

Item No.01:

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

Original Application No. 85 of 2020 (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: 24.06.2020.

CORAM:

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

HON'BLE MR. SAIBAL DASGUPTA, EXPERT MEMBER

For Applicant(s):

Sri. S.V. Pravin Rathinam.

For Respondent(s):

Sri. S.N. Parthasarathy through
M/s. Girija for R 1, 2 and 4.
Sri. Abdul Saleem through
Sri. Saravanan for R5.

Smt. P.T. Ramadevi through
Sri. Raghul Adithya for R3.

ORDER

1. The above case has been filed by the applicant seeking the following reliefs:

- (i) *Direct the Respondents to ensure strict compliance of the G.O. (Ms) No. 84 dated 25.06.2018 and to impose heavy penalties on plastic manufacturers producing the above said items in accordance with the polluters pay principle and to also impose heavy penalties on chain retail stores who continue to violate the G.O. (Ms).No 84 dated 25.06.2018 and distribute woven and non-woven plastic bags.*
- (ii) *Direct the Constitution of a Committee consisting of the Respondent No.5 along with Chemical Engineers and technical experts to recommend action plans to curb the manufacturing of plastic woven bags and encourage the production and distribution of plastic free alternatives.*
- (iii) *Direct the Respondents to ensure transparency in compliance of the G.O. (Ms). No. 84 dated 25.06.2018 by furnishing the status of action taken on the prohibition of the usage of plastic woven and non-woven bags and other*

plastic items as stated in the G.O. (Ms). No. 84 dated 25.06.2018.”

2. It is alleged in the application that there is a Government order issued by the 2nd respondent, the State, imposing ban on manufacture, storage, supply, sale and use of ‘use and throw away 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 G.O. (Ms). No. 84 dated 25.06.2018.
3. Though the Writ Applications have been filed before the Hon’ble High Court of Madras challenging notification by some of the manufacturers, the same had been dismissed by the Hon’ble High Court of Madras upholding the legality of the Government Order. But in spite of that fact, there was no effective steps taken by the authorities to implement the same in its letter and spirit and take action against those persons who are violating the same. Hence, this application.
4. When the matter came up for hearing today through Video Conference, Sri. S.V. Pravin Rathinam appeared for the applicant. Sri. S.N. Parthasarathy through M/s. Girija

represented respondents 1, 2 and 4, Sri. Abdul Saleem through Sri. Saravanan represented respondent 5 and Smt. P.T. Ramadevi represented 3rd respondent, Greater Chennai Corporation through Sri. Raghul Adithya.

5. The learned counsel appearing for State Pollution Control Board submitted that action is being taken against the violators including issuing closure orders apart from institution of prosecution against them.
6. The main allegation in the application is regarding the strict implementation of G.O. (Ms) No. 84/2018 dated 25.06.2018. It is seen from the orders passed by the Hon'ble High Court of Madras in *Writ Petition No. 34065 of 2018 and WMP. Nos. 39573 & 39574 of 2018 Tamil Nadu, Pondy Plastic Association Vs. The Government of Tamil Nadu and others*, the Hon'ble High Court of Madras had dismissed the Writ Petitions which was filed challenging its government order banning use and throwaway plastics of certain category and directed the authorities to implement the same before the end of 2019. Similarly in a batch of Writ Petitions namely, Writ Petition Nos. 33453, 33461, 33463, 33738, 33770, 33897, 34243 of 2018, 828, 857, 1821, 1823, 1824, 1827, 1829, 1831, 1834, 2198, 2205, 2209, 2215, 3338, 3551, 3553, 3554, 3556, 3557, 3558, 3559, 3560, 3561,

3562, 3564, 3568, 3984, 4487, 13040 and 4492 of 2019. (*Non Woven's Private Limited Vs. State of Tamil Nadu and others connected cases dated 11.07.2019*), the Division Bench of Hon'ble High Court of Madras reiterated the same thing mentioned in the order of the Hon'ble High Court of Madras Writ petition No. 34065/2018 mentioned Supra and further directed as follows:

“63. Even though the learned Additional Advocate General would contend that milk and other products are essential commodities and therefore, they were given exemption, we are of the view that the whole gamut of arguments is not to ban the essential commodities such as milk, and medicine, but only to ban the plastic wrappers or covers through which those essential commodities are delivered. When one time use of plastic carry bags are banned, the Government, in its wisdom, ought to have considered banning similar one time use and throw away plastics through which consumables are sold. At any rate, the Government cannot say that consumables sold through multi-layered packs are essential commodities and therefore, they are exempted. Had the Government imposed a ban on those multi-layered products, it could have prevented the environment to a great extent. In fact, it is argued by the counsel for the petitioners that it is these multi-layered packs through which consumables are sold would cause greater harm than the use of other plastics inasmuch as there is no scope for these multi-layered packs to be get de-

composed. In any event, granting exemption to some of the items of plastics in the order passed by the Government, which is impugned in these writ petitions, cannot be considered as a discrimination especially when it was issued in the interest of preventing environmental disaster. In such view of the matter, we can only conclude that the exemption granted by the Government to some of the consumables sold through one time use and throw away plastics deserves to be re-considered by the Government. We therefore direct the Government to implement the banning of all multi-layered plastic wrappers and covers which are meant for one time use and throwaway, so as to make the ban effective and meaningful. The Government can also explore alternatives for supply of Aavin milk through bottles or any other means, which was hitherto followed in the State instead of using the plastic cover. In other words, we feel that even though the Government of Tamil Nadu has banned one time use of plastic and other similar products with effect from first January 2019 with an avowed object to make the environment in the State a plastic-free one, we feel that the ban is neither effective nor complete. In spite of the ban, one time throw away plastics are freely made available or accessed for being used. The order which is impugned in these writ petitions, banning one time use of throw away plastics, can therefore be construed to remain only in paper owing to its poor implementation. Unless hefty fines are imposed on the suppliers or stockists, the ban cannot be claimed to be effective or complete. The State should promote alternative products such as cloth or jute bags for being used by

one and all in the larger interest of protecting the environment from being hampered. By allowing the citizens of this State to continue to use one time use and throw plastics, it would only adversely affect the ecology of the State. The State is duty bound to enforce certain stringent measures to protect the environment and the decision to impose a ban on one time use and throwaway plastics, is one of the steps taken in that direction.

