

(2006) 12 MAD CK 0034

Madras High Court

Case No: Writ Petition No's. 29791 and 39368 of 2003

Noyyal River Ayacutdars
Protection Association

APPELLANT

Vs

The Government of Tamil Nadu
and Others
K.K.
Subramaniam, S. Lakshmi and S.
Selvakumar Vs Loss of Ecology
(Prevention and Payment of
Compensation) Authority, The
Tamil Nadu Pollution Control
Board, Union of India (UOI) and
State of Tamil Nadu

RESPONDENT

Date of Decision: Dec. 22, 2006

Acts Referred:

- Constitution (Forty-Second Amendment) Act, 1976 - Article 21, 47, 48A, 51A
- Constitution of India, 1950 - Article 226
- Environment (Protection) Act, 1986 - Section 2, 3, 5
- Water (Prevention and Control of Pollution) Act, 1974 - Section 32, 33

Citation: (2007) 1 LW 275

Hon'ble Judges: A.P. Shah, C.J; K. Chandru, J

Bench: Division Bench

Advocate: K.M. Santhanagopalan, in W.P.No. 29791/03 and V. Prakash, SC for Auxilla Peter, in W.P. No. 39368/03, for the Appellant; Raja Kalifulla G.P. Asstd. by V.R. Thangavelu, for R1 in W.P.29791/03, R. Viduthalai, A.G. Asstd. by Mr. Ramanlal, for R2 and R3 in W.P.29791/03, R. Gandhi, S.C. for R.G. Narendran, for R4 and R5 in W.P.29791/03, Raja, for R6 and R7 in W.P.29791/03, R. Muthukumaraswamy, SC Kandavadivel, for R8 in W.P.29791/03, T.V. Ramanujam, SC for P.L. Narayanan, for R9 and R10 in W.P.29791/03 and K. Mohammed Ali in W.P. No. 39368/03 for Respondent 1 and R. Viduthalai, General Assisted by Ramanlal, for Respondent 2 in W.P.No. 39368/03, for the Respondent

Judgement

A.P. Shah, C.J.

These petitions - public interest - under Article 226 of the Constitution of India filed by the Noyyal River Ayacutdars Protection Association and few individual farmers, who have agricultural lands on the banks of river Noyyal bring to light the woes of the agriculturists living in Noyyal River Basin, whose agricultural lands have been rendered either partially or totally unfit for cultivation by the unabated, heavy and constant discharge of highly toxic trade effluents into the Noyyal river by the several dyeing, bleaching and other ancillary factories in and around Tiruppur Town and its suburbs, in blatant violation of the environmental laws and the orders passed by this Court, and total apathy and inaction on the part of the authorities concerned to prevent the pollution of the river by the erring industries, as the river water becomes totally polluted and has been rendered wholly unfit for irrigation and even for drinking purpose, affecting the interests of a large section of agriculturists in Coimbatore, Erode and Karur Districts.

2. The Noyyal river is the tributary of the Cauvery river which originates in the Velliangiri Hills of the Western Ghats. The river flows through Coimbatore, Palladam, Dharapuram, Perundurai, Kangayam and Karur Taluks and confluences with the river Cauvery near Noyyal Village of Karur Taluk. The river fills up several large tanks along its course and has enriched the neighbourhood of Coimbatore with its tanks and channels from time immemorial. There are 24 anicuts across the Noyyal river above the Orathapalayam reservoir which diverts water for irrigation through the tanks. There are 30 tanks above the Orathapalayam reservoir. The three important irrigation structures in the basin viz., (1) Muthur Barrage, (2) Athupalayam Reservoir and (3) Orathapalayam Reservoir, are source of irrigation for more than 40,000 acres of agricultural lands. All varieties of food crops and also cash crops like groundnut, gingelly, chillies and cotton are grown on the lands. Apart from cultivation, the main stay of the agriculturists is in rearing cattle, viz. cows, buffaloes, bullocks and sheep.

3. In the early nineties, there was a rapid but completely haphazard industrialization of Tirupur and its adjoining areas by the installation of a very large number of hosiery units, engaged in the manufacture of garments, giving rise to a consequent establishment of equally large number of dyeing and bleaching units as adjunct for the hosiery units, resulting in the Noyyal river water getting totally polluted by the direct and indirect discharge of chemicals and other toxic effluents from the factories into the river, affecting the agricultural operations as a whole, all along the river course. The foul and contaminated water stored at the Orathapalayam dam has caused havoc to the agricultural operations in a large area around the dam. The untreated water coming therefrom to the check dam at Chinnamuthur and from there to the Athupalayam tank has made the river water totally unfit for irrigation. Now no crops as usually raised in the lands can be grown. The pattern of cultivation

stands wholly affected. The cattle develop various diseases when fed with the river water. All the irrigation wells have also been polluted by the seepage and percolation of water stored in the dam and running through the field channels. The water has become unfit for drinking purposes as well, with the result that the entire region is now suffering for want of drinking water. A large number of residents in the various villages are compelled to trek long distances to bring drinking water for their daily use. All these devastations caused are mainly due to the chemical and toxic trade effluents discharged by the industries in Tiruppur, in utter disregard of their ill effects on the environment, water and air.

4. Aggrieved by the total failure of the State Government as well as the Pollution Control Board to check the pollution, the Karur Taluk Noyyal Canal Agriculturists Association approached this Court in W.P.No. 1649 of 1996 praying for the issuance of a writ of mandamus directing the second respondent - Tamil Nadu Pollution Control Board to take action against the polluting dyeing and bleaching units at Tirupur area, represented by the respondents 4 to 8 (respondents 4 to 8 in the present writ petition) from polluting the Noyyal river by discharging their trade effluents directly or indirectly into the river and in particular, for taking action under Sections 32 and 33 of the Water (Prevention and Control of Pollution) Act, 1974 and to ensure that no further pollution of the Noyyal river is made and also to take steps to clean up the river of its pollution. The Pollution Control Board filed a detailed report before this Court dated 29.11.1996 regarding all the units in Tirupur area stating that though the units had promised to set up the Common Effluents Treatment Plants (CETPs) in order to treat the trade effluents arising from the units, the progress made in erecting the CETPs was not to the satisfaction of the Board and consequently, show cause notices were issued in respect of 241 units and closure orders were issued in respect of 53 units. Time limit for installation of such CETPs had been specified and extended till 31.3.1997 and there was also a direction to disconnect the power supply.

