSO}_4, 2\text{H}_2\text{O}$ ) by firing at relatively low temperature and then reducing it to powder which takes several months and even years to fully dissolve in the water thus blocking the natural flow of water resulting in stagnation and breeding of mosquitoes and other harmful pests. Further, the colouring material used to decorate the idols contains heavy metals such as Mercury, Lead and Cadmium which seep into water when idols are immersed leading to serious health hazards. Further, migratory fishes come to the waterfall for laying eggs during the season but the idol immersion destroys the eggs due to the water pollution thus damaging the ecosystem and bio-diversity. It is further submitted by the applicant that the Central Pollution Control Board (CPCB) has reviewed the impact caused by the idol immersion which is as follows:

- The acid content in the water increases
- The Total Dissolved Solids (TDS) increased by 100 percent
- The Dissolved Oxygen (DO) content increased during the day of immersion due to the agitation of waters as organic discharge increased

- The heavy metal content sampling showed an increase in metals such as iron which increases nearly 10 times and the content of Copper in the sediments increased by 200% to 300%.

3. Further, it is stated by the applicant that several accessories used during the Lord Ganesh Puja like Thermocol, plastic flowers, cloth, incense, camphor and numerous other materials dumped carelessly adds more strain to the already polluted rivers and lakes. This being the case, the applicant sent a detailed representation to the 4<sup>th</sup> respondent the District Collector, Dharmapuri District on 20.08.2014 to take appropriate action to prevent the degradation of water bodies due to the immersion of Lord Ganesh idols made up of PoP and other chemicals on the occasion of Vinayagar Chathurthi festival.

4. In the reply affidavit filed by the 2<sup>nd</sup> Respondent namely Tamil Nadu Pollution Control Board (Board) dated 27.03.2015, it is submitted that every year before the festival of Vinayagar Chathurthi, immersion points of Lord Ganesh idols in water bodies in all the districts in the State will be finalized by the concerned District Administration after confirmation with the Revenue and Police departments, Local bodies, Board as well as the representatives of the public and the list of water bodies finalized for idol immersion will be intimated to the public through media. Further, in the year 2014 a list of water bodies for the immersion of Lord Ganesh idols in Dharmapuri District has been finalised which includes Chinnar Dam, Hogenakkal, Kolasanahalli Eri, Kesarkuli dam, Thumbalahalli dam, Thoppaiyar dam, Nagavathi dam, Nagamarai Eri, Then Pennaiyar, Echambadi dam, Vaniyar dam and Irumathur river and the list of these immersion points were published in the daily newspapers on 18.08.2014.

5. It is further submitted by the Board that a meeting was conducted on 19.08.2014 by the District Administration regarding the immersion of Lord Ganesh idols and had insisted and instructed the concerned officials to allow immersion only at the designated points as per the Guidelines laid down by the Central Pollution Control Board (CPCB). Detailed instructions were issued as follows:

- a. Immersion of Lord Ganesh idols made of PoP, baked clay which are insoluble in water and painted with toxic dyes is to be completely banned in the District. Idols should be made from natural materials as described in the holy scriptures. Use of traditional clay, starch etc. which are soluble in water may be allowed. An undertaking in this regard may be obtained from the Pooja Committee applying permission to install idols.
- b. Worship materials such as flowers, *vastras* (cloths) decorating materials (made up of paper and plastic) should be removed before immersion of idols. Local body shall dispose these items safely.

Based on the above decision, Board office at Hosur has sent a letter to the Superintendent of Police, Dharmapuri District to ensure the same while issuing permission to the Pooja Committees who would apply for installation of Lord Ganesh idols at various places in the district.

6. The Board further stated that to maintain the water quality at the immersion points, water samples at various said points were collected by the Board and analysed for their quality as per CPCB guidelines. In the year 2014 water samples were taken exclusively in one of the major immersion points namely Hogenakkal in three stages i.e., before, during and after immersion and the analysis report shows that all the parameters are within the standards.

#### **DISCUSSION & CONCLUSION :**

7. The applicant is consistently absent during the hearings even after giving him a number of opportunities. Therefore based on the record placed before us we decided to deal with the application and finalise the case. The prayer of the

applicant is to direct the authorities to impose ban on immersion of idols containing PoP and other chemicals in the Hoguekka falls and on the bank of river Cauvery in Dharmapuri district, Tamil Nadu to prevent pollution and damage to the environment. It is a fact that immersion of idols of Gods and Goddesses made with PoP and decorated with hazardous chemicals, paints and colours in the water bodies during festivals, is a cause of concern since such practices lead to water pollution and create health hazards. Considering the gravity of the issue the Hon'ble High Court of Bombay in the case of *Janhit Manch vs. The State of Maharashtra and Ors.* in its judgment dated 22<sup>nd</sup> July, 2008 in PIL WP No. 1325 of 2003 directed the authorities for taking steps to evolve guidelines at National level for the immersion of idols and other pooja materials in the water bodies during the festivals and other occasions. The High Court ordered that the Central Government will consider laying down of guidelines for immersion of idols and would also consider related matters with regard to pollution of water bodies. Accordingly looking into all aspects the CPCB issued detailed guidelines in June 2010 on the immersion of idols. Relevant portion of the guidelines is reproduced below:

## **“2.0 GUIDELINES**

### **2.1 General Guidelines for Idol Immersion:**

- (i) Idols should be made from natural materials as described in the holy scripts. Use of traditional clay for idol making rather than baked clay, Plaster of Paris, etc. may be encouraged, allowed and promoted.
- (ii) Painting of idols should be discouraged. In case idols are to be painted, water soluble and nontoxic natural dyes should be used. Use of toxic and non-biodegradable chemical dyes for painting idols should be strictly prohibited.
- (iii) Worship material like flowers, vastras (clothes), decorating material (made of paper and plastic), etc. should be removed before immersion of idols. Bio-degradable materials should be collected separately for recycling or composting. Non biodegradable materials should be collected separately for disposal in sanitary landfills. Clothes may be sent to local orphan house(s).

(iv) Public should be educated on ill effects of immersion in the holy water bodies through mass awareness programme.

(v) The 'Idol Immersion Points' shall be cordoned off and barricaded. Synthetic liner may be placed in the bottom, well in advance. The said line shall be removed on completion of immersion ceremony so that remains of idols would be brought to the bank. Bamboo and wooden logs, if any would be reused. Clay, etc. may be taken to sanitary landfill for disposal.

## **2.2 General Guidelines for Local Bodies/Authorities:**

(i) Local bodies/District Authorities generally make efforts to identify adequate number of designated immersion spots to avoid overcrowding and also to reduce pollution load on water bodies, such spots need to be notified and public and pooja committees be informed of such designated sites through awareness programme preferably a month before such events of idol immersion. All the stakeholders such as River Authority, Port Authority, Water Supply Board, Irrigation Department, etc. be consulted for identification of the Immersion Ghats, where flow in stream is naturally available.

(ii) A co-ordination Committee comprising Police, Non-Government Organizations, Local Authorities, SPCBs, representatives of pooja committees and stakeholders may be set up for guiding the public in carrying out the immersion with minimal impact on water bodies.

(iii) At the immersion sites, burning of solid waste, so generated comprising of used flowers, clothes, decorating materials, etc. should be prohibited.

(iv) Within 48 hours of the immersion of idols, the left over material at idol immersion points of the banks of the rivers, lakes, beaches, etc. should be collected by the local bodies for disposal as per point 2.1(iii) above.

(v) In case of immersion of idols in river and lakes, arrangement may be made for construction of temporary confined ponds with earthen bunds for the purpose of immersion of idols. After the completion of immersion, supernatant water may be allowed to flow in river, pond and lake, as the case may be, after checking for colour and turbidity. Lime may be added in temporary confined ponds.

(vi) The pooja organizers be involved in a campaign on the ill effects of the toxic components of colour materials, not only of the idols, but also other decorating materials used during the festive season. Specific leaflets and posters for mass awareness maybe prepared and the pooja committees persuaded to display such posters and distribute leaflets among worshippers.

## **2.3 Guidelines for Idol Immersion in lakes:**

In case of immersion of idols in lakes or ponds, all the flowers, leaves and artificial ornaments of idols should be removed and idols may be immersed into a corner of pond using removable synthetic liners in the bottom. Post immersion, liners may be taken out along with remains of idols and lime should be added to the pond water for settling the solids. De-sludging of the pond should be undertaken afterwards.

#### **2.4 Guidelines for Idol Immersion in Rivers:**

Temporary ponds having earthen bunds along river bank should be created as idol immersion spots. Removable synthetic liner may be placed well in advance in bottom of pond. The said liner along with remains of idols should be removed from the point within 48 hours of immersion of idols.”

#### **2.5 Guidelines for Idol Immersion in Sea:**

In case of Idol immersion in sea, immersion may be done between low tide line and high tide line (irrespective of its depth). The low-tide line and high tide lines may be identified and marked well in advance. Motor Boats with security personnel/home guards with adequate safety equipments be deployed to supervise the immersion.

