

**BEFORE THE NATIONAL GREEN TRIBUNAL  
SOUTHERN ZONE  
Application No.93 of 2014**

In the matter of

M/s. Standard Colours,  
Rep. by its Partner G. Suresh Kumar  
Tirupur.

.. Applicant

And

1. Tamil Nadu Pollution Control Board,  
Rep. by its Chairman, Chennai.
2. District Environment Engineer,  
Tamil Nadu Pollution Control Board,  
Tiruppur.
3. Monitoring Committee  
Constituted by order dated 1.8.2005  
By Hon'ble Madras High Court  
in W.P.28791/2003 rep. by  
S.Thangavel, Member, Madras Bar Association
4. Tirupur Murugampalayam Common Effluent Treatment Co.,  
Rep. by its Managing Director, Tirupur.

.. Respondents

Counsel appearing for the applicant  
M/s.S.Muthukrishnan, S. Rajesh Kannan

Counsel appearing for the respondents  
Mrs.Rita Chandrasekar for R1 & R2  
Mr.S. Thangavel, Member, Madras Bar Association  
Member, Monitoring Committee – R3  
Sri K.Raja for R 4

**ORDER**

Present

Hon'ble Shri Justice Dr.P. Jyothimani, Judicial Member  
Hon'ble Prof.Dr.R. Nagendran, Expert Member

14th September, 2015

The war against the polluters commenced in 1996, in the words of the then Chief Justice of Madras High Court, Hon'ble Mr.Justice M. Yusuf Eqbal, presently Hon'ble Judge of the Supreme Court of India and Hon'ble Mr.Justice T.S. Sivagnanam, appears to continue unabated even as on date and there seems to be no end.

2) The main Application No.93 of 2014 filed by the applicant is to direct the first respondent not to insist the petitioner to join the trial run undertaken by the fourth respondent CETP. The Tamil Nadu Pollution Control Board (Board) has already communicated to the applicant to take a decision whether the applicant desires to become a member of the CETP or otherwise and

inform its desire enabling the Board to take appropriate decision. As on date it is for the applicant to decide either to become a member of CETP viz., the fourth respondent or not.

3) In fact, the application came to be disposed of on 23.3.2015 by this Tribunal with the following four directions:

- i. The CETP shall make its trial run for a period of 3 months from today;
- ii. During this period, an official nominated by the Board along with the Monitoring Committee shall make periodic inspection following the appropriate mechanism;
- iii. After such inspection made within the period of 3 months, a report shall be submitted by the members and the officers of the Board to the Chairman of the Board which shall be done within 15 days after the expiry of 3 months from today;
- iv. The Chairman of the Board thereafter shall pass appropriate orders as per law expeditiously, in any event within a period of 15 days.

4) As the Monitoring Committee has now filed a memo on 11.8.2015 enclosing a report dated 8.7.2015 signed by the members of the Monitoring Committee as well as the officials of the Board and on a mention made on behalf of the Monitoring Committee, the application had to be taken up once again and in the light of the report of the Monitoring Committee the matter was elaborately heard.

5) It is seen that the Monitoring Committee has made inspection on various dates viz., on 6.5.2015, 29.5.2015, 30.5.2015, and 20.6.2015. The fact remains that out of 40 members of the fourth respondent CETP, 33 are dying units and 7 are the bleaching units. The Inspection Report reveals the following shortcomings:

- i). Change in treatment scheme without prior reference and necessary amendments to the Environmental Clearance (EC).
- ii) Non provision of facilities to take care of additional water during rainy seasons
- iii) Immediate closure of units and stoppage of discharge in the event of the CETP not functioning as proposed.
- iv) Provision of on line information with river water quality, reasons for change in quality if any, ground water monitoring data, log book data on quantity and quality of effluent discharged from the member units, quantity of inflow into the CETP, details of treatment at every stage of the CETP including raw material used, quantity of treated water sent to the member units, quantity

of salts extracted from the treatment process and details of sale of such salts through an exclusive website prepared by the CETP with public access.

v) River water monitoring downstream of the CETP.

