

Item No.01:

BEFORE THE NATIONAL GREEN TRIBUNAL
SOUTHERN ZONE, CHENNAI

Original Application No. 85 of 2020 (SZ) &

I.A. No. 168 of 2021 (SZ)

(Through Video Conference)

IN THE MATTER OF

Mr. Antony Clement Rubin

....Applicant(s)

Versus

The State of Tamil Nadu and others.

....Respondent(s)

Date of hearing: 08.11.2021.

CORAM:

HON'BLE MR. JUSTICE K. RAMAKRISHNAN, JUDICIAL MEMBER

HON'BLE DR. K. SATYAGOPAL, EXPERT MEMBER

For Applicant(s):

Ms. G. Josephine represented
Mr. S.V. Pravin Rathinam/ I.A.

For Respondent(s):

Dr. D. Shanmuganathan for R1, R2 & R4.
Smt. P.T. Ramadevi through
Mr. Ragul Adhithya for R3.
Mr. S. Sai Sathya Jith for R5

ORDER

1. I.A. No. 168 of 2021 (SZ):

This is an application filed by the applicant to advance hearing of the case from 22.11.2021 to a near date.

2. It was alleged in the application that the Original Application (O.A. 85 of 2020 (SZ)) was filed by the applicant for strict implementation of

the Notification issued by the State of Tamil Nadu, namely, G.O. (Ms) No. 84 dated 25.06.2018 and to take appropriate action for non-implementation of the same and constitute an Enforcement Committee to enforce the ban in its letter and spirit in the State of Tamil Nadu.

3. As per order dated 24.06.2020, while admitting the matter, this Tribunal had directed the Tamil Nadu Pollution Control Board (TNPCB) and the Greater Chennai Corporation (GCC) to submit their independent statement regarding the steps taken by them to implement the same.

4. We have received a report earlier from the Greater Chennai Corporation (GCC), which was considered by this Tribunal on 18.03.2021 and thereafter directed the concerned departments to file their independent statement regarding the implementation of the same and the case was posted to 22.04.2021 for consideration of the status report and also for completion of pleadings. Since no reports have been filed as directed, in order to enable the respondents to file their independent status report, this Tribunal had adjourned the case from time to time by notification. Lastly the matter was adjourned to 22.11.2021 by notification dated 26.10.2021. Since, no status reports have been filed and there is large scale violation of the notification issued, the applicant filed this application to advance the hearing to

get the status report of implementation of the ban issued as per the notification mentioned above.

5. Considering the circumstances we feel that the matter can be advanced to today and certain directions can be issued to the State respondents to file their further status report regarding the implementation of the ban issued as per the notification mentioned above. The application is allowed and the hearing is advanced to today. I.A. No. 168 of 2021 (SZ) is disposed of accordingly.

6. O.A. No. 85 of 2020 (SZ):

Hearing advanced to today from 22.11.2021 as per order in I.A. No. 168 of 2021 (SZ). After the case was adjourned on 18.03.2021, we have received a report submitted by the Tamil Nadu Pollution Control Board (TNPCB) dated 10.09.2020, e-filed on 30.06.2021 and received on 14.07.2021 which reads as follows:-

Report Filed on Behalf of the Respondents Tamil Nadu Pollution Control Board

1. R. Ramasubbu, Son of V. Ramasamy, Hindu, aged about 57 years, having office at No. 76, Mount Salai, Guindy, Chennai – 32, do hereby solemnly affirm and sincerely state as follows:-
2. I am the Joint chief Environmental Engineer, Tamil Nadu Pollution Control Board, Chennai and I am filing this Report on behalf of the Respondents Tamil Nadu Pollution Control Board and as such I am well acquainted with the facts of the case as per records.
3. It is respectfully submitted that, the Hon'ble NGT had passed order dated 24.06.2020 through Video Conference at NGT (SZ), among other things inter alia as follows:-

“Para 9: So under such circumstances before proceeding further, we feel it appropriate to get a report from the Tamil Nadu State

Pollution Control Board and also the Greater Chennai Corporation regarding the steps taken by them for implementation of the G.O. (MS) No. 84/2018 dated 25.06.2018 and also regarding the implementation of Plastic Waste Management Rules, 2016 within their jurisdiction”.