5. On 6.3.1997, an interim order was passed by this Court. The interim order referred to the status report filed by the Pollution Control Board. It also referred to the clandestine operations carried on by the units, violating the law and creating water and air pollution. By the said order, the Court directed the Pollution Control Board to close the 114 units enumerated in Statement No. III of the status report and also directed the Board to ensure that the units do not operate till they obtain the consent of the Board and also provide the devices to prevent the pollution. To effectively implement the directions, this Court further ordered that if the premises of the units had to be sealed, the Pollution Control Board could take the assistance of the District Collector, who shall, on a request made by the Board, extend all necessary assistance for sealing the premises and further ensuring that such units do not operate until consent was obtained. The order also required that the units which had not applied for consent should apply for consent within two weeks therefrom and that the CETPs should be constructed before 10.6.1997. Later, a Joint

Memo was filed by the parties before this Court dated 11.2.1998. The Joint Memo referred to the detailed agreement arrived at amongst the parties after due inspection and it specially provided in Clause 5 that "the bleaching and dyeing units agreed to contribute such amount as may be decided by the Court as and when this Court decides the liability of all the polluting units in the upstream of Bhavani river, for the purpose of undoing the damage caused by pollution and especially with regard to the cleaning up of Orathapalayam dam". On 26.2.1998, final order was passed in the writ petition after recording the agreement as per the Joint Memo. The order specifically states thus:

In terms of the memo of undertaking filed, the respondents undertake to comply with the memo. The writ petition is disposed of. The Pollution Control Board will be at liberty to open the units covered by the memo for three months. It is also made clear that in default thereof, it is for the Pollution Control Board to take appropriate steps. The Pollution Control Board undertakes to implement the Pollution laws in accordance with law. The undertaking of the dyeing units shall continue to contribute such amount as may be decided by the Court with respect to the cleaning up of Orathapalayam Dam. The Pollution Control Board is directed to decide the amount for which the dyeing units will be liable to reimburse, after hearing the parties, each dyeing unit undertake to deposit. The industries have been allowed only as an interim measure to continue for three months. If they fail to obtain consent within three months, the Pollution Control Board is directed to implement the Pollution Control and Environmental laws forthwith. No further extension will be granted in any eventuality. The writ petition is disposed of in the above terms. W.M.P. Nos. 26602 and 26604 of 1997 are dismissed.

6. The fourth respondent-Tiruppur Dyeing Factory Owners Association filed an application in W.M.P. No. 9628 of 1998 praying for the grant of an extension of time by another six months. By order dated 29.4.1998, the application was dismissed after hearing the parties and this order once again reiterated that it is for the Pollution Control Board to enforce the pollution laws. The Special Leave petitions filed by the Associations of Dyeing and Bleaching Factories were also dismissed by the Supreme Court vide order dated 8.1.1999.

7. In spite of the final order passed by this Court on the Joint Memo filed by the parties, no steps were taken to implement the said order and no efforts were made to install the necessary equipments or machineries to clean up the totally polluted river water stored at Orathapalayam dam. The erring units continued to discharge the untreated effluents into the river. The Tamil Nadu Water Supply and Drainage Board, District Water Testing Laboratory, Erode, in its letter dated 29.5.2002 with respect to the sample of water taken out from Duraisamy Thottam in Thukkachy Village, reported that it is chemically not potable as the total dissolved solids, total hardness and chloride exceed the maximum permissible limits. Similarly, in its letter dated 13.8.2003, the said authority, after examination of the water sample taken

from the open well of one Nallasivam, an agriculturist of Pappavalasu, certified that the water is not potable due to T.D.S., total hardness, chloride and tidys. Likewise, the Assistant Soil Chemist, Soil Testing Laboratory, Erode, by his certificate dated 14.5.2002, stated that the water in the irrigation well in the petitioner's village is not fit for cultivation. With reference to the water samples collected on 4.1.2002, 14.2.2002 and 1.3.2002, the Assistant Soil Chemist, Erode certified that the water with its chemical contents is not usable for irrigation and that continued irrigation would affect lands irreparably. By letter dated 14.8.2003, the Pollution Control Board communicated to the Associations of the dyeing and bleaching units that the total estimate of the cleaning operations of the Orathapalayam dam would be around Rs. 12.50 crores and called upon the Associations to deposit the said amount, failing which the Board would be forced to take appropriate action against the erring units. The Associations, however, failed to comply with this requisition.

8. The Association of agriculturists and come of the individual agriculturists therefore again approached this Court by filing the present writ petitions seeking implementation of the Joint Memo dated 11.02.1998 and also seeking directions to respondents 1 to 3 to clean the river water stored at Orathapalayam dam within a stipulated time frame and to prevent future pollution of the river and other consequential reliefs. In pursuance of the directions given by this Court, the Pollution Control Board filed its report dated 5.11.2003. Paragraphs 4 and 5 of the said report, which are material, inter alia, read as follows:

4. The conventional treatment systems provided by these units are unable to contain the TDS matter to the standards prescribed by the Board of 2100 mg/lit. About 87 Million Litres per day of effluent is being discharged into Noyyal river either directly or indirectly from the said 729 units. The TDS value in the effluent discharged is ranging from 3000 mg/lit to 7000 mg/lit. The Hon'ble Supreme Court of India, in its order dated 28.8.96 in W.P. (C) No. 914/91, stated that the standards stipulated by the Board regarding TDS and approved by the NEERI, Nagpur shall be operative. The textile processing units in the State of Tamil Nadu shall comply with the said standards.

5. It is submitted that to prevent further ground water pollution/Noyyal river pollution, the Board is instructing the functioning 729 Bleaching and Dyeing units to provide zero discharge treatment system either individually or commonly so as to ensure complete recovery and reuse the water and salt from the waste water discharged from their bleaching and dyeing operations. At the same time, bleaching and dyeing units have caused damage to the environment by discharging the salt laden effluent. Hence, as per the "Polluter Pay Principle", it is for bleaching and dyeing units located in and around Tirupur to take immediate measures for the reversal of ecology including cleaning up of Orathapalayam dam as committed in the joint memo dated 11.2.1998 submitted to the Hon'ble High Court of Madras in connection with W.P. No. 1649/1996. In the said circumstances, the respondents 4 to

8 of this writ petition representing bleaching and dyeing units have to pursue these associate units to deposit share amount totalling Rs. 12.50 crores as estimated by the Public Works Department towards cleaning upto Orathapalayam dam to the Board.