6) Before going to the contents of the memo filed by the Monitoring Committee, it is relevant to extract some of the historical events resulting in the passing of the above said order by the Hon'ble Division Bench of the Madras High Court. It was in W.P.1649 of 1996 filed by Karur Taluk Noyyal Canal Agriculturists Associatinn that a direction was sought against the Board to take action against the polluting dyeing and bleaching units of Tiruppur area. That was the starting point of the war waged against pollution in the area by the said units. It is seen that the said writ petition came to be disposed on 26.2.1998 on a joint memo filed by all the units as well as the other stakeholders whose units were allowed to operate as an interim measure for 3 months and accepting that in the meantime they should apply for consent to operate. The time which was accepted by the memo and which was recorded by the High Court was subsequently extended. It is seen that against the order passed by the High Court, the SLP filed in the Hon'ble Supreme Court came to be dismissed. In spite of such undertaking given and the memo recorded in the High Court, no action was taken by the units and in those circumstances the Association filed another writ petition in W.P.29791 of 2003 for a direction to implement the joint memo. That came to be disposed on 22.12.2006. In W.P.29791 of 2003 certain directions were issued on 22.12.2006 which are as follows:

“(a) The CETPs are given time upto the 31<sup>st</sup> 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 1<sup>st</sup> January, 2007 to 31<sup>st</sup> March, 2007; at the rate of eight paise per litre from 1<sup>st</sup> April, 2007 to 31<sup>st</sup> May, 2007; and at the rate of ten paise per litre from 1<sup>st</sup> June, 2007 to 31<sup>st</sup> 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 Unit 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 the members commit any default in payment of fine, the Board

shall direct closure of such defaulting CETP 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 Board, about their ZLD status and the 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 31<sup>st</sup> July, 2007, the 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 28<sup>th</sup> of February, 2007 and the second instalment to be paid on or before the 30<sup>th</sup> 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 28<sup>th</sup> of February, 2007 and the second instalment to be paid on or before the 30<sup>th</sup> 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 15<sup>th</sup> June, 2007 and the second instalment to be paid on or before 31<sup>st</sup> 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 Board shall direct closure of these CETPs with immediate effect.

(f) The compensation amount, as well as the fine amounts to be deposited in terms 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 CETPs 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 (at least 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 Periyapalayam 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 therefor 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.

7) It is also relevant to note that as against the said order of the Division Bench of the Madras High Court, the SLP filed before the Hon'ble Supreme Court came to be disposed of as reported in TIRUPUR DYEING FACTORY OWNERS ASSN V. NOYYAL RIVER: AYACUTDARS PROTECTION ASSN (2009) 9 SCC 737 with the following directions:

"Many steps have been taken by the Association to ensure the compliance with the orders passed by the Hon'ble High Court fully and in order to do so, it is desirable that the Association be given three months' time to ensure compliance with the directions to make the CETPs functional and pay the balance amount for cleaning the dam and river and meet the compensation to the adversely affected persons within a period of three months from today. The Pollution Control Board is directed to ensure that no pollution is caused, giving strict adherence to the statutory provisions. The appeals stand disposed of accordingly."

8) In spite of the said disposal of the SLP by the Hon'ble Supreme Court, pollution has not abated and the undertaking have not been complied with which resulted in filing of Contempt Petitions No.1013 & 1068 of 2010 which was taken up by the Hon'ble First Bench of the High Court of Madras. The Hon'ble High Court passed in the said contempt petition an order dated 28.1.2011 with the following directions:

(i) All the CETPs/IETPs bleaching & dyeing units in Tirupur area shall be closed down forthwith by the Pollution Control Board and the Electricity supply shall be disconnected.

