

Item No. 01:

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

Original Application No. 82 of 2021 (SZ)

(Through Video Conference)

IN THE MATTER OF:

Dharmesh Shah,
Chennai.

....Applicant(s)

Versus

Union of India and Others.

....Respondent(s)

Date of hearing: 09.03.2021.

CORAM:

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

HON'BLE MR. SAIBAL DASGUPTA, EXPERT MEMBER

For Applicant(s):

Mr. Ritwick Dutta

For Respondent(s):

Ms. Kanimozhi represented
Smt. Maduri Donti Reddy for R3 & R4
Mr. E.K. Kumaresan for R11
Dr. V.R. Thirunarayanan for R13
Mr. C. Kasirajan through
Mr. Ajith Kumar for R14

ORDER

1. The above case has been filed by the applicant, on the allegation that the directions issued by the Hon'ble Supreme Court in *(Paryavaran Suraksha Samiti Vs. Union of India)*, reported in (2017) 5 SCC 326, have not been implemented by the Southern States namely, Tamil Nadu, Karnataka, Andhra Pradesh, Kerala and the Union of Territory of Puducherry.

2. Further, as per the decision, the State Government will have to take steps to install Online Continuous Emission Monitoring System (OCEMS) in all places showing the emission level for the knowledge of the people and that has not been carried out by these States.
3. It is also alleged in the application, that though some of the States have installed the system, they have protected the pass word, denying access to information to the public regarding pollution level, including the past and present data.
4. The main purpose of implementing the scheme is for public access to such information showing the status of the past as well as current pollution data, so as to ascertain as to whether any further steps will have to be taken to remedy the situation by the public who want to interfere in this matter by approaching appropriate forum.
5. The applicant also produced certain details that have been collected by them regarding this aspect, which will go to show that it has not been strictly complied with by the States mentioned above. So the applicant filed this application seeking the following reliefs:-

- 1) *Direct the Respondent State Governments and Union Territories to install and upload on their Websites a proper and effective Online Continuous Emissions Monitoring System which is easily accessible to the public*
- 2) *Direct the Respondents to ensure that raw data is made available in a harmonized format for public use ad to ensure that historic data is made available for public use in raw and harmonized formats.*
- 3) *Direct that station specific coordinates should be made available specifically to understand the efficacy of*

monitors vis-a-vis pollution sources since such data can also help pollution impact communities guide decision makers in future placement of quality infrastructure.

4) Direct the CPCB to prepare a central repository of OCEMS data from all states and host the same on its website as the same would be useful in developing national/regional policies on air quality in industrial areas, especially critically polluted areas.

6. When the matter came up for hearing for admission today through Video Conference, Sri. Ritwick Dutta represented the applicant. Ms. Kanimozhi represented Smt. Maduri Donti Reddy represented respondents 3 and 4, Mr. E.K. Kumaresan represented 11th respondent, Dr. V.R. Thirunarayanan represented 13th respondent and Mr. C. Kasirajan through Mr. Ajith Kumar represented 14th respondent.
7. On going through the allegations in the application, we are satisfied that there arises a substantial question of environment which requires the interference of this Tribunal for resolving the same.
8. Non-compliance of the directions issued by the Hon'ble Supreme Court in respect of environmental matter on the basis of the environmental laws by the authorities will give rise to the jurisdiction of this Tribunal under Section 14 of the National Green Tribunal Act, 2010 to direct the authorities to take appropriate steps to implement the directions which are intended for the purpose of protecting environment on the precautionary principles.
9. So under such circumstances, we feel that the matter has to be admitted and notice will have to be issued. So the matter is admitted.

10. Issue notice to the respondents by Registered post with acknowledgement due, by e-mail and also by dusthi if possible and produce proof of service on them by filing proof of affidavit as per rules.

11. The applicant is also directed to serve a copy of the application along with the documents, if any, produced to the standing counsels appearing for some of the respondents whose names have been mentioned above within a week and produce proof of such service by filing proper affidavit as per rules.

12. The applicant is also directed to produce necessary requisites along with postal cover and the necessary postal stamps before this Tribunal within a week, so as to enable this Tribunal to send notice to all the respondents through Tribunal, to ensure service on them, so as to enable this Tribunal to proceed against them, if they did not appear in their absence in accordance with law.

13. In the meantime, we direct the concerned State Pollution Control Boards (SPCB) and the Central Pollution Control Board (CPCB) to prepare a chart regarding the status of implementation of the directions issued by the Hon'ble Supreme Court in the respective States and if it is not complied with what is the nature of action taken by them for implementing the same in its letter and spirit in these States as directed by the Hon'ble Supreme Court.

14. The State Governments are also directed to file independent responses regarding the manner in which the directions issued by the Hon'ble Apex Court is being implemented in their respective States and also how it is being made available in the public domain and the monitoring mechanism as to how this is maintained and carried out properly by the responsible persons. In the

cases of States which have not implemented the scheme so far, what is the reason for the delay and how much time they require for implementing the directions issued by the Hon'ble Apex Court in this regard.

15. The Central Pollution Control Board (CPCB) is also directed to give these details and also action plan for implementation of the directions in the States and who have not yet implemented so far, or any improvement required in the places where it has been implemented but not properly monitored or exhibited.

16. They are directed to submit the above reports to this Tribunal on or before 09.04.2021 by e-filing in the form of searchable PDF/OCR Support PDF and not in the form of Image PDF along with necessary hard copies to be produced as per rules.

17. The Registry is directed to communicate this order along with the copy of the application to the official respondents immediately through e-mail so as to enable them to comply with the direction.

18. For return of notice and for filing the respective reports mentioned above, post on 09.04.2021.

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

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

**O. A. No.82/2021, (SZ)
09th March, 2021. Sr.**