(emphasis supplied)

9. By order dated 25.3.2004, this Court granted interim injunction as prayed for by the petitioner in W.P.M.P. No. 36332 of 2003 in W.P. No. 29791 of 2003, restraining respondents 4 to 8 from discharging their trade effluents either directly or indirectly into the Noyyal river, duly supervised by respondents 1 to 3. By a further order dated 14.7.2004, in view of the offer made by the units, this Court directed the units to pay a sum of Rs. 6 crores out of 12.5 crores in three instalments within six months. However; even till this date, the units have not complied with this order and a sum of Rs. 4 crores only, out of the said Rs. 12.50 crores, has been deposited so far. By order dated 5.5.2005, this Court appointed an Expert Committee based on the Joint Memo filed by the parties containing the names of the members of the Committee to be constituted and also the terms of reference and issued directions to the Committee in terms of the reference. In paragraph 4 of the said order, the Committee was directed "to go into all the terms of reference mentioned supra and then make an interim report by giving the ways and means to clean the stored water and release the treated water in the river and for removing the sludge that has formed in the dam area without delay and also to suggest an immediate action plan for remediation of the Noyyal river and for preventing the discharge of polluted trade effluents into the Noyyal river."

10. Subsequently, the Pollution Control Board issued orders directing all the units in the Tirupur clusters to set up "Reverse Osmosis Plants" (R.O. Plants) so as to achieve "Zero Liquid Discharge" (ZLD). This direction was necessitated by the fact that conventional primary treatment was not adequate to inter alia remove the "Total Dissolved Salts" (TDS) from the effluents generated from these units. It was noticed that huge inflow of upwards of 90 million litres a day from the dyeing and bleaching units cluster has resulted in the siltation of the Orathapalayam dam constructed across the Noyyal river, generating enormous pollution load on the receiving water body and consequently the river water used for irrigation of down stream agricultural lands as also ground water drawn from wells alongside the Noyyal river has been rendered saline. Consequently eight CETPs were initially set up which received effluents from 271 units, subjected these effluents to primary treatment and later released them to the river Noyyal or which ultimately reached the river Noyyal. Thereafter a proposal was mooted to establish additional 11 CETPs and many units filed affidavits before this Court stating that they intend to join one or the other of the eleven additional proposed CETPs. These eleven CETPs were to cater to 236 units. The remaining 173 units filed affidavits before this Court or communicated to the Pollution Control Board that they intend to set up R.O. Plants

individually. Of these individual units (hereinafter referred to as IETPs), 6 units have filed affidavits before this Court seeking permission to abandon their plans of setting up of individual R.O. Plants and to join the proposed CETPs. This Court permitted these units to do so, subject to the condition that the CETPs would not take in any further members. It appears that written undertakings were given by the Tirupur Dyeing Factories Owners' Association as well as the Tirupur Bleaching Units/Industries Owners' Association to the Pollution Control Board to comply with the conditions on or before 6.6.2005.

11. By order dated 14.7.2005 this Court noted that despite solemn assurances, the units failed to comply with the conditions and directed the Pollution Control Board to close with immediate effect, the units which have not shown any bona fide efforts. The order was subsequently modified on 22.7.2005, whereby the units were directed to make payment of 25% of the total cost for installation of the R.O. Plants to show their bona fides. By a further order dated 1.8.2005; a Monitoring Committee consisting of three advocates was appointed to monitor the setting up of the R.O. Plants and other related matters. The Court with respect to specific CETPs extended the time for completion of work up to 10.4.2006 and for the individual units, time was granted upto 28.7.2006. The CETPs thereafter sought for extension of time upto 31.12.2006 with an undertaking that all the units would become operational by achieving "Zero Discharge Status" (ZDS) by 31.12.2006. In the affidavit dated 14.7.2006 filed on behalf of 9 CETPs praying for extension of time, which finds place as Annexure-XII in the Memo dated 6.12.2006 of the Monitoring Committee, in paragraph 13, it is stated, "The petitioners reiterate that being fully aware of the complexities involved in the completion of the project, they have committed before this Honourable Court, that they will install R.O. System and attain Zero Discharge on or before 31.12.2006." Paragraph 14 of the said affidavit reads thus:

Petitioners have sought time till 31.12.2006 for attaining Zero Discharge System as against other CETPs, which have committed to complete the project on or before March, 2006. The petitioners submit that they will complete the project and have a fully functional Zero Discharge System on or before 31.12.2006 as highlighted in the annexure hereto.

12. The Monitoring Committee has reported that despite of its efforts and the regular and continuous oversight by this Court, the matter being posted at different intervals, the progress in work of establishing CETPs is extremely disappointing. In spite of the commitments and undertakings, the CETPs have lagged far behind from their schedules and displayed no sense of urgency in achieving zero discharge. Even IETPs are lacking in reject management and has done no work to even increase their solar pan area (which is simply a civil construction activity). The Monitoring Committee has reported that the IETPs are apprehensive of the commercial fall out of incurring additional costs of running R.O. Plants vis-a-vis the members of the CETPs, who have not expended as much moneys as the IETPs pro-rata. In the

opinion of the committee, the IETPs are calibrating their progress to match that of the stragglers. The Committee has, therefore, recommended that since all the CETPs have defaulted in their solemn undertakings and commitments made to the Court on completion dates, their member units must be compelled to part with the money that they have saved by not operating the R.O. Plants, which along with the fine already levied, be kept in reserve to remediate the environment and compensate the downstream farmers for the continuing damage caused to them. The Committee has reported that the CETPs are seeking further time till April-June 2007 and this has resulted in certain CETPs, who had done better than others, to slow down their work to be on par with other CETPs who have not done any substantial work. According to the Committee no adequate grounds or acceptable reasons have been put forth by the CETPs for grant of further extension of time. Thus, though nearly ten years have gone by, the situation has not changed and the polluting units have been discharging effluents everyday into the Noyyal river, in total disregard of their statutory obligations and utter disobedience of the orders passed by this Court, affecting the very existence of a large number of agriculturists in the Noyyal river basin.

13. In the interim report submitted by the Expert Committee on 20.5.2005, the following recommendations were made to prevent pollution of the river either directly or indirectly:

- ◆ Ensuring zero discharge into the river by the polluters is the only solution in this regard.

- ◆ The Expert Committee based on the information furnished and through discussion, assessed that the time required to implement the zero discharge as twelve months. However, to arrive at a reasonable and realistic estimate of time, a detailed study will be carried out and the outcome will be reported in the final report.