(ii) Such CETPs/IETPs/Units shall not be permitted to operate unless and until they achieve zero liquid discharge as per the directions issued in paragraph No.30)(a)(ii) of the order of the Division Bench dated 22.12.2006;

(iii) All CETPs/IETPs/Units shall be individually inspected by a team of officers nominated by the Tamil Nadu Pollution Control Board along with the members of the Monitoring Committee and a detailed report shall be prepared individually for each CETPs/IETPs/Units;

(iv) The report shall be the sole basis to assess as to whether the CETPs/IETPs/Units should be granted permission to commence operations;

(v) If the CETPs/IETPs/Units are deficient or have not achieved the required parameters, they shall not operate and be directed to rectify the deficiencies and report to the Pollution Control Board for fresh inspection by the team of officers of the Board and the Monitoring Committee.

(vi) In respect of the CETPs/IETPs/Units, who have fulfilled all the conditions, it would be open to the Tamil Nadu Pollution Control Board to issue orders of consent to operate and such units shall be continuously and closely monitored in order to ensure strict compliance of the orders;

(vii) For the purpose of trial run for testing the efficiency of the equipments, the Pollution Control Board is entitled to issue temporary authorisation to the Electricity Board for temporary electricity supply. While such testing operations are being carried out it shall be done in the presence of an official of the Tamil Nadu Pollution Control Board;

(viii) During the course of inspection of these CETPs/Units, if any extra machinery has been found to be installed or any pipelines have been laid, they shall be forthwith removed and such units shall be directed to remove those additional machinery from precincts of the factory premises;

(ix) Division Bench granted time to the units till 31.07.2007, failing which directed closure. This portion of the order was stayed by the Supreme Court and the stay remained in force till 06.10.2009. The Supreme Court did not interfere with a direction passed by the Division Bench and granted extension of time to comply with the condition by three months, this extended period came to an end in January, 2010. Such of those units, who have failed to comply with the directions of the Division Bench, inspite of the extension of time granted by the Supreme Court shall be liable to pay fine at the rates fixed in paragraph 30(a)(i) of the order passed by the Division Bench dated 22.12.2006.

(x) As against the CETPs/IETPs/Units which have flouted the order and direction issued by this court and conditions stipulated by the Tamil Nadu Pollution Control Board and continued to cause pollution and failed to rectify the defects despite the show cause notice issued by the Board, the Board shall initiate the criminal prosecution against such CETPs/IETPs/Units.

(xi) The Board shall also furnish the list of names of the officers of the Pollution Control Board who were in charge of the affairs of the Board during the relevant time when those CETPs/IETPs/Units failed to comply with the orders of this court and the directions issued by the Pollution Control Board so that appropriate actions may also be taken against them.

9) The writ petition in W.P.23720 of 2012 was filed for a direction to prevent the fourth respondent from implementing any modification to CETP which came to be dismissed by the Division Bench on 7.2.2013 with liberty to the applicant to approach the Tribunal. Accordingly the applicant has filed the present application in Application No.93 of 2014.

10) In the historical back ground of this case and taking note of various directions given by the Hon'ble High Court, we find that during the time when the matter was pending before the Division Bench, the High Court has appointed a Monitoring Committee on 1.8.2005 with

Advocates Mr.T. Mohan, Mr.S.Thangavel and Mr.M.M. Sundaresh (now Hon'ble Judge of the Madras High Court). In all the references made by the Hon'ble High Court under various circumstances, including the Hon'ble Supreme Court, the courts have commended and appreciated the work done by the Monitoring Committee and in fact there are occasions that the High Court has directed the Pollution Control Board to take into consideration the findings and reports of the Monitoring Committee which was invariably done along with the responsible officers of the Pollution Control Board . We have no hesitation to hold that from the historical back ground that too but for the work done by the Monitoring Committee the present level of development would not have come to light. Therefore, it is too late for any one to suggest that the Monitoring Committee cannot make any constructive suggestion. Further, on earlier occasions also the Monitoring Committee along with the officers of the Pollution Control Board has suggested closure of the units and that has been considered by the High Court. It is seen in the memo filed by the Monitoring Committee that a few of the units have practically precipitate the directions which have been given not only by the Monitoring Committee but also the High Court which has approved the same. There is at least one case of M/s.Aparna Colours which is stated to have removed the seals from the machineries and operated six machines with one other machine still exhibiting heat, evidencing recent operation.