4. It is respectfully submitted that the Government of Tamil Nadu, notified G.O. Ms. No. 84 dated 25.06.2018 under Section 5 of the Environment (Production) Act, 1986 imposing ban on manufacture, storage, transport, supply, sale and use of ‘use and throwaway plastics’ such as plastic sheets used for food wrapping, spreading on dining table etc., plastic plates, plastic coated tea cups and plastic tumbler, water pouches and packets, plastic straw, plastic carry bag and plastic flags irrespective of thickness with effect from 01.01.2019. As per this notification, ‘No person including shopkeeper, vendor, wholesaler, retailer, trader, hawker or salesman shall use ‘use and throwaway plastics”

5. It is respectfully submitted that the Government of Tamil Nadu has constituted a ten-member Steering Committee under the chairmanship of Chief Secretary, Government of Tamil Nadu vide G.O(Ms) No. 92 dated 05.07.2018 of Environment & Forest Department with the purpose of monitoring the overall implementation of ban on one time use and throwaway plastics irrespective of thickness from 01.01.2019. Steering Committee meetings were held on 12.07.2018, 07.09.2018 and 05.04.2019 under the Chairmanship of the Chief Secretary. Subsequently, Government Notification vide G.O (Ms)No. 265 E&F Dept. dated 20.09.2018 was issued to all the

Government Departments and all the Institutions/Corporations/Boards and Public Sector Undertakings under the administrative control of Government Departments to strictly implement ban on “use and throwaway plastics” with immediate effect.

6. It is respectfully submitted that, for effective implementation of plastic ban throughout the State, three Regional Coordinators have been appointed vide G.O (Ms) No. 82 of Environment & Forest Department dated 15.06.2018 so as to work in close co-ordination with the District Collectors and Municipal Commissioners as well as the Chairman, Tamil Nadu Pollution Control Board. Also, the Government vide G.O(D) No. 319 of Environment & Forest Department dated 10.11.2018 had permitted the Senior Officials of Tamil Nadu Pollution Control Board, to coordinate with the respective Regional Coordinators for the implementation of plastic ban in the State of Tamil Nadu.

7. It is respectfully submitted that as per the notification of G.O. Ms. No. 84 dated 25.06.2018, District Environmental Engineers of TNPCB are responsible to ensure prevention of manufacturing of the plastic items. Hence, consequent to the above notifications, Tamil Nadu Pollution Control Board had issued Directions under Section 5 of Environment (Protection) Act, 1986 as amended to the plastic units producing banned ‘use and throwaway plastics’ vide Board Proceeding dated 08.11.2018 so as to stop the activities of manufacture, store, supply, transport, sale or distribution of “use and throwaway plastic items” before 01.01.2019.

8. It is respectfully submitted that after the implementation of use and throwaway plastic ban, the units which were identified during regular inspection and monitoring process and were brought to the knowledge of the Board by way of complaints and other information. As per Inspection report and recommendations from District Officials, TNPCB issues closure direction and disconnection of EB power supply to the violating industries. In this connection, Closure direction and disconnection of power supply were issued to 58 industries involved in the manufacture of banned plastic manufacturing items which include non-woven carry bags, plastic carry bags, water pouches, etc. Further, Closure directions were issued to 57 numbers of not applied & banned plastic manufacturing industries through District Coordination Committee in respective districts.

9. It is respectfully submitted that the TNPCB has directed all the large industries throughout the state of Tamil Nadu to comply with the order of the Government on the ban on use of one time use and throwaway plastic items and to create awareness on ban on use and throwaway plastics in areas adjoining the industry and display boards showing banned items were placed at 45 toll plazas.

10. It is respectfully submitted that TNPCB has conducted various meetings and training programs to sustain awareness among various stake holders and also addressed various line departments to take continuous action on the implementation of the plastic ban. The awareness activities propagated the hazards associated with the use of single use plastics and also the utilization of eco-friendly alternatives

such as plantain leaves, Areca nut Plates, Aluminum Foil, Paper Rolls, Lotus leaves, Glass/Metal tumblers, Bamboo/Wooden Products, Paper Straw, Cloth/Paper/Jute Bags, Paper/Cloth Flags, Ceramic ware, Edible Cutlery, Earthen Pots. The details of the awareness activities conducted by the TNPCB are as follows:

- i) Monitoring groups formed by the District Collector is carrying out enforcement of plastic ban notification. Also, certain districts have constituted District Level Monitoring Committee to review the enforcement of ban
- ii) Meetings were conducted with the representatives of Shopping Malls, Hotels and Marriage Halls, TASMAC and bar owner associations of all the Districts for sensitizing on the changeover from banned throwaway plastic items to eco-friendly alternatives.
- iii) Meeting conducted with representatives from Eco-Clubs, NGC Coordinators and District Coordinators of Tamil Nadu to create awareness among public on ban on one time use of “use and throwaway plastics” involving NGOs and school students
- iv) District Environmental Committee meetings and massive awareness rally under the chairmanship of District Collectors were conducted at all the districts of Tamil Nadu and resolutions passed to create one time use and throwaway plastic free district.
- v) Regional Conferences for Plastic Pollution Free Tamil Nadu to create awareness among various stake holders was conducted at Coimbatore, Trichy, Madurai, Tirunelveli, Chennai & Salem under the Chairmanship of the Hon’ble Minister for Environment in

coordination with the respective Regional Coordinators for Plastic Pollution Free Tamil Nadu.

- vi) Workshop for alternative eco-products conducted by District Administration in various districts
- vii) Poster and pictorial handbook on banned use and throwaway plastics and its alternatives was released on 03.10.2019 and distributed to all the Government Departments, District Collectors and the same was circulated among schools, colleges and other stake holders.
- viii) Awareness videos (6 nos.) and 2D and 3D animation short movies on plastic ban awareness in shopping malls, theatres, etc. and the same were spread through Whatsapp
- ix) Social media platforms like Facebook, Twitter, You tube, LinkedIn, Pinterest, Instagram, Blog were used to spread plastic ban awareness
- x) TNPCB addressed Home Department & Commercial Taxes Department to have strict vigil in the check post located at the borders of Tamilnadu and to ensure that no vehicle with the banned plastic materials is allowed into the state of Tamilnadu.
- xi) TNPCB on 16.10.2019 addressed the Hindu Religious and Charitable Endowments Department so as to ensure that all the temples of Tamil Nadu shall abide by the Government Notification on Plastic Ban and shall not use the banned 'use and throwaway plastic' in their premises.

xii) TNPCB on 16.10.2019 addressed the Commissioner, Food Safety & Drug Administration Department to strictly instruct all the district officials of their department to inspect and ensure that all the hotels, restaurants, eateries of Tamil Nadu shall abide by the Government Notification on Plastic Ban

xiii) TNPCB on 16.10.2019 addressed the Managing Director, TASMAL to ensure that all the retail shops of M/s. TASMAL Ltd. located in its rural as well as its urban areas of Tamil Nadu shall abide by the Government Notification on Plastic Ban and shall strictly avoid and stop using banned 'use and throwaway plastic' in their premises and to provide provide collection mechanism.

xiv) TNPCB has conducted a meeting with the representatives of the Chief Engineers Forum of the Star Hotels of Tamilnadu on 06.11.2019 with regard to the action taken by the respective hotels to avoid use and throwaway plastics in their premises along with effective solid waste management

It was informed that the following changes have been implemented in their member hotels:

- Room service food containers replaced with Palm dhonnai, Palm plate
- Plastic spoon, fork, knife, stirrer replaced with wooden/paper materials
- Plastic Carry bags has been replaced with High Quality Paper Carry bags

- Packing Boxes which were used with Plastic material has been replaced with 100% compostable material
 - Non-woven Laundry bags replaced with cotton bags.
 - Banquet non woven napkin replaced with cloth napkin
 - Plastic straw replaced with Paper straw
 - Proposal for Bottling plant to use water in rooms and other areas
 - Disposable plastic bottles (500 ml) have been replaced with 20 litre dispensers reducing at an average of 6000 numbers of small plastic bottles / Month
- xv) Awareness campaign was carried out Maha Karthigai Deepam, Tiruvannamalai District on 10.12.2019 in which gold and silver coins through lucky draw were issued to the devotees who brought eco friendly bags
- xvi) Subsequently, TNPCB conducted meeting with the officials from the Hindu Religious & Charitable Endowments department, Food Safety Department and TASMACH on 21.01.2020 and were informed on the effective implementation of ban of one time use and throw away plastics in the form of paper cups, plastic carry bags, non-woven bags are still in prevalence in various hotels, temple premises etc. The Hindu Religious & Charitable Endowments department has informed that all the temples had banned use and throw away plastics at their premises and the prasadam stalls are provided in donnas, banana leaves, etc, archana baskets provided for carrying out archanas.