- ◆ The industries should be directed to commence installation of treatment plants towards zero discharge level and complete it in a war footing.

- ◆ Sewage disposal, as well as municipal waste, is being dumped into the river. The TWAD Board and the local bodies concerned have to be directed that this practice is stopped forthwith. Particularly, the TWAD board should be directed to install sewage treatment plants within nine months and treated effluents should be recycled.

- ◆ The Pollution Control Board and other concerned Government Departments may be directed to play a proactive facilitator role to implement the zero discharge facilities by the Industries and to encourage contemplation of Common Effluent Treatment Plants (CETPs).

(emphasis supplied)

14. In the said Interim Report, the Committee has highlighted the fact that huge amounts of solid waste are kept in bags in all the dyeing units and also dumped along the river banks, roadsides, and this has been going on for more than ten years. The Committee felt that action ought to have been initiated by the Pollution Control Board on this critical issue much earlier. The Committee suggested that when the solid waste is removed from the dam, it should be first deposited in a notified place and in the mean time, the Pollution Control Board has to find one or more sites to dump the balance waste from the dam and the solid waste that has been kept in bags and in open spaces. It has been pointed out that the river course is caused by incise and the bottom is rocky bed. Hence, flowing water will quickly drain without seeping into the ground. But the stagnated water will find entry into the ground, through sides and affect the ground water. We are informed that the Pollution Control Board has identified a site in Nallur Village for dumping the solid waste which is being accumulated in the units, but so far, the Board has not taken any steps to provide the infrastructure and technical expertise for removal of the solid waste from the units as well as the dam to the notified site.

15. In its Seventh Interim Report, the Expert Committee has reiterated that the flow of untreated effluents from Tirupur has to be stopped immediately. It has been pointed out that the test results show that the sediment samples from Orathapalayam Reservoir are contaminated with high TDS, Chlorides, Sulphates, Phosphates and heavy metals such as Nickel, Chromium, Copper, Cadmium, Zinc and Lead. The sediment also contains notable levels of E-coli. The E-coli is due to the sewage water mixing with the river water. The heavy metal levels in the sediments are contributed by the dye stuff used in Tirupur. Comparing with the levels of the heavy metals in natural soils/sediments, the levels seen in the samples tested are very high. The concentrations of heavy metals present in the reservoir are fast reaching the threshold levels of hazard. The high levels are seen only in the sediments collected along the river course in the reservoir. This indicates that if the untreated effluents continue to flow in the river, and if no remedial measures are taken, it is likely that the levels reach hazardous levels in the near future.

16. In the Tenth Interim Report, the Expert Committee noted that at 17.30 KM, there is a stone quarry on the right bank of the river. The excavated earth from the quarry is being dumped into the river. The Committee has recommended that the earth should be deposited one meter away from the boundary of the river. The quarry company is forming a road in their land along the river. The Committee suggested that the formation of the road can be extended upto the road bridge upstream to enable the P.W.D. officials inspect the Noyyal river. Similarly at 30 KM, several stone quarry firms are dumping the excavated earth in the river. No one has cared about this dumping that has been going on for several years and it is a clear neglect both by Government agencies and the people of the nearby villages who should have stopped such atrocious action in the very beginning. The Committee has recommended to issue notices to all the quarry firms nearby to stop immediately

the dumping of excavated earth in the river and to remove the already dumped earth and put it back to the quarry pits failing which their quarry licences should be cancelled.

17. In the Eleventh Report, the Expert Committee has observed:

Damage to Agriculture

There are 23 hamlets in Anjur Village Panchayat. Half of the hamlets are along the Noyyal bank and the other half around the Athupalayam tank. Prior to 1996 (The year in which the dam commissioned and the polluted water of the Noyyal was let into the system), the farmers in Athupalayam tank for whom the system created were able to have a good harvest of paddy, sugarcane and gingelly. The polluted water from Noyyal affected the GW as well as land after irrigation. The crop yield had reduced by 50% in 1996 itself and still further after 1998. There after they refused to receive supply from Noyyal. Some of the farmers used only the return flows of LBP ayacut and able to cultivate their lands. But if they use GW, the crops fail and land gets affected. They depend on the wells for their drinking water needs. But after the well waters became non-potable due to pollution by Noyyal they have to trek a long distance to get water. The health and livelihood issues are also serious. The Loss of Ecology Authority had awarded compensation up to 2004 which was not adequate to meet the losses. But continued discharge of untreated effluent and flow of untreated effluent in the river continues to hamper the livelihoods of thousands of fanners living along the riverside villages.

(emphasis supplied)

18. The details of generation of effluents from the bleaching and dyeing units in Tirupur are furnished in a tabular form, which is reproduced below:

I - Before Court Case

	Bleaching KLD	Dyeing KLD	Total KLD
IETP	9164.50	42319.00	51483.50
CETP	2734.50	32735.00	35469.50
Total	11899.00	75054.00	86953.00

II - After Court Case

Closed Units

	Bleaching KLD	Dyeing KLD	Total KLD
Closed IETP	1837.00	3643.00	5480.00
Closed CETP	445.00	997.00	1442.00
Total	2282.00	4640.00	6922.00

Running Units

	Bleaching KLD	Dyeing KLD	Total KLD
IETP	3719.00	19012	22731.00
CETP (existing)	2653.00	30781.00	33434.00
(proposed)	3245.00	20621.00	23866.00
Total	9617.00	70414.00	80031.00

The Committee has highlighted that the units that complied with the Court order are in a disadvantageous position after setting up of the R.O. Plants and concluded as follows:

At present, there are two categories of industries operating in Tirupur. The first categories are those who complied with the directions of Hon. Court and installed RO plants to ensure Zero discharge and the second are who have not. Hence the problem of untreated effluent is continuing. The Monitoring Committee in their Report dated 5th August, 2006 had recommended a system of imposing fine on the free riders. The quantum of "fine/penalty" suggested was actually related to the savings made by the CETPs and/their member units who have not implemented the zero discharge concept but gaining commercial advantage of lesser production cost at present when compared to those units who have faithfully implemented the court order and incurring additional cost in reaching Zero Discharge. So as to neutralize the commercial advantage gained by the defaulters over compliant units, until they complete the installation and effect Zero Discharge, penalty have to be imposed.

The Monitoring Committee, recommended the following:

All CETPs be subjected to an ascending fine from 6 paise a litre beginning 1st August, 2006 and increasing month after month to 10 paise a litre in December, 2006. Thereafter, if a CETP is not in a position to operate the RO plant and reject management arrangements so as to achieve zero discharge, the CETP and its member units must be shut down till such achievement is possible.