11) When this is the finding of the Monitoring Committee consisting of the officials of the Pollution Control Board, we do not understand as to why the Monitoring Committee Report should not be taken serious note of. This is only one of the instances of irregularities committed. Therefore, the minor intricacies with which the Monitoring Committee has approached every question cannot be taken to find fault with by the units and the same must be taken in a positive way of at least reviving water quality in the areas which is the only source of drinking water as well as for agricultural operations of the people in the area. We do not want to traverse into the minute details, even though serious irregularities have been brought out by the Monitoring Committee. We are of the considered view that the Board is to take ultimate decision as per our order dated 23.3.2015.

12) Taking note of the Monitoring Committee Report, the Chairman of the Pollution Control Board has in fact issued show cause notice to all the CETPs as well as all the individual member units on 22.7.2015. A reading of the show cause notice shows that the same has not been issued as a routine show cause notice. The Monitoring Committee Report has been seriously taken note of and individual case has been pointed out in detail. We were of the considered view that when once the Monitoring Committee has found certain serious irregularities and direction was issued to the Chairman of the State Pollution Control Board, the

State Pollution Control Board should have closed such units. But by referring to the show cause notice we have to necessarily appreciate the stand taken by the Board that before such closure the Board has chosen to give a final opportunity by way of show cause notice to the erring units. After all it is ultimately the Board which has to pass orders as per the statutory provisions. It appears that as against the show cause notice issued by the Board, various units as well as CETPs have filed their detailed explanation on 31.7.2015 and no order has been passed yet. The reasons may be pendency of this application.

13) In these circumstances, in the interest of rendering substantial justice, we have to only direct the Chairman of the Pollution Control Board to pass orders taking into consideration the minute details given by the Monitoring Committee as well as the show cause notice and reply filed by the individual units and CETPs. We make it very clear that the Chairman while passing such final orders shall give sufficient opportunity to the project proponents and shall necessarily look into the Monitoring Committee's report not only due to the reason that the Monitoring Committee consisting of lawyers who have dedicated themselves in the cause to abate pollution but also due to the reason that the report has been vouched by the officers of the Pollution Control Board.

14) Therefore, we direct the Chairman of the State Pollution Control Board to pass appropriate orders - either closure of the individual units which have erred for which the excuses are not acceptable and not permissible in law or pass any other appropriate orders in accordance with law expeditiously, in any event within a period of two weeks from the date of the receipt of the copy of this order.

15) This leaves us to the next question, namely, the decision of the remuneration to be paid to the members of the Monitoring Committee. It is true that the Monitoring Committee was appointed by the Division Bench of the Hon'ble Madras High Court and we have availed the services of the Monitoring Committee for the limited purpose which is involved in this case. Taking note of the fact that the Monitoring Committee has made elaborate inspection for 4 days and there has been table work done by the members of the Monitoring Committee apart from the work carried out on the spot, we direct a payment of a lump sum of Rs.1,50,000/- (Rupees one lakh and fifty thousand) only as remuneration to the members of the Monitoring Committee to be paid jointly by all the members of the 4th respondent. The said amount shall be paid within two weeks from today.

16) It is the CETP as well as its member units who are to abide by the ultimate decision of the Hon'ble High Court in the contempt application which is still kept pending.

17) With the above direction the application stands disposed of.