8. The aforesaid guidelines issued by the CPCB are exhaustive and cover all the aspects. Based on these guidelines, as stated by the State Board in their reply, action is already being taken by the District administration in all the districts in the State of Tamil Nadu every year to regulate the immersion of idols during the Ganesh festival and the Board is also taking action to collect water samples and analyse the same. In respect of Dharmapuri District which the applicant has raised in this issue, the Board office at Hosur has sent a letter to the Superintendent of Police to ensure the implementation of guidelines while issuing permission to the Pooja Committees who would apply for installation of Lord Ganesh idols. To maintain the water quality at the immersion points, water samples at various points were also collected by the Board and analysed as per CPCB guidelines. In the year 2014 water samples were taken exclusively at one of the major immersion points namely Hogenakkal in three stages i.e., before, during and after immersion and the analysis report shows that all the parameters are within the standards. But no information has been submitted by the Board with regard to the results of such analysis of water samples taken in other water bodies in the district and water bodies in other districts in the State of Tamil Nadu.

9. With regard to the prayer made by the applicant that idols made with PoP should be banned, the CPCB guidelines recommend use of traditional clay for idol

making rather than PoP, baked clay etc. and it was also suggested in the CPCB guidelines that the idol makers may be encouraged to use only traditional clay. The CPCB guidelines do not suggest imposition of total ban on making the idols with PoP. State of Gujarat already made attempt to ban making the idols with PoP and issued orders under Section 144 of the Code of Criminal Procedure, 1973, prohibiting the use of Plaster of Paris in making the idols and similar orders were issued later under the Environment (Protection) Act, 1986. But these orders do not stand scrutiny in the eyes of law. The Hon'ble High Court of Gujarat in Special Civil Application No. 6750 of 2011 in its judgment dated 25<sup>th</sup> August, 2011, while quashing the Notification dated 16.07.2011, issued by the Commissioner of Police, Surat City, under the provisions of Section 144 of the Code of Criminal Procedure, 1973, prohibiting the use of Plaster of Paris in making the idols, has observed as follows:

*“29. There can be no doubt that anything that is likely to adversely affect public health or endanger human life has to be dealt with appropriately. As already stated hereinabove, the correct approach would be for the local bodies/authorities and the State Government to undertake a proper study in order to identify the substances and materials that cause pollution, such as toxic paints and prevent them from reaching the Artisans from the source. The Guidelines issued by the Central Pollution Control Board, if implemented strictly by the concerned authorities, would have lasting effect and would go a long way in containing and eradicating the problem of pollution of water bodies and the environment. Pollution is a permanent problem that cannot be dealt with by resorting to temporary solutions, such as exercise of a Notification under Section 144 of the Code.*

*30. The impugned Notification does not state that respondent No.2 has formed an opinion that there are sufficient grounds for exercise of power under Section 144 of the Code, or that an urgent situation has arisen, of a nature demanding immediate prevention by way of a speedy remedy, warranting a conclusion that use of Plaster of Paris in preparation of idols of Gods and Goddesses and their immersion in Rivers and other water bodies has resulted in imminent danger to human life, health and safety”.*



10. The National Green Tribunal (Principal Bench), New Delhi in the case of *Sureshbhai Keshavbhai Vs. State of Gujarat and Ors.* in Application No. 65/2012 has elaborately dealt with the environmental issues on the ban imposed *vide* notification dated 23.1.2012 issued by the Forest and Environment Department, Government of Gujarat U/s 5 of the Environment (Protection) Act, 1986, quoting the aforesaid CPCB guidelines on making of idols of Lord Ganesh by using PoP. In its order dated 9<sup>th</sup> May, 2013 the Bench observed:

*“23. At this juncture, definition of the expression "Environment Pollutant" may be considered. Section 2(b) of the Environment (Protection) Act, 1986 defines "Environment Pollutant" as any solid, liquid or gaseous substance present in such concentration as may be, or tend to be injurious to the environment. Therefore, even for the purpose of putting total embargo on use of PoP for making of idols, it is necessary for the Central Government to first determine whether the PoP is an "Environment Pollutant". Guidelines issued by the CPCB (R-6) do not indicate any finding of the CPCB that PoP is an environment pollutant. We need not undertake such exercise by ourselves for the simple reason that it is within the domain of the CPCB or the State Pollution Control Board (SPCB), as the case may be, to conduct scientific study and determine whether the PoP is an environmental pollutant. Still, however, we may mention here that the PoP is calcium sulphate hemi-hydrate: (CaSO<sub>4</sub>, H<sub>2</sub>O) derived from gypsum. A calcium sulphate dihydrate (CaSO<sub>4</sub>, 2 H<sub>2</sub>O), by firing the mineral at relatively low temperature and then reducing it to powder as PoP. PoP when mixed with water sets within few minutes. The setting of PoP takes place with expansion and its surface becomes smooth. Due to this property, PoP is used in moulds. PoP is used in paper, soap and ceramic industries. It is used for wrapping part of body for treatment of fractured bone in order to immobilize the same. PoP is not easily soluble in water. It gradually goes to bed of the river or ponds after immersing the idols or any other article made there from. It has potential to make the water alkaline, if it is excessively deposited at the pond or river bed or in the well. The excessive deposition of such PoP may, therefore, harm aquatic life as well as natural flow of pure water. However, these are not our findings at present. These are the observations which, prima facie, are culled out from certain study papers which have been placed on record.*