(emphasis supplied)

The Committee also recommends that these monies along with the fines already levied by this Hon"ble Court on individual units and CETPs be segregated and used for remediation of the Noyyal river and other water bodies such as the Sarkar Periyapalayam Eri, which have been the recipient of polluted water, after the Orathapalayam Dam is cleared of accumulated sediment and also as a reserve to be used for compensating down stream farmers for continuing damages suffered after the period for which compensation was ordered by the Loss of Ecology Authority.

The Expert Committee also endorses the recommendations of the Monitoring Committee.

(emphasis supplied)

19. In paragraph 8, the Committee stated that there is no water, but only slush in the Orathapalayam dam, as seen from the following extract:

In this season, there is plenty of flow in the River. The flow reached a maximum of around 5000 cusecs, which had not happened in the recent past. These waters are still flowing unutilized. The Expert Committee contacted the farmers whether water could be impounded since there are fresh flows and the tanks filled up by diversion of water. In spite of their anguish that the water could not be utilized, they were not ready to take another risk of contamination by the effluent that are likely to be discharged into the River, untreated by the Dyeing units. They have given this in writing to the Expert Committee. The Farmers Association has submitted another petition to be placed before the Hon"ble High Court, requesting that such an incidence of wastage of flood water should not happen in the next season at any cost. The Committee requests the Hon"ble High Court not to allow any more time beyond December, 2006 to the Industry for implantation of Zero Discharge. Then only all the cleaning works will be completed and the Dam made ready to receive water by June, 2007 to receive fresh water through expected flow from July, 2007.

(emphasis supplied)

20. A reference may be also made to the Interim Report dated 16.11.2006 submitted by the Monitoring Committee. In paragraph 21 of the said Report, the Committee, inter alia, made the following recommendations:

A. That all individual units cease all discharge to land /river / other water bodies / CETPs forthwith.

B. That all units classified as IETPs which are unprepared to operate their RO Systems and handle the reject so as to achieve Zero Liquid Discharge be subject to order of closure forthwith.

C. That members of all CETPs (both proposed and existing) be permitted to continue operations only upto 31/12/06 subject to their undertaking to pay a fine of 6 paise per litre retrospectively from August, 2006 for every litre of effluent discharged subject to a minimum being their consented effluent generation increased to 7 paise per litre in September, 8 paise in October, 9 paise in November and 10 paise in December, 2006.

D. That member units of all CETPs operate only three days a week with immediate effect so as to reduce the pollution load on the river Noyyal.

The Committee reiterates its recommendation made in the report dated 18.10.06.

The Committee also cited several specific instances of failure of the CETPs to comply with the conditions laid down by this Court to complete the work.

(emphasis supplied)

21. During the course of hearing, an affidavit dated 06.12.2006 has been filed on behalf of the CETPs seeking to grant time up to 31st July, 2007 for completion of the project and to defer levy of fine or closure of units until 31st July, 2007. It is inter alia contended that the CETPs have always complied with the various orders passed by this Court namely, with regard to deposit of 25% of R.O cost, 50% of the project cost, etc., even if it meant significant financial burden by way of interest cost. They have tied up the entire loan component for the implementation of the project through a consortium of seven banks amounting to Rs. 295 crores. They have already invested in the project a sum of Rs. 169 crores including Rs. 63 Crores from their own investment and. ordering closure or levying penalty on CETP would result in severe set back to the implementation process currently underway. It is, however, seen from the records that the CETPs have failed to stand by their commitments in the matter of zero discharge under one pretext or the other, which are totally unacceptable and thereby causing great misery and irreparable loss for agriculturists for over 10 years. It may be stated that grant of time as prayed for would further postpone the agricultural operations to August, 2008 as the reservoir area can be dried up only during January-February, 2008 and storage of water in the reservoir can be made in June-July, 2008 so as to commence agricultural operations later. It is required to be stated that the canals from the reservoir and the large tank/anaicut at Athupalayam supplied with water through a feeder canal from Muthur Barrage are all remaining empty without any water for irrigation. It is reported by the Expert Committee that even if the sluices are repaired and the dam is restored, no water can be stored in the dam till the trade effluents in the dam are removed therefrom by a scientific process.

22. The learned Advocate General who appeared for the State and the Tamil Nadu Pollution Control Board categorically stated that the State and the Board are fully aware of the environmental hazards caused by the Tiruppur Units and have been issuing from time to time orders/directions to those units. In any event the State will fully co-operate and carry out any directions issued by this Court in this regard and will see to it that orders are faithfully implemented. He only suggested that any closure order may be issued after the ensuing Pongal Festival holidays i.e., after 15th January, 2007.

23. Article 48A in Part-IV (Directive Principles) of the Indian Constitution enjoins that "State shall endeavour to protect and improve the environment and to safeguard the forests and wild life of the country". Article 47 further imposes the duty on the State to improve public health as its primary duty. Article 51A(g) imposes "a fundamental duty" on every citizen of India to protect and improve the natural "environment" including forests, lakes, rivers and wild life and to have compassion

for living creatures. The word "environment" is of broad spectrum which brings within its ambit "hygienic atmosphere and ecological balance". It is, therefore, not only the duty of the State, but also the duty of every citizen to maintain hygienic environment. The State, in particular, has duty in that behalf and to Shed its extravagant unbridled sovereign power and to forge in its policy to maintain ecological balance and hygienic environment. Article 21 protects right to life as a fundamental right. Enjoyment of life and its attainment, including their right to live with human dignity, encompasses within its ambit, the protection and preservation of environment, ecological balance free from pollution of air and water, sanitation without which life cannot be enjoyed. Any contra acts or actions would cause environmental pollution. Therefore, there is a constitutional imperative on the State authorities and bodies like the Pollution Control Board not only to ensure and safeguard proper environment, but also an imperative duty to take adequate measures to promote, protect and improve the environment, man-made and natural.

24. In [Indian Council for Enviro-Legal Action and Others Vs. Union of India \(UOI\) and Others](#), the units manufacturing Oleum and H-acids without obtaining the requisite permissions were held liable for causing the pollution to the wells, soil and the aquifers and were directed to defray the costs for remedial measures. Justice Jeevan Reddy, speaking for the Bench, observed:

Sections 3 and 5 of the Environment (Protection) Act, 1986, apart from other provisions of Water and Air Acts, empower the Government to make all such directions and take all such measures as are necessary or expedient for protecting and promoting the "environment", which expression has been defined in very wide and expansive terms in Section 2(a) of the Environment (Protection) Act. This power includes the power to prohibit an activity, close an industry, direct and/or carry out remedial measures, and wherever necessary, impose the cost of remedial measures upon the offending industry. The principle "Polluter Pays" has gained almost universal recognition, apart from the fact that it is stated in absolute terms in Oleum Gas Leak Case. The law declared in the said decision is the law governing this case.