11. It is respectfully submitted that the TNPCB is closely monitoring the manufacturing activity of banned plastic items and continuously taking stringent action against the violating units. It is submitted that after the implementation of plastic ban, behavioral change among common public on the use of cloth bags, jute bags rather plastic carry bags is observed. All Government offices and departments have banned use and throw away plastics in their premises.

12. It is respectfully submitted that as per provisions of Rule (9) read with Rule (6) of Plastic Waste Management Rules, 2016 as amended, the producers, importers and Brand Owners in co-ordination with the local body shall be responsible for development and setting up of infrastructure for segregation, collection, storage, transportation, processing and disposal of plastic waste either on its own or engaging individuals under the Extended Producer Responsibility.

13. As per Rule 13 of the Plastic Waste Management Rules, 2016, every producer or brand owner shall obtain Registration from the CPCB if they are operating in more than two states and from the TNPCB if they are operating in one or two states. CPCB has issued EPR Registration to 89 brand owners and 4 producers as per Plastic Waste Management Rules on pan India basis and the said producers and brand owners are submitting action plan to the respective SPCBs.

14. It is respectfully submitted that the Central Pollution Control Board has informed TNPCB vide letter dated 03.02.2019 that the Government of India is in the process of finalizing National

Framework for EPR Action Plan and instructed the TNPCB not to take action against the brand owners / producers except to make them aware of their obligation as per PWM Rules 2016 as amended 2018.

15. It is respectfully submitted that the Ministry of Environment, Forest and Climate Change has issued a Guideline Document on Uniform framework for Extended Producers Responsibility on 23rd June 2020 and invited comments and suggestions from all the stake holders. Upon finalization of Uniform framework for Extended Producers Responsibility, the same will be implemented for the state of Tamil Nadu.

Under the above circumstances, it is humbly prayed that this Hon'ble National Green Tribunal (Southern Zone) at Chennai may be pleased to pass such further or other orders as this Hon'ble tribunal may deem fit and proper in the facts and circumstances of this case and thus render justice.

VERIFICATION

I, R. Ramasubbu, son of V. Ramasamy, Working as Joint Chief Environmental Engineer, Tamil Nadu Pollution Control Board, Chennai-32, do hereby submit that the contents of the above report are true to the best of my knowledge through records.

Verified at Chennai on this 10th day of September, 2020.

7. It is seen from the report that certain steps have been taken by the authorities for implementation of the Government Order notified as per G.O. (Ms) No. 84 dated 25.06.2018. In Para (6) of the report it

was mentioned that, for effective implementation of plastic ban throughout the State, three Regional Coordinators have been appointed vide G.O. (Ms) No. 82 of Environment & Forest Department dated 15.06.2018 to work in close co-ordination with the District Collectors and Municipal Commissioners as well as the Chairman, Tamil Nadu Pollution Control Board (TNPCB). Also, the Government vide G.O.(D) No. 319 Environment & Forest Department dated 10.11.2018 had permitted the Senior Officials of Tamil Nadu Pollution Control Board (TNPCB), to co-ordinate with the respective Regional Coordinators for the implementation of plastic ban in the State of Tamil Nadu.

8. In Para (5) of the report, it was mentioned that the State of Tamil Nadu had constituted a ten-member Steering Committee under the chairmanship of Chief Secretary, Government of Tamil Nadu vide G.O(Ms) No. 92 dated 05.07.2018 of Environment & Forest Department for the purpose of monitoring the overall implementation of ban on one time and throwaway plastics irrespective of thickness from 01.01.2019. Steering Committee had conducted meetings thrice, of which last meeting was held on 05.04.2019 under the chairmanship of the Chief Secretary. Subsequently, as per Government Notification vide G.O.(Ms)No. 265 Environment & Forest Department dated 20.09.2018, direction was issued to all the Government Departments

and all the Institutions/Corporations/Boards and Public Sector Undertakings under the administrative control of Government Departments to strictly implement ban on “use and throwaway plastics” with immediate effect.

9. It is also seen from the subsequent paragraphs that certain steps have been taken and closure orders have been issued against the manufacturing units of such plastic articles. Awareness programmes were also conducted.