XXXXXXX

40.XXXXXX **In our opinion, the State of Gujarat over stepped by restricting the use of PoP for making/manufacturing of idols.** Thus, condition no. (1) in the impugned communication is no short of over-stepping of powers by the State Forest and Environment

Department of Gujarat without backup of any legal authority as such. The Learned Counsel for the Respondents also referred to "T Ramakrishana Rao Vs. Principal Secretary to Govt. of Andhra Pradesh" (2001 to 2005) ALD 299. We do not find any parallels in the facts of that case and present case. Had there been scientific study and tangible material to infer that PoP is harmful to health or causes water pollution and the Notification was under the Water Act, the legal effect of such ban might have been viewed differently.

**41. Considering the entire gamut of arguments and the legal position, we have no hesitation in holding that impugned communication dated 23.01.2012 issued by the Respondent No 4 is liable to be quashed to the extent of condition no. (1) thereof.**

XXXXXXXX

46. We direct the GPCB and all the other Pollution Control Boards which are covered by the Water Act to undertake scientific study of the impact of PoP made idols on immersion thereof, in relation to water quality of rivers, ponds, sea, or other sources and examine whether it is an environment pollutant.

47. We also direct the said PCBs to examine whether the immersion of PoP made idols, in fact, cause nuisance, though the PoP by itself may not be a water pollutant. After conducting such scientific study by appointing an Expert Committee, the Pollution Control Board or the Central Government or the State Government may issue appropriate directions in accordance with the powers available under section 33 - A of the Water Act or any other provisions under the Water Act or any other Act, in order to control water pollution or to avoid the nuisance caused on account of immersion of the PoP made idols.

XXXXXXXX

49. We expect that the Pollution Control Boards or the Government would also decide and set out norms/benchmark for the heights of PoP idols which are to be ultimately immersed, in accordance with the nature of the immersion places, even though PoP is not found to be an "environment pollutant".

11. Therefore without any scientific data beforehand that the PoP is a "environment/water pollutant", we are not inclined to give orders that there should be a ban on immersion of idols made with PoP. As per the aforesaid orders of the Principal Bench of National Green Tribunal the Gujarat Pollution Control Board and all the other State Pollution Control Boards in the country which are covered

by the Water Act, 1974, were directed to undertake scientific study on the impact of PoP made idols on immersion in relation to water quality of rivers, ponds, sea and other sources and examine whether PoP is an environment/water pollutant and only after conducting such scientific study by appointing an Expert Committee, the Pollution Control Board or the Central Government or the State Government may issue appropriate directions in accordance with the powers vested under section 33A of the Water Act or any other provisions under the Water Act or any other Act applicable to the case in order to control water pollution on account of immersion of the idols made with PoP.

12. We have no information whether the Respondent Tamil Nadu State Board has undertaken such scientific study on the effect of immersion of PoP made idols in the water bodies and issued any directions based on the outcome of the study. If not, we direct the Board to conduct the study and if required, advise the state government for total imposition of ban on making idols with PoP based on the scientific data which may stand scrutiny in the eyes of law.

13. However, till such study is made we direct that the State government and the Board shall reiterate for the strict implementation of the aforesaid guidelines issued by the CPCB and use of artificial dyes, paints, chemicals, colours etc. which contain toxic metals, in decorating the idols and which actually cause severe water pollution and health hazard, should be completely stopped.

14. We direct the Respondent No. 1 State government and Respondent No. 2 State Board to once again immediately communicate the Guidelines of the CPCB to all the District Collectors, District Environmental Engineers and Local bodies/authorities to strictly implement the guidelines keeping in view of the impending Vinayagar Chaturthi festival in the first week of next month. The

District Administration in all the districts in the State shall undertake the task of creating awareness among the public on the damage caused to the environment and pollution of water bodies due to large scale immersion of idols decorated with paints containing toxic chemicals and improper disposal of pooja material. Co-operation of Non Government Organisations, Civil Society groups, Residents' Welfare Associations etc. may be enlisted by the District administration to sensitize the organizers of Pooja Committees of festivals and also the general public and encourage them to use the idols made with only natural clay and decorated with natural colours/dyes and immerse the idols only at designated immersion points earmarked by the District Administration/Local bodies duly ensuring that the pooja material is not thrown into the water bodies but carefully collected and disposed as provided in the Solid Waste Management Rules, 2016. The State Board shall continue to monitor the water quality at the immersion points before, during and after immersion and display the results on its website to create awareness among the public.

15. With the above directions the Application stands disposed. No order as to cost.

Justice Dr. Jyothimani  
(Judicial Member)

Sri P. S. Rao  
(Expert Member)

Chennai  
05.08.2016