(emphasis supplied)

25. In [Vellore Citizens Welfare Forum Vs. Union of India and others](#), the Court rejected the argument that leather industry in India is a leading exporter and a major foreign exchange earner and that any adverse order would affect the flow of foreign exchange in the country. The Court observed as follows:

It is no doubt correct that the leather industry in India has become a major foreign exchange earner and at present, Tamil Nadu is the leading exporter of finished leather accounting for approximately 80% of the country's export. Though the leather industry is of vital importance to the country as it generates foreign exchange and provides employment avenues, it has no right to destroy the ecology,

degrade the environment and pose as a health-hazard. It cannot be permitted to expand or even to continue with the present production unless it tackles by itself the problem of pollution created by the said industry.

(emphasis supplied)

The Court discussed, the "Polluter Pays Principle" as well as the "Precautionary Principle" and the concept of sustainable development and held, in the light of the constitutional and statutory provisions we have, that they are part of the environmental law of the country. The following observations are pertinent:

Some of the salient principles of "Sustainable Development", as culled out from Brundtland Report and other international documents, are Inter Generational Equity, Use and Conservation of Natural Resources, Environmental Protection, the Precautionary Principle, Polluter Pays principle, Obligation to assist and cooperate, Eradication of Poverty and Financial Assistance to the developing countries. We are, however, of the view that "The Precautionary Principle" and "The Polluter Pays" principle are essential features of "Sustainable Development". The "Precautionary Principle" - in the context of the municipal law - means:

- (i) Environment measures - by the State Government and the statutory authorities - must anticipate, prevent and attack the causes of environmental degradation.
- (ii) Where there are threats of serious and irreversible damage, lack of scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation.
- (iii) The "Onus of proof" is on the actor or the developer/industrialist to show that his action is environmentally benign.

"The Polluter Pays" principle has been held to be a sound principle by this Court in [Indian Council for Enviro-Legal Action and Others Vs. Union of India \(UOI\) and Others](#). The Court observed, "We are of the opinion that any principle evolved in this behalf should be simple, practical and suited to the conditions obtaining in this country". The Court ruled that "Once the activity carried on is hazardous or inherently dangerous, the person carrying on such activity is liable to make good the loss caused to any other person by his activity irrespective of the fact whether he took reasonable care while carrying on his activity. The rule is premised upon the very nature of the activity carried on". Consequently, the polluting industries are "absolutely liable to compensate for the harm caused by them to villagers in the affected area, to the soil and to the underground water and hence, they are bound to take all necessary measures to remove sludge and other pollutants lying in the affected areas". The "Polluter Pays" principle as interpreted by this Court means that the absolute liability for harm to the environment extends not only to compensate the victims of pollution, but also the cost of restoring the environmental degradation. Remediation of the damaged environment is part of the

process of "Sustainable Development" and as such, polluter is liable to pay the cost to the individual sufferers as well as the cost of reversing the damaged ecology.

The precautionary principle and the polluter pays principle have been accepted as part of the law of the land.

(emphasis supplied)

It is thus settled that one who pollutes the environment must pay to restore the damage caused.

26. In a recent judgment in *M.C. Mehta v. Union of India* 2004 AIR S.C.W. 4033, Y.K. Sabharwal, C.J., speaking for the Bench, observed that "the natural resources of air, water and soil cannot be utilised if the utilization results in irreversible damage to the environment. There has been accelerated degradation of environment primarily on account of lack of effective enforcement of environmental laws and non-compliance of the statutory norms. The Supreme Court has repeatedly held that the right to live is a fundamental right under Article 21 of the Constitution and it includes the right to enjoyment of pollution-free water and air for enjoyment of life". The learned Chief Justice observed:

Further, by 42nd Constitutional Amendment, Article 48A was inserted in the Constitution in Part IV stipulating that the State shall endeavour to protect and improve the environment and to safeguard the forest and wildlife of the country. Article 51A, inter alia, provides that it shall be the duty of every citizen of India to protect and improve the natural environment including forest, lakes, rivers and wildlife and to have compassion for living creatures. Article 47 which provides that it shall be the duty of the State to raise the level of nutrition and the standard of living and to improve public health is also relevant in this connection. The most vital necessities, namely air, water and soil, having regard to right of life under Article 21 cannot be permitted to be misused and polluted so as to reduce the quality of life of others. Having regard to the right of the community at large it is permissible to encourage the participation of Amicus Curiae, the appointment of experts and the appointments of Monitoring Committees. The approach of the Court has to be liberal towards ensuring social justice and protection of human rights. In [M.C. Mehta Vs. Union of India \(UOI\) and Others](#), , this Court held that life, public health and ecology has priority over unemployment and loss of revenue. The definition of "sustainable development" which Brundtland gave more than 3 decades back still holds good. The phrase covers the - development that meets the needs of the present without compromising the ability of the future generation to meet their own needs. In [Narmada Bachao Andolan Vs. Union of India and Others](#), , this Court observed that sustainable development means the type or extent of development that can take place and which can be sustained by nature/ecology with or without mitigation. In these matters, the required standard now is that the risk of harm to the environment or to human health is to be decided in public interest, according to

a "reasonable person's" test (See Chairman Barton : The Status of the Precautionary Principle in Australia Vol.22 (1998) (Harv. Envtt. Law Review, p. 509 at p.549-A) as in [A.P. Pollution Control Board Vs. Prof. M.V. Nayadu \(Retd.\) and Others, .](#)

The development and the protection of environments are not enemies. If without degrading the environment or minimising adverse effects thereupon by applying stringent safeguards, it is possible to carry on development activity applying the principles of sustainable development, in that eventuality, the development has to go on because one cannot lose sight of the need for development of industries, irrigation resources and power projects etc. including the need to improve employment opportunities and the generation of revenue. A balance has to be struck. We may note that to stall fast the depletion of forest, series of orders have been passed by this Court in [T.N. Godavarman Thirumulkpad Vs. Union of India and others](#), regulating the felling of trees in all the forests in the country. Principle 15 of Rio Conference of 1992 relating to the applicability of precautionary principle which stipulates that where there are threats of serious or irreversible damage, lack of full scientific certainty shall not be used as a reason for proposing effective measures to prevent environmental degradation is also required to be kept in view. In such matters, many a times, the option to be adopted is not very easy or in a strait-jacket. If an activity is allowed to go ahead, there may be irreparable damage to the environment and if it is stopped, there may be irreparable damage to economic interest. In case of doubt, however, protection of environment would have precedence over the economic interest. Precautionary principle requires anticipatory action to be taken to prevent harm. The harm can be prevented even on a reasonable suspicion. It is not always necessary that there should be direct evidence of harm to the environment.