64. Before we conclude, we wish to observe that slowly and steadily, plastic had infiltrated and intruded into our daily lives and the large scale use of plastic, for the purpose to which it was not intended to, had in fact sounded a death knell to our ecology and environment. By virtue of burgeoning use of plastics for all purposes, it resulted in mounting of garbage strewn all through the lanes and by- lanes of the streets and the Municipal authorities throughout the State find it an uphill task to deal with the situation. Above all, plastics which are meant for single use are certainly a menace inasmuch as it is littered at the drop of a hat. The more the easier the production of plastic, as we could infer, be it one time use and throw away plastic or other similar nature of product, the more easily it is thrown away in the bins or strewn haphazardly, which causes great concern to the environment and it is a huge pollution menace. As per the scientific study, it is estimated that some items of plastics will take atleast 100 years to decompose. There are also data available in the internet to conclude that plastic wastes have been mistaken for food by numerous animals, mainly

marine creatures and other domestic animals such as dogs, buffaloes and cows and large quantities of plastics have been found in the stomachs of many dead animals. The toxic contents in the plastic had the tendency to cause harm to vital organs or biological functions of marine as well as domestic animals. Cumulatively, plastic profoundly affected animals in aquatic, marine and terrestrial ecosystems. Further, when discarded in earth, the plastic items had the tendency to destruct and decline the quality of soil in the earth, which is also a greatest cause for concern. We also take note of the fact that increasing urbanisation and population growth is also considerably contributing and accounting for plastic pollution, especially the demand for cheaper and readily available materials such as wrappers, plastic water bottles, straws and food containers are easily available and accessed. We wish to observe that restaurants/food production units are causing greater harm than estimated by usage of the plastic covers for packing food items and the rise in usage of these products is alarming. This had in fact woken up environmentalists, natural lovers as well as the government to slowly think of getting rid of plastics which are meant for single use so as to save the earth and planet. In fact, in the counter affidavit filed by the respondents in WP No. 33897 of 2018, it was stated that the Government has granted exemptions to some of the items of plastic since it is not feasible to ban those items for the present. However, it was stated that such an elimination of exemptions may arise in future depending upon the circumstances. We place on record such submissions made on behalf of

the respondents. At this juncture, we also wish to place on record that the Division Bench of this Court, in identical case, passed an order dated 27.12.2018 in WP (MD) No. 34065 of 2018 in which a direction was given to the State Government to ensure that the plastic in various forms are phased out from the markets and that the order of ban is implemented in letter and spirit before the end of 2019. We reiterate the same and direct the Government to ensure that the order imposing ban on various items of plastics is scrupulously followed and implemented without allowing it to remain on paper.”

7. It is clear from the about Judgements of the Hon'ble High Court of Madras that Hon'ble High Court also expressed its displeasure regarding the lethargic manner in which this ban as per the Government Order is being implemented and directed the authorities to implement the same in its letter and spirit.
8. Further, the Principal Bench of National Green Tribunal, New Delhi in *Execution Application No. 13 of 2019 in Original Application No. 247 of 2017 (Central Pollution Control Board Vs. State of Andhaman & Nicobar and others)* by order dated 12.03.2019, directed the authorities to implement vide order dated 20.07.2018 in the above matter and directed the authorities to implement the Plastic Waste management Rules, 2016 in its letter and spirit and directed the Central Pollution

Control Board to file a status report regarding the implementation of Plastic Waste Management Rules, 2016 (Reduce, Reuse and Recycle) as implemented in the States and successive directions have been issued by the Principal Bench in this Regard.

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.

10. The Tamil Nadu State Pollution Control Board is directed to give a status report regarding the implementation of the Government G.O. including the action taken against persons who violated the terms of the G.O. and also for implementation of Extended producers Liability provided under the said rules for implementing the responsibility of the plastic waste generators in disposing the same in an effective manner.

11. The Greater Chennai Corporation is also directed to mention as to how many persons have been booked for violation,

how much amount has been collected as fine or environmental compensation for the violation of the rules and is there any prosecution launched against the violators, if so how many such prosecution have been launched and its stage and the mechanism adopted by the corporation to implement the monitoring of this Government Order within their jurisdiction.

12. The applicant is directed to delete the name of the *6th respondent as he was shown by personal name which is uncalled for. The applicant is also directed to serve the copy of the application with the documents produced to the counsel appearing for the respondents and also to the above said officials within a week.
13. Two months time is granted to the authorities to submit the report as directed by this Tribunal.
14. The Tamil Nadu State Pollution Control Board as well as the Greater Chennai Corporation is directed to submit the report as directed by this Tribunal on or before 11.09.2020 through e-mail or e-filing at ngtszfilling@gmail.com.
15. The Registry is directed to communicate this order to the above respondents along with the copy of the application

immediately by e-mail so as to enable them to comply with the direction.

16. For consideration of report, post on 11.09.2020.

**(* Corrected as per order
dated: 29.06.2020.**

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

.....E.M.
(Shri. Saibal Dasgupta)

**O.A. No. 85/2020,
24th June 2020. Sr.**