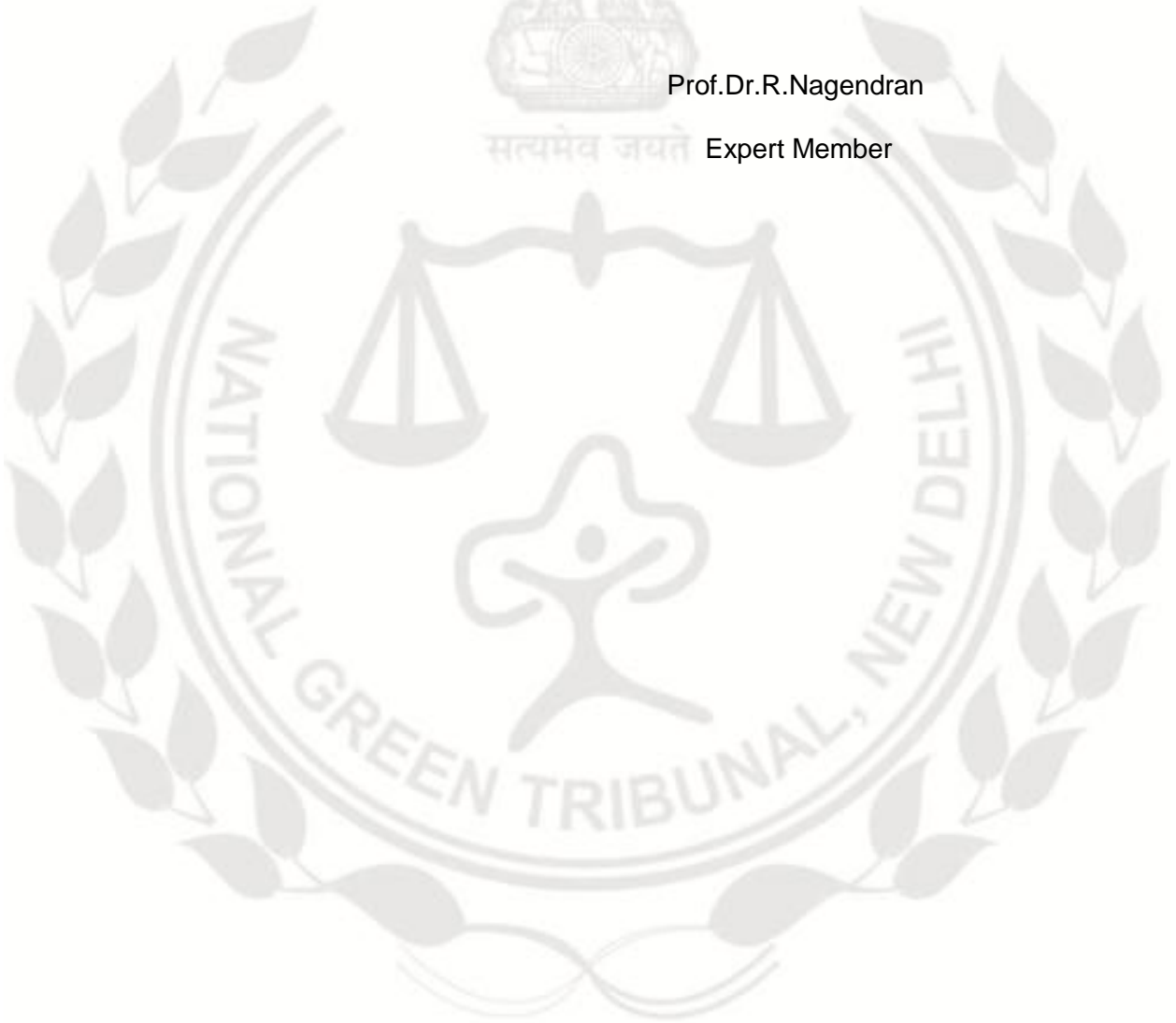


Justice Dr.P. Jyothimani

Judicial Member

Prof.Dr.R.Nagendran

सत्यमेव जयते Expert Member



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