27. Bearing in mind the aforesaid principles, we have to consider the question whether the defaulting units should be directed to be closed altogether or should be granted further time and, if so conditions to be provided therefor. The reports and suggestions of the Expert Committee, and the Monitoring Committee have already been extensively noted. The Expert Committee in its report dated 20.5.2005 has categorically stated that ensuring zero discharge into the river by the polluters is the only solution to the problem. The Committee has reported that the polluted water from Noyyal has affected the ground water as well the lands meant for irrigation. The crop yield had reduced by 50% in 1996 itself and still further after 1998. The farmers depend on the wells for their drinking water needs. But after well water became contaminated due to pollution by Noyyal, they have to trek a long distance to take water. The health and livelihood issues are also serious. According to the Committee, the compensation granted by the Loss of Ecology Authority was not adequate to meet the losses. The Committee has recommended that all CETPs be subjected to an ascending fine from 6 paise per litre beginning 1st August 2006 and increasing month after month to 10 paise per liter in December, 2006. The Monitoring Committee has also recommended imposition of fine on the erring

industries.

28. It is now settled by several judgments of the Supreme Court, referred to supra, that any one who pollutes must not only compensate the victims of pollution, but also the costs of restoring the environmental degradation. The Loss of Ecology Authority has passed an award dated 17.12.2004 with reference to the compensation payable for the period from 28.8.1996 to 31.12.2004. The award was made with reference to 28,596 individuals residing in 68 villages and with reference to an extent of 28,49,816 Hectares of lands comprised in seven taluks in Coimbatore, Erode and Karur Districts. The Authority has assessed the compensation amount at Rs. 24,79,98,548/- as payable to the said 28,596 individuals. The Loss of Ecology Authority had hired the services of the Centre for Environmental Studies, Anna University, an expert body which assisted the Loss of Ecology Authority in assessing the loss suffered by the farmers in Noyyal river basin and estimated the loss at Rs. 114.91 Crores as payable by way of compensation. However, the Loss of Ecology Authority, without any ostensible reason, reduced the compensation payable to only Rs. 24,79,98,548/-. In some cases, the compensation granted by the Loss of Ecology Authority is as low as Rs. 49/- per acre per year. Even this amount has also not been deposited. Instead the units have filed writ petitions questioning the award and have deposited only the first instalment of Rs. 1.80 Crores and the balance amount of Rs. 22,99,98,548/- has not been paid till this date. The Association of farmers and some individual farmers have also filed writ petitions complaining that the compensation awarded by the Loss of Ecology Authority is hopelessly inadequate and prayed for enhancement of compensation. The Loss of Ecology Authority has assessed the loss only upto 31.12.2004. There is no assessment of loss for the subsequent period. Moreover, the assessment has been made only on the basis of loss to crops and not on the basis of loss to ecology and restoration of ecology. Having regard to the above facts, we are inclined to fix an ad-hoc amount of compensation for the subsequent years i.e., 2005, 2006 and 2007.

29. It may be recollected here that, by a Joint Memo dated 11.2.1998 filed in W.P. No. 1649 of 1996, it was agreed to by all the units that they would pay the amount as determined by the Pollution Control Board for the purposes of cleaning up the reservoir and only based on the said Joint Memo, final orders were passed " in the writ petition on 26.12.1998. The Public Works Department has estimated the amount required for cleaning up the reservoir as Rs. 12.50 Crores and by letter dated 28.4.2001, the Board directed the Units to furnish a time bound schedule for payment of the said amount. This was followed by repeated reminders, but there was no response from the Units or their associations. Later on, respondents 4 to 7 agreed to pay a sum of Rs. 6 Crores, out of Rs. 12.50 Crores, in instalments, ending on 14.7.2005. This Court recorded the said submission and directed the said amount of Rs. 6 Crores to be paid in instalments, but payments were not made in time and as on date, a deposit of only Rs. 4 Crores out of the Rs. 12.50 Crores has been made, and the balance amount of Rs. 8.50 Crores is not deposited till this date. It may also

be noted that certain CETPs have not complied with the orders of this Court and consequently, fines were imposed on them. However, M/s. Mannarai CETP has not so far complied with the order dated 19.7.2004 imposing a fine of Rs. 15 Lakhs to be paid within two weeks of the order. Likewise, M/s. Veerapandi CETP has not complied with the order dated 19.7.2004 imposing a penalty of Rs. 60 Lakhs payable within four weeks from the date of the said order. We are of the opinion that even if any further time is to be granted to the CETPs, that can be ordered only by putting the CETPs on strict terms and conditions.

30. We, accordingly, order and direct as under:

(a) The CETPs are given time upto the 31st of July, 2007 to achieve the Zero Liquid Discharge (ZLD) of trade effluents subject to the following conditions -

(i) The concerned CETPs are directed to pay a fine on pro rata basis at the rate of six paise per litre from 1st January, 2007 to 31st March, 2007; at the rate of eight paise per litre from 1st April, 2007 to 31st May, 2007; and at the rate of ten paise per litre from 1st June, 2007 to 31st July, 2007. The fine amount payable by the respective CETPs shall be arrived at by multiplying the fine amount i.e., six, eight or ten paise, as the case may be, by the total quantity of discharge of each Member Units of CETP as per the consent certificate or as the quantity found in the application for consent and also by the total number of working days in a month. The fine amount thus calculated shall be paid by the respective CETPs on the last date of every month. In case the CETPs or any of them commit any default in payment of fine, the Pollution Control Board shall direct closure of such defaulting C.E.T.P. and the Member Units and also disconnect the power supply to such defaulting CETP and the Member Units.