10. It is also mentioned in the report that in order to implement the Extended Producers Responsibility as contemplated under Rule 9 read with Rule 6 of the Plastic Waste Management Rules, 2016, certain steps have been taken at the central level through Central Pollution Control Board (CPCB) and Ministry of Environment, Forests and Climate Change (MoEF& CC) and certain guidelines were issued regarding this aspect and it was circulated on 23.06.2020 and invited comments and suggestions from all the stake holders.

11. It may be mentioned here, that the photograph produced by the applicant along with the advanced hearing application shows the pathetic condition of implementation of ban on one time and throwaway plastic bags and it is still continuing at the grass root levels especially by small vendors. If certain effective steps are taken by the regulators to trace out the sources from where they are getting from

the plastic bags, they can effectively take action against those persons who are violating the same.

12. The Tamil Nadu Pollution Control Board (TNPCB) had also not come with the present status after issuance of the draft guidelines in 23.06.2020 issued by the Ministry of Environment, Forests and Climate Change (MoEF& CC) and the Central Pollution Control Board (CPCB) in respect of implementation of Extended Producers Responsibility of manufacturers of plastic articles as contemplated under Rule 13 of the plastic Waste Management Rules, 2016. There is no statement filed by the Chief Secretary or Principal Secretary for Environment regarding the present status of the implementation of the G.O. (Ms) No. 84 dated 25.06.2018 as mentioned above.

13. The District Collector, Chennai District also under the Plastic Waste Management Rules, 2016 has some pro-active role to play to implement the ban on the “use and throwaway plastics” at the grass root level. Steps will have to be taken by the Government to provide some assistance to such vendor by providing bio-degradable bags at subsidised rate through Government agencies, so that the use of non-biodegradable plastic bags of lesser thickness can be avoided by them. Whether such pro-active steps have been taken by the Government is not clear from the statements filed by the Greater Chennai

Corporation (GCC) as well as the Tamil Nadu State Pollution Control Board (TNPCB).

14. When this was pointed out, the learned counsel appearing for the State Department, Tamil Nadu Pollution Control Board (TNPCB) and the Greater Chennai Corporation (GCC) submitted that if some time is granted, they may be able to come with the further status report regarding the implementation and the effective steps that had been taken by them to prevent use of such plastic bags by the general public as well as by the persons who are using the same for their business purposes.

15. Mere issuances of notice ban orders will not be sufficient, unless there is a will power, the Government agencies who are expected to implement the ban will not be able to implement the ban in its letter and spirit. Continuous monitoring and effective steps to penalise the persons who are responsible for the same are some of the methods by which it can be strictly implemented. If there is laxity on the part of enforcement agencies, then the same thing will continue and the ban will be only on paper and not in implementation. We hope that the responsibility of the regulators and the enforcement agencies is understood by them by the observation made by us and they will come with effective steps take to implement the ban in its letter and spirit in the State of Tamil Nadu.

16. The Chief Secretary and the Principal Secretary for Environment & Forest are directed to revive the Steering Committee and the Regional Monitoring Committees if they are not functioning effectively and then monitor its functioning and to take all effective steps to implement the ban in State of Tamil Nadu in its letter and spirit which is required for the purpose of not only protecting the environment, but also to protect the health of the people and living organism in the Universe. The Government must also understand the need for protecting environment which has been expressed by the World Leaders in the recent UN Climate Change Conference (UNFCCC COP 26) held at Glasgow.

17. The above officials are directed to submit the respective report to this Tribunal on or before 09.12.2021, by e-filing in the form of searchable PDF/OCR Supportable PDF and not in the form of Image PDF along with necessary hardcopies to be produced as per rules.

18. The Registry is directed to communicate this order to the official respondents including the Chief Secretary, Principal Secretary for Environment and Forest, District Collector, Chennai District, Commissioner, Greater Chennai Corporation (GCC), the Chairman and the Member Secretary, Tamil Nadu Pollution Control Board (TNPCB) for their information and compliance of the direction of filing the further pro-active steps that have been taken by them to

implement the directions in G.O. (Ms) No. 82 of Environment & Forest Department dated 15.06.2018.

19. For consideration of further status report, post on **09.12.2021**.

Sd/--

.....J.M.
(Justice K. Ramakrishnan)

Sd/--

.....E.M.
(Dr. K. Satyagopal)

O.A. No. 85/2020, &
I.A. No. 168 of 2021 (SZ)
08.11.2021, Sr.