(ii) The CETPs or any of them on achieving Zero Liquid Discharge shall satisfy the Pollution Control Board about their ZLD status and the Pollution Control Board upon verification shall issue appropriate certificate from which date, such CETP shall not be liable to pay the fine. In any event, if the CETPs or any of them fail to achieve the ZLD on or before 31st July, 2007, the Pollution Control Board shall forthwith direct closure of such CETPs and the Member Units and also disconnect the power supply to such defaulting CETP and the Member Units

(b) The respondents 4 to 7 herein are directed to deposit the balance sum of Rs. 8.50 Crores out of Rs. 12.50 Crores estimated by the P.W.D. towards the cleaning and desilting operations of the Orathapalayam dam to be carried out by the Public Works Department in two equal instalments, the first of such instalments being payable on or before the 28th of February, 2007 and the second instalment to be paid on or before the 30th of April, 2007.

(c) The respondents 4 to 7 are directed to deposit a sum of Rs. 22,99,98,548/-, being the remaining of the total compensation of Rs. 24,79,98,548/- awarded by the Loss of Ecology Authority in its Award dated 17.12.2004. This amount shall also be

payable in two equal instalments, the first of such instalments being payable on or before the 28th of February, 2007 and the second instalment to be paid on or before the 30th of April, 2007.

(d) The respondents 4 to 7 are further directed to deposit a sum of Rs. 12 Crores as an ad-hoc compensation towards the estimated loss for the years 2005, 2006 and 2007. This amount shall be payable in two equal instalments, the first of such instalments being payable on or before 15th June, 2007, and the second instalment to be paid on or before 31st July, 2007.

(e) M/s. Mannarai CETP and M/s. Veerapandi CETP are directed to deposit the amounts of fine imposed on each of them by this Court, being Rs. 15 lakhs and Rs. 60 lakhs respectively, within a period of four weeks from today, failing which the Tamil Nadu Pollution Control Board shall direct closure of these CETPs with immediate effect.

(f) The compensation amount, as well as the fine amounts to be deposited in term's of Clauses (a) to (e) and the amounts which are already deposited pursuant to the orders of this Court shall be kept invested in reserve in a Nationalised Bank as a Corpus Fund and utilised for the purposes of cleaning of the Orathapalayam dam and Noyyal river and for the ultimate payment to be made to the agriculturists towards loss of ecology. The petitioners are at liberty to seek appropriate directions for disbursement of the amount of compensation.

(g) The Pollution Control Board is directed to process the applications for consent submitted by all the C.E.T.Ps. and pass appropriate orders on all such applications within a period of eight weeks from the date of receipt of such applications.

(h) All individual units which fall in Category "A" of the Annexure to the Report of the Monitoring Committee dated 16.11.2006 shall cease all discharge to land/river/other water bodies/CETPs forthwith and operate their Reverse Osmosis Plants and Reject Management Arrangements. These units would demonstrate their Zero Liquid Discharge (ZLD) by installation of Electromagnetic Flow Meters at the points suggested by the Committee and the Pollution Control Board shall maintain proper records of their operations, have separate electricity sub-meters for the Reverse Osmosis Plants and provide for computerisation, wherever the discharge is one lakh litres and above a day.

(i) All the individual units in Categories "B" and "C" of the Annexure to the Report of the Monitoring Committee dated 16.11.2006 shall be subject to closure by the Pollution Control Board unless these units file before this Court, affidavits and demonstrate that they have made Reverse Osmosis Plants operational and sufficient Reject Management Arrangements have been made within a period of four weeks from today.

- (j) All the units should ensure that a Hazardous Waste Board is set up by providing sufficient information on the hazardous waste generated every day and lying in stock, as mandated by the order of the Supreme Court dated 14.10.2003.
- (k) The Tiruppur Office of the Pollution Control Board shall be strengthened with sufficient staff/ formation of flying squads, providing of sufficient number of vehicles and telephone lines to enable them to effectively monitor over 700 units scattered in and around Tiruppur.
- (l) The Tiruppur, Erode and Karur Offices of the Tamil Nadu Pollution Control Board shall implement a programme for periodical inspection (atleast fortnightly) of the Noyyal river in order to ensure that there is no industrial trade effluent discharge into the river and the water in the river meets the relevant standards desirable for drinking and irrigation purposes.
- (m) The Pollution Control Board shall ensure that all IETPs and CETPs are properly storing and disposing off the waste generated by them and ensure, in consultation with the Expert Committee constituted by this Court, a programme to reduce, if not eventually eliminate, the generation of such wastes.
- (n) The District Collector of Coimbatore is directed to initiate remediation programme in consultation with the Pollution Control Board, and the Expert Committee to remediate the areas affected by the polluted water flows such as the Sarkar Periypalayam Eri, which is a water body with abundant bird life, now polluted with effluent flow, with the cost being recoverable from the units.
- (o) The District Collectors of Coimbatore, Erode and Karur are directed to demarcate the boundary lines for the Noyyal river from the Orathapalayam dam upto its confluence point with the river Cauvery within a period of eight weeks from today. The survey stones for erecting stones for the purpose of demarcating the boundary lines shall be supplied by the petitioner-Agriculturists Association and the value thereof can be claimed by the Association from the District Collector to be paid from out of the corpus fund.
- (p) The Public Works Department and the Revenue Authorities are directed to have the quarry waste dumped on the coast of the Noyyal river, thus causing obstruction to the flow of the river water, removed within a period of eight weeks from today and the costs therefore shall be recoverable from the quarry operators. The authorities shall ensure that there is no more dumping of the quarry waste in the river and in case of violation by any of the quarry operators his licence shall be cancelled forthwith.
- (q) The Public Works Department is directed to continue with the cleaning and desilting operations of the Orathapalayam Dam and the cleaning of the Noyyal river shall be carried out through the petitioner association as per the orders of this Court. The District Collector, Coimbatore is directed to release a sum of Rs. 25 lakhs

directly to the petitioner-Agriculturists Association towards the charges for cleaning of the Noyyal river and the works to be carried out upto the confluence point of the river with river Cauvery.

(r) The respondents 1 to 3 are directed to finalise the site for dumping the solid waste from the Orathapalayam dam as well as from the Noyyal river which has been kept in bags and in open spaces. The Pollution Control Board is directed to provide the infrastructure and technical expertise for removal of the solid waste from the units as well as the dam to the notified site. The above exercise shall be done within a period of three months.

(s) Both the Expert Committee as well as the Monitoring Committee shall submit periodical reports before this Court every two months.

(t) The Monitoring Committee shall be paid a sum of Rs. 15,000/- per day/per visit as charges.

31. The matter stands adjourned to the first week of March, 2007.